

Opinion No. 53-5801

August 20, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Floyd Santistevan Director State Education Retirement Santa Fe, New Mexico

{*209} This will acknowledge receipt of your letter of August 13, 1953, in which you request the opinion of this office as to whether the State Teacher Retirement Board can allow credit under Section 55-1114 (a) to an honorably discharged serviceman who presents evidence of having served in the armed forces as a technical instructor to train other technical supply instructors in states outside of New Mexico. The above cited section provides in part as follows:

"* * * (Provided that in either case, that half credit may be given for not more than ten (10) years of educational service in other states prior to serving in New Mexico) and that full time credit may be given to all persons with prior educational service in New Mexico for time served in the armed forces of the United States who re-enter educational service in this state after honorable discharge from the armed service of the United States. * * *"

It is clear from the above quoted provision that the Legislature did not contemplate the allowance of credit for service in the armed forces per se unless the person had prior educational service in the State of New Mexico before entering the armed forces. The question then is whether the type of services rendered by the particular applicant may be considered "educational service in other states." In this connection, Section 55-1114 permits retirement of persons who have been employed "in the public schools, or in said institutions or departments, or in a combination of such services. * * *" The provision relative to educational service in other states immediately follows this provision.

It is the opinion of this office that the educational service in other states referred to, must be limited to service in the public schools or the equivalent in other states of the institutions or departments specifically mentioned in the first paragraph of Section 55-1114, and that military service is not to be considered as educational service in other states.

By: Walter R. Kegel

Assist. Attorney General