

Opinion No. 46-4900

May 9, 1946

BY: C. C. McCULLOH, Attorney General

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

{*227} You have forwarded to us for an opinion a letter of Jane S. Turner, President, Lincoln County Board of Education. Her question is whether, under Chapter 125 of the Laws of 1945, it is necessary that a teacher have taught three years and hold a contract for a fourth year, in the {*228} same district, in order to be entitled to notice and hearing. Chapter 125 provides in part:

"Notice to discontinue the services of such classroom teacher, properly certified, and who served a probationary period of three years and holds a contract for the completion of a fourth year **in a particular district**, shall specify a place and date * * * for a hearing."

It appears to me that of necessity the words "in a particular district" relate back and modify the words "three years" as well as the words "holds a contract for the completion of a fourth" so that the teacher must have served three years in the same district in which he holds a contract for teaching the fourth. This seems apparent when Chapter 60 of the Laws of 1943, the former statute, is examined. This statute provided that "notice to discontinue the service of a teacher, properly certified, and who has served a probationary period of two years in a particular district * * * shall specify a place and date * * *." All the Legislature did in amending Chapter 60 was to change the period from two years to three years with a contract for the fourth.

In view of the foregoing, it is my opinion that a teacher, to be entitled to a hearing on discontinuation of his services, under Chapter 125, must have served all three years and hold a contract for a fourth year in the identical district.

By ROBERT W. WARD,

Asst. Atty. General