

**Opinion No. 42-4189**

November 19, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Rex French State Treasurer Santa Fe, New Mexico

{\*281} It has been called to our attention that some confusion has arisen as to the interpretation given in two opinions of this office with regard to the amount payable to teachers upon retirement. The opinions mentioned are numbered 4007 and 4011, and dated January 30, 1942, and February 2, 1942, respectively.

In explanation of the confusion which has arisen, I will state that it is the opinion of this office that a teacher who has served more than fifteen years, but less than twenty years, and whose average salary for the last five years of service amounts to \$ 800.00 per annum, is entitled to receive upon retirement that portion of \$ 600.00 as his years of service bear to twenty years of service. For example, if the teacher had taught fifteen years, said teacher would be entitled to 15/20th of \$ 600.00.

It is our opinion that Chapter 207 of the Laws of 1941, in fixing a minimum merely fixed the minimum, upon which the proportion was to be figured, and although one half of a teacher's average annual income is less than \$ 600.00, the proportion should be based on the \$ 600.00 minimum.

By GEO. H. HUNKER, Jr.

Asst. Atty. General