

Opinion No. 55-6169

May 23, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Marshall S. Hester, Superintendent, New Mexico School for the Deaf, 1060 Cerrillos Road, Santa Fe, New Mexico

Your request for opinion dated May 10, 1955 has been received.

You inquire whether or not the Board of Regents may, at the expense of the school, send one of its personnel to the Girls Welfare Home in Albuquerque, New Mexico, to teach the personnel there sign language so that they may be able to communicate with a young girl you propose to send there.

Section 73-24-1 et seq., N.M.S.A., 1953, are the statutes creating your institution, defining the objects for which it was created, and prescribing the powers which the governing body of your institution possesses. Nowhere therein can I find the express power to do that which you inquire about. Naturally the Board of Regents possesses, in addition to the express powers given, those which although not expressly stated are necessarily implied in order that the objects and purposes of your institution may be fully attained. Even so, it is impossible for me to find an implied power to do that which you propose.

A part of § 73-24-4, N.M.S.A., 1953, reads:

"The asylum **shall be devoted exclusively to the care and instruction** of the deaf and the hard-of-hearing, those who are either deaf or hard-of-hearing, of both sexes residents within the state of New Mexico between the ages of five (5) and twenty-one (21) years. . . ." (Emphasis supplied)

The above language would seem to preclude the power to spend the funds of your institution in instructing others than those persons in your institution. I cannot see that the Legislature intended that personnel from your school be dispatched, at institution expense, to places outside your school to prepare others in communicating and otherwise being able to get along with students from your school.

I realize that you have a difficult situation as concerns this particular child. However, as much as I sympathize with you it is nevertheless impossible for me to hold that the proposed plan and the expenditures involved are permissible legally.

The answer, therefore, to your inquiry is in the negative.

By Santiago E. Campos

Assistant Attorney General