

**Opinion No. 55-6295**

September 30, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Marshall S. Hester, Superintendent, New Mexico School for the Deaf, 1060 Cerrillos Road, Santa Fe, New Mexico

We have your letter of September 16 in which you ask if the Opinion of this office dated August 11, 1955, to Mrs Georgia L. Lusk pertaining to teachers submitting x-ray reports and Wassermann tests with physician's certificate of fitness would apply to teachers in your institution. It seems to this office that Section 73-12-11 is controlling. This statutory section reads as follows:

"Employment of teachers with tuberculosis or syphilis prohibited--Tests. --No person shall be employed in the schools of the state, who is afflicted with communicable tuberculosis or syphilis. All teachers shall present to the governing authorities of the schools where employed a certificate from a licensed physician to the effect that they are free from any transmissible disease, which shall include tubercular and Wasserman [Wassermann] tests, together with the laboratory report thereof, which certificate shall not be dated more than twenty (20) days prior to date of the fall opening of the yearly school term."

You will note that this particular section appears to include all schools of the state and provides that teachers present to the governing authorities of the schools the certificate of physical fitness together with the necessary laboratory report. It is the opinion of this office that the Legislature intended to include not only the teachers in the public school system of the state but also the teachers teaching in the special schools such as your school. We note from your letter that you do require physical examinations. Since it would be rather simple to include compliance with this section, we are of the opinion that it should be done.

Trusting we have answered your question, we remain

By Paul L. Billhymer

Assistant Attorney General