

Opinion No. 53-5803

August 20, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. J. C. Enloe District Attorney Seventh Judicial District Socorro, New Mexico

{*210} In reply to your letter of July 8th together with your letter of July 21, 1953, containing supplemental information in which you request the opinion of this office as to whether a teacher less than 60 years of age, but with 30 years of service, and who has accepted a contract for reemployment as a teacher during the current school year, can be retired without her consent. In Opinion No. 5760 it was ruled by this office that a teacher with 30 years service, and under the age of 60 years can {*211} be retired without the consent of such teacher.

The entering into a contract between the teacher and the Board of Education employing such teacher in our opinion supersedes any rights that the governing school board has to retire such teacher without consent. The contract between the governing board and the teacher being the standard form supplied by the State Board of Education provides certain specified causes upon which it may be abrogated. Since it does not provide that the Board of Education may retire a teacher without her consent except for disability, such retirement may be made only after the close of the school year covered by such contract.

By: Hilario Rubio

Assist. Attorney General