

**Opinion No. 55-6142**

April 18, 1955

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

**TO:** Robert L. Thompson, Engineer, Electrical Administrative Board, 1824 Lomas Blvd., N.E., Albuquerque, New Mexico

We are in receipt of an inquiry from you concerning whether or not your Board, by regulation, may require a person who has failed the examination for licensure two or three times to wait for a certain period beyond a scheduled examination before being permitted to take the subsequent examination.

Section 67-19-4, N.M.S.A., 1953 Compilation, provides as follows:

"The board shall hold regular meetings quarterly and may hold special meetings at the call of the chairman. **It shall be the duty of said board to administer and enforce the provisions of this act (67-19-1 to 67-19-19) and all orders of the board issued in conformity to this act; to adopt and issue necessary orders, rules and regulations for the enforcement of the provisions of this act; to examine all applicants for licenses and certificates of qualification and to grant licenses and certificates to all such applicants as show the proper qualifications and who have paid the prescribed fees, to revoke or suspend any license or certificate on the grounds set forth in Section 16 (67-19-15) of this act, and to take such other action as the board may find necessary for carrying out the provisions of this act . . . .**

All orders, rules and regulations issued by the board shall be printed and shall be distributed to all deputy state electrical inspectors and municipal electrical inspectors in the state of New Mexico.

Said orders, rules and regulations shall take effect on a date fixed by the board therein, which shall not be less than thirty (30) days after the adoption of same by the board. All such orders, rules and regulations shall also be available for general distribution at the office of the board."

You will note that it is the duty of the Board to examine all applicants who have paid the prescribed fees. There is nothing in this statute which permits you to abrogate or extend that duty and, therefore, it is the opinion of this office that your Board is required to give an examination to any person who applies and pays his fee if he is otherwise qualified to take the examination, and you cannot, by regulation, require a waiting period after his failure of any examination other than by setting the times for giving the examinations, which you have within your power to do.

We sincerely hope that this answers your inquiry.

By Fred M. Standley

Assistant Attorney General