

Opinion No. 55-6218

July 8, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Miss Florence Perkinson, Superintendent, Girls' Welfare Home, P. O. Box 6038, Station B, Albuquerque, New Mexico

Replying to your letter of June 13th in which you requested an opinion from this office as to whether the money of the Girls' Welfare Board placed in savings account in insured banks would be covered by Federal Deposit Insurance, inasmuch as there would be a likelihood of other state agencies placing money in the same bank, please be advised as follows:

An official custodian of public funds is considered to be the depositor, not the public unit; therefore, when an official custodian of public funds of a public unit deposits such funds in an insured bank, he is entitled to insurance upon all funds maintained in the same right and capacity to the maximum of \$ 10,000.00. If the deposited funds are maintained in different rights or capacities, the official custodian is entitled to the maximum insurance of \$ 10,000.00 upon funds maintained in each different right and capacity. **Billings County v. Federal Deposit Insurance Corporation**, 71 F. Supp. 696 (N.D. 1947); **Federal Deposit Insurance Corporation vs. Casady**, 106 F.2d 784 (10th Cir. 1949); **Phair v. Federal Deposit Insurance Corporation**, 74 F. Supp. 693 (N.J. 1947).

Assuming that the Girls' Welfare Home Board is entitled, under the laws of New Mexico, to have a savings account, we are of the opinion that such account would be covered even though other state agencies might have deposits of state money in the same bank. It is our opinion that such funds would be held in different "right or capacity" so as to be entitled to the coverage under the Federal Deposit Insurance Act, Title 12, United States Code. Section 1813 (m).

Trusting this will answer your question, we remain

By: Paul L. Billhymer

Assistant Attorney General