

Opinion No. 68-99

October 2, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: E. P. Ripley General Counsel Department of Education State Capitol Building
Santa Fe, New Mexico

QUESTION

QUESTION

Does Section 77-8-9, N.M.S.A., 1953 Compilation require that service of notice of termination or discharge on the last day of school be in accordance with the law for service of civil process?

CONCLUSION

No.

OPINION

{*154} **ANALYSIS**

In your letter requesting an opinion you point out that Section 77-8-14, N.M.S.A., 1953 Compilation specifically requires service of written notice in accordance with the law covering service of process in civil actions. This section covers the discharge of certified school personnel during the term of a written contract.

Section 77-8-9, N.M.S.A., 1953 Compilation does not have the requirement regarding service of process as in civil actions. This section requires service of written notice of termination if a school board does not intend to re-hire a certified school instructor. However, this section also provides that if no notice is given it shall be construed to mean that notice of re-employment has been served in accordance with the employment contract.

It is our opinion that Section 77-8-9, supra, does not require the service of notice of termination in accordance with the laws governing service of process of civil suits. However, because of the re-employment proviso noted above upon failure to give notice we would advise any school board to use a method of service that would insure notification of termination. Consequently it would probably be in the best interest of a school board to follow the procedure of Section 77-8-14, supra.

By: Roy G. Hill

Deputy Attorney General