

Opinion No. 53-5783

July 15, 1953

BY: RICHARD H. ROBINSON, Attorney General

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

{*186} This is in reply to your letter of July 6, 1953, in which you request an opinion concerning the application of Mr. Flavio Romero, an employee of the Rio Arriba County Board of Education, for benefits under Teacher Retirement Act, for reason of a disability which originated back in August 16, 1952. You state in your letter that Mr. Romero presented his application for retirement to your Superintendent of the Rio Arriba County Schools, Mr. Garcia, during the month of May 1953, and that you did not receive the formal application of Mr. Romero until the 6th of July, 1953.

You further state in your letter that in view of Mr. Romero's total disability you want to know whether the State Educational Retirement Board can accept his status of disability as being prior to June 13, 1953, and that date of his application {*187} as of that time when he first submitted it to the Superintendent Mr. Garcia, in May 1953.

The new Act, which is Committee Substitute for House Bill No. 75, and which will appear as Chapter 57, Laws of 1953 of New Mexico did not become effective until June 12, 1953.

Under Section 55-1117, N.M.S.A., 1941 Comp., Pocket Supplement, any employee of the school system of New Mexico having had five years employment and having incurred the disability while in such employment, qualifies for disability retirement. Further the fact that Mr. Romero presented his application for disability retirement in August 16, 1952, and was not presented to you until July 6, 1953, is no fault of his. The new law not becoming effective until June 12, 1953, naturally did not affect him at all as he is covered by the old law, being Section 55-1117, N.M.S.A., 1941 Comp., Pocket Supplement, and therefore is entitled to disability retirement.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assist. Attorney General