

**Opinion No. 56-6411**

March 26, 1956

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

**TO:** Mr. John C. Hays, Administrator, Public Employees Retirement Association of New Mexico, P. O. Box 2237, Santa Fe, New Mexico

We have your letter of February 7th in which you request an opinion from this office as to whether the New Mexico School for the Visually Handicapped is a political subdivision under the provisions of Section 2 (c), Chapter 172, Laws of 1955, so that it can be considered a separate retirement system for the purpose of Social Security coverage. Section 2 (f) of Chapter 172, Laws of 1955, reads as follows:

"(f) The term 'political subdivision' includes an instrumentality of the state of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision."

It is to be noted that it must be a juristic entity which is legally separate and distinct from the State. We are of the opinion that the New Mexico School for the Visually Handicapped is not legally separate and distinct; it is in fact a state educational institution. See Section 11, Article 12 of the New Mexico Constitution. Most of its funds come from either state school lands or from appropriations from the Legislature. This institution is actually a part of the state. Inasmuch as the School for the Visually Handicapped is not a political subdivision, it cannot be considered a separate retirement system for the purposes of holding a referendum relative to the coverage under the Old-Age and Survivors Insurance Program.

Trusting we have answered your question, we remain

By: Paul L. Billhymer

Assistant Attorney General