

Opinion No. 71-45

March 10, 1971

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Mr. Carlos L. Jaramillo Director Department of Alcoholic Beverage Control Lew Wallace Building Santa Fe, N.M. 87501

QUESTIONS

QUESTION

Does the State Personnel Board rule on geographical transfer apply to transfer of agents employed by the State Department of Alcoholic Beverage Control?

CONCLUSION

Yes.

OPINION

{*63} ANALYSIS

Involved in your question is State Personnel Board Rule 401.3b which provides as follows:

"An employee may be permanently transferred from one geographical location to another geographical location only with the employee's written consent, unless willingness to accept changes of assignment is included in the Class Specification. Refusal to accept a geographical transfer, **except as provided in the specification**, will not be cause for dismissal."

The State Personnel Department has provided us with the classification plans and specifications for Alcoholic Beverage Control Agents I and II (5025431), Assistant Chief Agent (5027431), and Chief Agent (5026431). No mention is made in these classifications of location transfer matters. Therefore, under Rule 401.3b refusal of an Alcoholic Beverage Control Department Agent to accept a geographical transfer is not a recognized ground for dismissal. Further, a permanent transfer of an Alcoholic Beverage Control Department Agent from one geographical location to another requires the written consent of the agent.

By: Oliver E. Payne

Deputy Attorney General