

**Opinion No. 56-6519**

September 18, 1956

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

**TO:** Mr. Richard F. Rowley, District Attorney, Ninth Judicial District, Clovis, New Mexico

You have related the following:

A young boy who is mentally retarded was committed to the Los Lunas Hospital and Training School. After being there for sometime the boy was paroled. While on parole he ran away from home and broke into a business house in Clovis. Immediately the District Judge ordered a recommitment. However, upon taking the boy back to Los Lunas, the authorities there refused to receive him for the reason that there existed no accommodations at the training school. It was promised that the boy would be received at the earliest vacancy. In the meantime the boy is being held in the juvenile cell at the County Court House in Curry County.

You ask for our opinion on the question:

". . . as to whether or not under the circumstances the hospital or training school at Los Lunas could be compelled to pay for his keep while he is waiting return to the school."

The statutes regarding the Los Lunas Hospital and Training School, originally and as amended, contemplated that the school should receive persons only when accommodations were available. See §§ 34-3-6, N.M.S.A., 1953, and 34-3-5 (e), N.M.S.A., 1953, pocket supplement. Admittedly, these statutes apply to the original commitment. I can find no specific provision which would cover the situation where once committed the person is thereafter paroled, and upon order of the Court that person is ordered to be returned to the hospital and training school. However, it is my opinion that the hospital and training school is not responsible for the expense of keeping those who are not within the hospital and training school. Our reasons for so holding are based on the provisions of the two statutes cited above. These certainly indicate a legislative intent to vest responsibility in the school only when accommodations are available.

I trust the above answers your inquiry.

By Santiago E. Campos

Assistant Attorney General