

**Opinion No. 46-4885**

March 30, 1946

**BY:** C. C. McCULLOH, Attorney General

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

{\*215} We are in receipt of your letter of March 21, 1946 in which you state that a Union High School district was dissolved and rural districts were consolidated with the Los Lunas municipal school district. You state that many of these teachers who have taught in these rural districts did not meet the qualifications for teachers of the North Central Association, and that it is the desire of the municipal school board to be in a position to employ trained teachers who will meet North Central requirements.

You ask our opinion as to whether Chapter 125 of the Laws of 1945, being the present teacher tenure act, applies to the teachers who previously taught in the Union high school or in the area surrounding Los Lunas.

The pertinent part of Chapter 125 is as follows:

"Notice to discontinue the services of such class room teacher, properly certified, and who has served a probationary period of three years and holds {\*216} a contract for the completion of a fourth year **in a particular district**, shall specify a place and date, etc. -  
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If this provision were literally construed, the teachers in question would not be covered, as they had not taught in the Los Lunas Municipal district for the required time. However, it appears to me that since the teachers teach in the same general area in which they previously taught, that our courts would be reluctant to say that by virtue of the consolidation their tenure had been lost.

Until our court passes on this question, no conclusive answer can be given. However, it is observed that under this act, teachers may be discharged for cause. It appears to me that if a teacher did not meet the qualifications established by the board, that this in itself might be sufficient cause.