

Opinion No. 55-6127

March 14, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction, Capitol Building, Santa Fe, New Mexico

In your letter dated March 4, 1955, you enclose a letter from the Director of Personnel of the Carlsbad City Schools relative to teacher tenure, in which is submitted the question whether a teacher who begins employment after the beginning of the school term and completes that term and two succeeding terms is eligible for tenure upon receiving a contract for completion of the succeeding term.

Section 73-12-13 of the 1953 Compilation, insofar as said section is pertinent to the question, provides as follows:

"Notice to discontinue the service of such class room teacher properly certified and who has served a probationary period of three (3) consecutive years and holds a contract for the completion of a fourth consecutive year in a particular district shall specify a place and date not less than five (5) days nor more than ten (10) days from the date of mailing such notice at which time said teacher may at his or her discretion appear before the board for a hearing."

Your question involves a determination of the meaning of the words "three consecutive years". Since the word "years" occurs in connection with teaching in the public schools, the Legislature undoubtedly meant school years. A school year is defined in Board of Education v. Tax Commission, 28 N.M. 221, as being the school term or the time when school ordinarily is in session, which at the present time is nine months.

If a teacher begins employment after the beginning of a school term and serves the balance of that term and two consecutive school terms thereafter, such teacher would not be eligible for tenure merely upon receiving a contract for completion of the succeeding school term. However, after serving in the succeeding school term, or fourth year, a sufficient period to constitute the total consecutive service to be twenty-seven months, such teacher who holds a contract for completion of the fourth school year would thereupon become entitled to tenure.

By: C. C. McCulloh

Assistant Attorney General