

## Opinion No. 58-180

September 4, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Hilario Rubio, Assistant Attorney General

**TO:** Mrs. Gail N. Barber, Executive Assistant to Superintendent of Public Instruction, Department of Education, Santa Fe, New Mexico

### QUESTION

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Must the tuberculosis test referred to in Sec. 73-12-11 N.M.S.A., 1953 Comp., be an X-ray test?

#### CONCLUSION

No.

### OPINION

#### ANALYSIS

The pertinent part of Sec. 73-12-11, N.M.S.A., 1953 Comp., reads as follows:

". . . All teachers shall present to the governing authorities of the schools where employed a certificate from a licensed physician to the effect that they are free from any transmissible disease, which **shall include tubercular and Wasserman (Wassermann) tests, together with the laboratory report thereof, which certificate shall not be dated more than twenty (20) days prior to date of the fall opening of the yearly school term.**" (Emphasis supplied)

A reading of the above quoted section indicates the following:

1. That the teacher is free from any transmissible disease, including tubercular and Wasserman tests.
2. A laboratory report concerning the tuberculosis and Wasserman tests.
3. Certificate shall be dated 20 days prior to the opening of the Fall term of school.
4. Certificate shall be submitted each year within the time specified.

No specific mention is made in the statute quoted above that the tuberculosis test shall be an X-ray test.

The intent of the Legislature is plain and clear that a tubercular test may be any one of tests given by licensed physicians, including patch, skin, X-ray or any reliable test in common usage by the medical profession. It is also significant that the word "tests" in the statute is plural and not used in a singular sense.

It is, therefore, the opinion of this office that the tuberculosis test referred to in the above quoted section must not necessarily be an X-ray test but can be any tuberculosis test that is reliable and in common use by the medical profession of this State.