

Opinion No. 45-4755

July 18, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Robert W. Reidy Assistant District Attorney Court House Albuquerque, N. M.

{*106} I have your letter of July 6, 1945 wherein you request an opinion of this office concerning an interpretation of Chapter 125, Laws of 1945, relating to the status of a rural school supervisor under the amended Teacher Tenure Act.

The act referred to is an amendment to the statute construed by the Supreme Court of our State in the case of Ortega v. Otero, 48 N.M. 588, 154 P. (2d) 252.

Under the statute construed by our Supreme Court, the provisions of the Teacher Tenure Act were extended to all teachers, and our Supreme Court, in considering a question concerning a rural school supervisor, {*107} held that a rural school supervisor was a teacher within the meaning of such act.

It is significant that the following session of the Legislature amended this act, which had been construed by the Supreme Court, by, among other things, limiting the application of the act to class room teachers. Our Supreme Court stated in the above mentioned case:

"Our conclusion from all of the foregoing is that a rural school supervisor is a person employed for instructional purposes and is a teacher who is entrusted with special duties of supervising public instruction in the schools, which embraces counsel and instruction of other teachers in the matter of class room instruction, as well as personal professional contact with and instruction of pupils, and hence has a teacher's status under the provisions of 1941 Comp. Sec. 55-1113."

It is noted that the Supreme Court found that the rural school supervisor's primary duty concerns supervising public instruction in the schools, which, while being a duty within the meaning of the word "teacher", would not appear to be a duty within the meaning of the term "class room teacher".

In view of the foregoing, it is the opinion of this office that under the present Teacher Tenure Act, a rural school supervisor is not entitled to permanent tenure.

By HARRY L. BIGBEE,

Asst. Atty. General