

**Opinion No. 55-6192**

June 16, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. E. B. Swope, Superintendent, New Mexico State Penitentiary, Santa Fe, New Mexico

In your letter of June 7, 1955 you request our opinion as to whether the Board of Trustees of the New Mexico Industrial School is empowered to order the transfer of inmates from the said School to the Penitentiary.

Prior to March 23, 1955 such transfer could be made by Court Order. However, Section 42-4-4 of the 1953 Compilation, permitting such, was repealed by Chapter 205, Laws of 1955. Section 42, Chapter 205, Laws of 1955, provides that persons falling in the category formerly handled under Section 42-4-4 are to be returned to the Court committing them for action under the criminal laws of the State of New Mexico. This section provides the exclusive remedy for the Board of Trustees as to this category of juveniles, and such transfers can no longer be made.

You ask whether persons now confined in your Institution under the terms of Section 42-4-4 are subject to good time allowances and the provisions of the Parole Act.

It is our opinion that those sections do not apply and such persons must remain in your Institution until they reach the age specified in the Order committing them or unless an Order for their release prior to that time is issued by the committing Court.

By: Walter R. Kegel

Assistant Attorney General