

Opinion No. 44-4522

May 19, 1944

BY: EDWARD P. CHASE, Attorney General

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

Receipt is acknowledged of your letter dated May 18, 1944, enclosing a letter to you from Mrs. Ruth F. Thurman, of Silver City, New Mexico. She apparently is getting near the point of being eligible for retirement as a public school teacher, and contemplates taking a position with the State Teachers' College at Silver City, and wonders whether she will lose her retirement status in the public schools.

Section 55-1114 authorizes a Board of Education of any municipality, county, independent school district, or union high school district, to retire a teacher who is otherwise qualified. Subsection (a) requires that such teacher be over the age of sixty years, and be employed in the public schools of this state for at least fifteen years, of which the last seven years must be served consecutively and immediately prior to the date of such retirement.

If Mrs. Thurman ceases her employment with the public schools before she has completed the seven year requirement, she would not be eligible for retirement under this act.

Under Section 55-2806, as amended, the last ten years of service must be in the same institution, and Mrs. Thurman could not qualify for a pension under the institutional pension act without meeting this requirement.

By C. C. McCULLOH,

First Asst. Atty. General