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March 6, 1951
Op. No. 51-74

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ARIZONA ATTORNEY GENERAL

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A.W.
Mr. Myron R. Holbert
Assistant Superintendent
of Public Instruction
Capitol Building
Phoenix, Arizona

Dear Mr. Holbert:

This acknowledges receipt of your letter of February 28, in which you ask the opinion of this office on the following two questions, arising out of the consolidation into one district of two existing school districts.

"1. If a teacher has tenure status in the original districts and is re-employed by the new district, does he maintain his tenure of status in the new district, or is he employed in the new district as a new teacher that will have to serve a three-year probationary period before attaining such tenure status?

2. If there are positions in the new district for all teachers from each of the consolidating districts, may a teacher who has tenure status be dismissed by the consolidated board except for those reasons established by law?"

In considering your first question we presume that you mean by "tenure status" that of a "continuing teacher".

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Assistant Superintendent
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Our research fails to disclose any case in point to support the proposition that we believe answers said question, that is, that such continuing teachers retain their tenure status upon consolidation of the school districts and are not in any sense of the word new employees of the newly created districts.

However, under Section 54-406 ACA 1939, providing for the consolidation of two or more districts and the manner in which the same is to be accomplished, we find:

"* * * The property of the several districts shall become the property of the newly formed district; all balances or deficits in the funds of the several districts consolidated shall become the balance or deficit of the new district, and all bonded indebtedness of the several districts consolidated shall become the bonded indebtedness of the new district."

Thus it would seem to be the intent of the legislature in enacting this provision of the Code that all duties, obligations, rights, immunities and authorities theretofore vested in the consolidating districts being merged are, by operation of law, transferred to and vested in the newly consolidated district. This would extend to contracts in force between the consolidated districts and teachers theretofore employed by said districts.

Your question No. 2 would seem to answer itself. Certainly teachers who enjoy the tenure status as continuing teachers may not be dismissed by the "consolidated board", that is, the newly elected board of trustees as provided for in the above quoted section, for any reasons other than those set out in Section 54-1011 as amended and in the manner prescribed by Sections 54-1010, 54-1012 et seq., ACA 1939, as amended.

Sincerely yours,

FRED O. WILSON
Attorney General

PHIL J. MUNCH
Assistant Attorney General

PJM:rc