

OPINION
47-122

October 11, 1947 (OPINION)

EDUCATION

RE: Teachers Certificate - Revocation - Chap. 146 - 1947 S.L.

I have your letter in which you inquire whether under House Bill 109 (Chapter 146 Session Laws of 1947) your department has the authority to suspend a teacher's certificate when it appears that he has broken a contract to teach.

Section 4 of said Chapter 146 provides: "Provided that in the event of breach of contract on the part of a teacher, the superintendent of public instruction shall suspend such teacher's certificate for a period not to exceed one year, during which time it shall be unlawful for such teacher to receive payment for teaching in the public schools of North Dakota."

Under the language of the said statute the superintendent has not only the authority but it is his duty to suspend a certificate in such circumstances, such suspension not to exceed one year.

However, before such suspension, we believe the teacher should be given notice and a hearing at which time he should be required to show cause why his certificate should not be suspended for a certain length of time. As a rule there are always two sides to every question and the teacher should have the right to be heard before such drastic action is taken as that of suspending his certificate.

Of course, the superintendent of public instruction has considerable latitude under the terms of the statute. It fixes a maximum time of suspension of one year. That is, such suspension cannot exceed one year, but I presume in his discretion the suspension may be for a much shorter time than a year. He may make it for six months or one month or any time which in his judgment would be proper in the circumstances.

NELS G. JOHNSON

Attorney General