

Opinion No. 42-4145

August 27, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. R. H. Grissom Educational Budget Auditor Santa Fe, New Mexico

{*239} In your letter of August 25, 1942, you relate that because of the present emergency it is going to be necessary for the various boards of education throughout the state to request teachers who have been retired, under Chapter 7, Laws of 1941, to return to work. In view of this fact you desire to know if a teacher in such a category who returned to teaching would have to teach for seven or five years before he would again be entitled to be retired.

When a teacher is retired under Chapter 207, Laws of 1941, he is placed in an "emeritus employment status." This being true, let us review Section 1 (b) of said act, which reads as follows:

{*240} "Anyone in such emeritus employment status shall be subject to the direction of the board by which he was employed at the time he was placed in such status and with the approval of the State Educational Budget Auditor and the State Superintendent of Public Instruction may by such board **or department** be required to perform such services in connection with the schools under the control of such board as he may be physically qualified to perform."

In view of the foregoing statute, I conclude that it is possible for teachers retired under either Section 1 or Section 3 of said act to return to work as teachers and teach for an indefinite period of time without forfeiting their rights to be again retired as they were originally.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HOWARD F. HOUK,

First Asst. Atty. General