

## Opinion No. 63-64

June 12, 1963

**BY:** OPINION of EARL E. HARTLEY, Oliver E. Payne

**TO:** Mr. Ruben Miera, Director Department of Courtesy and Information 329 Don Gaspar Avenue Santa Fe, New Mexico

### QUESTION

#### QUESTION

Section 64-30-3, provides that deputies and field administrators of the Department of Courtesy and Information "shall have at least an eighth-grade education or its equivalent." What factors are to be considered in determining whether an individual has the equivalent of an eighth-grade education?

#### CONCLUSION

Age, formal education, experience, adaptability, application to a particular job or occupation, and other factors of similar import.

### OPINION

#### {\*136} ANALYSIS

In your opinion request you point out that Section 64-30-3, N.M.S.A., 1953 Compilation, provides that deputies and field administrators of the Department of Courtesy and Information "shall have at least an eighth-grade education or its equivalent." You inquire as to what factors are to be considered in determining whether an individual has the **equivalent of an eighth-grade education.**

{\*137} One of the first considerations is the formal education that the person does have. For example, you state that the person in question completed the sixth grade in elementary school. Other things being equal, this is, of course, better than say three years of formal education.

As our legislature obviously recognized by providing an alternative to the formal eighth-grade education requirement, "education" means more than the acquisition of knowledge out of text books. However desirable the discipline of formal study and instruction may be, "education" encompasses much more. Every experience of life, civilian or military, educates a person to some degree. What he learns by conversation, reading, observation practice, experience and application contributes to his education. In fact, everything not known intuitively and instinctively is "education". **Cook v. State**, Tenn., 16 S.W. 471.

In a case involving a statute which required an elementary education or its equivalent (and an eighth-grade education is the same as an elementary education, **Wilson v. Alsip**, 76 S.W. 2d 288) the Court held that satisfactory experience may well be the equivalent of an elementary education. **Barbers Commission of Mobile County v. Mobile County v. Hardeman**, 31 Ala. App. 626, 21 So. 2d 118. We mention this particularly, since you state that the individual in question was employed by your Department for approximately one year in 1957-58 and was found to be well qualified for his present assignment.

In the case of **Knox v. O'Brien**, 72 A.2d 389, the New Jersey Court placed the following judicial interpretation upon the word "equivalent" as used in a compulsory education law: "Equal in worth or value, force, effect, import and the like."

We also want to emphasize that it is solely for the employing agency, in this case the Department of Courtesy and Information, to determine whether the individual in question has the equivalent of an eighth-grade education. In the exercise of your discretion and judgment it is for you to determine this question after considering such factors as are enumerated in our conclusion, along with relative qualifications and general fitness for the position. See Attorney General Opinion No. 60-214.

Assistant Attorney General