

Opinion No. 43-4271

April 21, 1943

BY: EDWARD P. CHASE, Attorney General

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

In your letter dated April 20, 1943, you inquire whether teaching experience outside of the State of New Mexico may be applied toward the years of service necessary for teacher retirement and, if such outside teaching experience can be so applied, what evidence is necessary for the applicant to furnish as proof of the years of service outside of this State.

Section 55-1114 of the 1941 Compilation provides for the retirement of a teacher who is over the age of 60 years and who has been employed in the public schools of this State for at least 15 years, of which the last 7 years were served consecutively and immediately prior to the date of such retirement.

Section 55-1115 of the 1941 Compilation uses this language:

"When any person who has served as an employee in the public schools, or in the state department of education of New Mexico, or in any combination of said employments for 20 years or more is retired by the board of education as herein provided, he shall be entitled to receive annually * * *"

In 1939 this law used the language:

"When any person who has served as an employee in the public schools of New Mexico for 20 years or more is retired * * *"

In 1941 the words "or in the state department of education" were inserted, but this 1941 amendment did not alter the original intention of the Legislature that an employee must serve the necessary years in the public schools of New Mexico.

For these reasons it is my opinion that in order to qualify under the teacher retirement act it is necessary that the required number of years of service be served in the State of New Mexico, and since that is true the answer to your second question is immaterial.

By C. C. McCULLOH,

First Asst. Atty. General