

Opinion No. 45-4803

October 8, 1945

BY: C. C. McCULLOH, Attorney General

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

{*144} I am in receipt of your letter of September 14, 1945, in which you ask whether or not the School for the Deaf may provide medical treatment for indigent children attending such school. Specifically, you ask whether you can pay a physician's fees for a tonsillectomy for such child.

Chapter 80 of the Laws of 1945, amending Section 55-2304 of the 1941 Compilation, provides in part:

"The asylum shall be devoted exclusively to the **care** and instruction of the deaf and mutes * * *"

Section 55-2303 of the 1941 Compilation vests in the board of trustees the power to make rules and regulations for the government of the institution. Taken in its broadest sense, the duty of caring for children in its custody, together with the powers to make rules and regulations, would vest in the board of trustees the power to do all things necessary to fulfill the physical needs of children under its supervision. This would include feeding, clothing, providing shelter and medical attention for such children. That this was the legislative intent is seen by the fact that while Section 55-2305 authorizes the superintendent to provide clothes and pay transportation to enable indigent children to come to the school, no specific provision is made for feeding, clothing, housing or caring for such children after they arrive.

In view of the foregoing, it is my opinion that the Legislature, by vesting in the board of the Deaf School the care of children under its control, vested it with authority to provide food, clothing, quarters and medical attention and such other care as might be necessary to the well-being of the child.

As a word of caution, your attention is directed to the fact that before an expenditure may be made, you must have an item in your budget to cover such expenditure. Further, as a practical matter, I would suggest that as to any medical attention other than routine, you contact the Department of Public Welfare, which might have funds available for operations upon indigent children.

By ROBERT W. WARD,

Asst. Atty. General