

Opinion No. 45-4826

December 11, 1945

BY: C. C. McCULLOH, Attorney General

TO: Dorothy L. Anderson Bursar New Mexico School of Mines Socorro, New Mexico

{*164} In writing the opinion I referred to in my recent letter, I find that the same did not cover the question asked by you. In your letter of December 5th, you ask if there are different ways of qualifying under Chapter 50, Laws of 1945, the teacher retirement act. For instance, are the number of years of service rendered required to be consecutive years?

Under Section 1, the requirement is established that before a teacher or other full time employee becomes eligible for retirement, such person must be over the age of 60 and have been employed 15 years in this state, the last five years of which must be {*165} consecutive and immediately prior to the date of such retirement.

Except as hereinafter noted, no distinction is made between teachers and other employees who have been employed 15 years and those who have been employed for a greater length of time, as was the case in previous statutes. In determining whether the employee has the necessary 15 years educational service, one-half credit may be given for not more than 10 years of educational service in other states prior to serving in New Mexico, and full-time credit may be given to all persons with prior educational service in New Mexico for time served in the armed forces of the United States who re-enter educational service in this state after honorable discharge.

In every case, the five years must be educational service in New Mexico consecutively and immediately prior to the date of such retirement. This section, however, contains a proviso to take care of persons otherwise qualified who were no longer employed on the effective date of this act. If such person had been employed for 30 years, such employee may be temporarily re-employed and retired under such circumstances. The last five years of service need not be consecutive.

In determining the amount of the retirement pay, the salary for the last five years of consecutive service immediately prior to retirement is not considered. Instead, the last five years during which such person was employed as a full-time employee at full-time annual salary next preceding the retirement is used.

Trusting the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General