

**Opinion No. 43-4377**

September 2, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Floyd Santistevan, Assistant Superintendent of Public Instruction, Department of Education, Santa Fe, New Mexico

I have your letter of August 21, 1943, wherein you enclose a letter from Mr. Chas. B. Redick, Superintendent of the Fort Sumner Public Schools to Mrs. Georgia L. Lusk, wherein Mr. Redick requests an opinion concerning an interpretation of House Bill No. 219, which is now Chapter 33 of the Laws of 1943, which provides:

"Persons having Tuberculosis or syphilis in a communicable stage not to be employed -- Teachers to present certificate of freedom from transmissible disease. No person shall be employed in the schools of the state, who is afflicted with communicable tuberculosis or syphilis. 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 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."

It is noted that the certificate is to be to the effect that the teacher is free from any transmissible disease, the statute further specifying that tubercular and Wasserman tests be given.

The tubercular test, when read in connection with the first sentence in the act above quoted, would mean that some test must be given which would show freedom from Tuberculosis. If the particular test given to show freedom from Tuberculosis or any other specific transmissible disease should require a laboratory report, the certificate would show the contents of such laboratory report.

I understand that at least one tubercular test requires a laboratory report. Other tubercular tests do not.

Hoping that the above fully answers your questions, I remain

By HARRY L. BIGBEE,

Assistant Attorney General