

Opinion No. 44-4559

August 10, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. H. Grissom, Educational Budget Auditor, Office of State Comptroller, Santa Fe, New Mexico

We have your letter of August 8, 1944 wherein you state that the Santa Fe County school board and superintendent have expressed the opinion that it would be unwise to allow students to engage in a particular physical fitness program unless it were shown that the pupils could engage in such physical activities after a medical examination. You then request an opinion of this office concerning whether or not an expense of this kind could be properly paid out of the maintenance fund allocated to the county, or whether it is a proper charge against the direct charge fund.

In answer to this question, it is our opinion that under the specific provisions of Sections 55-603 and 55-604 of the New Mexico 1941 Compilation that the expense of physical examinations may be properly paid out of either the maintenance fund allocated to the county or the direct charge fund.

In further connection with this question, we wish to call your attention to the provisions of Section 71-104 of the New Mexico 1941 Compilation which provides that the State Department of Public Health shall be responsible for the administration of the public health activities of the state. In view of this section, it is our further opinion that the public health department should supervise any program concerning physical examination of the students, and that the various phases of such program such as the nature of the physical examinations and the amounts to be paid for such services, as well as the persons qualified to give such examinations, must be approved by the public health department.

Hoping that the above fully answers your question, I remain

By HARRY L. BIGBEE,

Asst. Atty. General