

Opinion No. 59-179

November 3, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mr. John W. Flynn Acting Dean Northern New Mexico State School El Rito, New Mexico

{*279} This is in response to your recent request for our opinion in regard to the following question:

Does the Northern New Mexico College at El Rito (Northern New Mexico State School) possess legal authority to reinaugurate a first and second year college program at the school?

Our answer to your question is that the Northern New Mexico State School does not at the present time possess such authority.

The Northern New Mexico College as you refer to it, officially known as the Northern New Mexico State School, or the Spanish-American School at El Rito (Sec. 73-22-23, N.M.S.A., 1953 Comp. (P.S.)), was confirmed as a state educational institution by Art. XII, Sec. 11, of the New Mexico Constitution. The original purpose of the School was spelled out in Chapter 97, Sec. 1, of the Laws of 1909, compiled in Sec. 73-22-31 of the 1953 Compilation of the Statutes. Under this section, the object of the School was to educate Spanish-speaking natives of New Mexico for the vocation of teachers in the public schools of the counties and districts where the Spanish language prevailed. Under Sec. 73-22-34 of the 1953 Compilation, it is clear that the School was designed for giving instruction to persons in order to train and qualify them as teachers. You will note that every scholar admitted to the School was required to sign an agreement to the effect that in the case such scholar graduated, he or she would teach at least two years in the public schools in the State unless excused for good cause by the State Board of Education.

However, the purposes of instruction in the School were changed by Chapter 115, Sec. 3 of the Laws of 1955, (Sec. 73-22-34, N.M.S.A., 1953 Comp. (P.S.)) which reads as follows:

"The courses of instruction at the Spanish-American School at El Rito shall be particularly arranged to meet the needs of young people of New Mexico **who cannot be served adequately by the local public schools in their home communities.** The courses of instruction shall give emphasis to the preparation for occupations and vocations that are useful and necessary in the economy of New Mexico, not {*280} neglecting such general education as is necessary for good citizenship, personal development, and preparation for further study **beyond the level offered in the said school.**

No scholar shall be received in said school who has not passed the sixth grade as established in the public schools of New Mexico in a satisfactory manner, or passes a satisfactory examination for entrance in the seventh grade; and the regents of said school are directed to make regulations to insure compliance with this provision." (Emphasis supplied)

This section is a repeal of the section previously referred to. Therefore, we can only come to the conclusion that the school is no longer set up for the training of teachers for the Spanish-speaking communities, but is now a school for the purpose of giving instruction as spelled out in the 1955 Act cited above. You will note that the courses of instruction to be given "shall be particularly arranged to meet the needs of young people of New Mexico who cannot be served adequately by the local public schools of their home communities". This language, in our opinion, puts the school in the position of being a substitute for the public schools for the purposes indicated by the legislature, and it is axiomatic that the public schools of New Mexico do not carry on an educational program beyond the high school level. Therefore, we view your school program as being limited by the legislature to the same level of education as that given by the public schools. In support of our position, we refer you to the above cited language in the 1955 Act that states that the courses of instruction are to be for the ". . . preparation for further study beyond the level offered in the said school". This language, when coupled with the language referring to the meeting of needs of young people who cannot be served by the public schools of their communities, makes it clear that the school is presently set up to operate an educational program below the college level.

As further support to our position, we note that the former Sec. 73-22-31 was repealed by the 1955 Act and no new section was enacted. Therefore, it can no longer be said that the object of the school is to train teachers for the Spanish-American communities of the State.

Parenthetically, as we have noted, the Northern New Mexico State School was confirmed as a State educational institution by Article XII, Section 11 of the New Mexico Constitution. However, this section does not confer upon the schools so named the right to operate a college-level program, although most of the institutions so named are by their very nature, college - level institutions. Both the New Mexico Asylum for the Deaf and Dumb at Santa Fe and the New Mexico Institute for the Blind at Alamogordo are also listed as State educational institutions by this Article and section of the Constitution, and neither of them has ever operated a college-level program.

Therefore, we must hold that the Northern New Mexico State School, also known as the Spanish-American School at El Rito does not, at the present time, possess the authority to enter into a program of education beyond the high school level.

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