

Opinion No. 44-4579

September 21, 1944

BY: C. C. McCULLOH, Attorney General

TO: Miss Lois S. McVey, Supervisor, Child Welfare Services, Department of Public Welfare, Santa Fe, New Mexico

We are in receipt of your letter of September 20, 1944, in which you ask whether a 15-year-old girl may lawfully be employed after securing a permit in a cafe operated in connection with a hotel. Section 1, Chapter 112 of the Laws of 1943 provides in part:

"No child under the age of 16 years shall be employed or permitted to labor at any of the following occupations or in any of the following positions: * * * hotel, * * *."

Nowhere in this or other statutes is a 15-year-old child prohibited from working in a cafe. You will note that the prohibition is only against being employed in occupations or positions in a hotel. The child here involved is not employed in a hotel occupation or hotel position, but rather by one whose occupation is running a restaurant and holds, probably, the position of waitress. Further, there would be no reason to consider that the legislature would distinguish between a cafe run in connection with a hotel, whether by the same or different management, and a cafe run next door.

In view of the foregoing, it is my opinion that the child here involved may lawfully be employed in the cafe, when properly certified. Trusting that the foregoing fully answers your question, I am

By ROBERT W. WARD,

Asst. Atty. General