

Opinion No. 67-116

October 18, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Honorable Walker Bryan State Representative P. O. Box 580 Carlsbad, New Mexico

QUESTION

QUESTIONS

1. To Qualify for examination under the Sanitarian Registration Act must an individual actually have a "minor" in basic sciences relating to sanitation?
2. Would an individual having twenty semester hours in varying sciences but not actually having an appropriate science minor as college or university be specified by the graduating college or university be eligible for admission to examination?
3. Would an individual having 20 semester hours in the same appropriate science from a college or university that does not require a "minor" for graduation be eligible for admission to examination?
4. Would an individual having 20 semester hours in varying sciences from a college or university that does not require a "minor" for graduation be eligible for admission to examination?
5. In accordance with the requirements of the New Mexico "Sanitarian Registration Act", can a state employee not registered as a sanitarian legally perform investigational, technical, educational and inspectional duties involving the sanitation of commercial food establishments?

CONCLUSIONS

1. Yes.
2. No.
3. No.
4. No.
5. See Analysis.

OPINION

{*172} ANALYSIS

Section 67-28-6 B. N.M.S.A., 1953 Compilation sets forth the minimum educational requirements which must be met before an applicant may take the prescribed examination as follows:

"The board shall accept applications for examination on forms supplied by the board from any person who:

{*173} B. Has been graduated from an accredited university or college with **at least a minor in basic sciences relating to sanitation**, such as, but not limited to, sanitary science, public health, biology, chemistry or physics, . . ." (Emphasis added.)

It is a general rule that where a statute is unambiguous, there is no room for interpretation, but must be enforced according to its clear language. It is clear from the above quoted section that only college graduates holding at least a minor degree in basic sciences relating to sanitation may take the required examination. The answer to your first question is therefore yes.

Questions two, three and four ask if an individual with a college or university degree having an equivalent to a minor degree may be eligible for admission to examination. If the legislature had intended to allow a minor degree "or equivalent", they presumably would have so provided. The answers to questions two, three and four are therefore no.

Last of all we are asked if a state employee who is not registered as a sanitarian can legally perform investigational, technical, educational and inspectional duties involving the sanitation of commercial food establishments. Section 67-28-12 C, N.M.S.A., 1953 Compilation provides as follows:

"It is unlawful for any person, or instrumentality of the state expending any public funds, to employ any sanitarian who is not registered by the board."

A "registered sanitarian" is defined as follows:

". . . a person who possesses the necessary qualifications to carry out any investigational, technical, educational and inspectional duties in the field of environmental sanitation, and who is registered by the board." Section 67-28-2C, N.M.S.A., 1953 Compilation.

Before a state employee can carry out any investigational, technical, educational and inspectional duties in the field of environmental sanitation, he must be registered by the Board of Registration for Professional Sanitarians.

By: Gary O'Dowd

Assistant Attorney General