

Opinion No. 52-5523

March 28, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. Benjamin D. Luchini Chairman State Public Employees' Retirement Board
Santa Fe, New Mexico

{*232} This is in reply to your letter of February 27, 1952, in which you request an opinion on the following matter:

"The Retirement Board has, in accordance with the law since 1949, paid retirement benefits to approved beneficiaries, such payments being made on the regular general fund State warrant, and it now comes to the attention of the Board that it may be contemplated by the {*233} Retirement Law, that a special warrant containing a certificate by the beneficiary above the endorsement be used."

Our attention is called to Rule 13 F and the Rules revised September 21, 1951, in which you specifically request that an opinion as to whether or not a certification should be made by the beneficiary above his endorsement of such requirement payments. It is our opinion, after reading and considering your by-laws in conjunction with your Rule 13 F, that no special form of warrant is required which certification is comparable to the right of an employee to receive a warrant for services performed. No special certification is required of the employee reciting that he has performed the services for which he has been paid or that he is ineligible to receive the warrant. No certification is required of a retired employee that he is eligible to receive his warrant notwithstanding your Rule 13 F.

May I say in passing that there is some question as to the validity of Rule 13 F, but we do not pass upon this question at this time for no pronouncement is necessary.

Trusting that this fully answers your inquiry, I remain,