

Opinion No. 25-3868

October 29, 1925

BY: JAMES N. BUJAC, Assistant Attorney General

TO: Requested by: Miss Margaret Reeves, Director, Bureau of Child Welfare, October 27, 1925, Santa Fe, New Mexico.

New Mexico Institute for the Blind is intended and meant for the proper instruction of the blind youth of the State.

OPINION

You request an opinion as to whether the Superintendent of the New Mexico Institute for the Blind has complete discretionary powers (with or without approval of his Board) regarding admissions and discharges to this institution.

Section 5105, New Mexico Statutes, Annotated, Codification of 1915, provides:

"The New Mexico Institute for the Blind is intended and meant for the proper instruction of the blind youth of the State."

and Section 5110, of the same Codification reads:

"The boards of each of said institutions shall have power, and it shall be their duty, to pass and enforce by-laws, rules and regulations for the government of such institutions, for the proper carrying out of their several objects, not in conflict with the laws of the State of New Mexico, or any act of congress, and to provide all proper and necessary books, apparatus, instruments, medicines, clothing, food and supplies, and other materials or things necessary for the proper conduct of the several institutions hereinbefore named and the care, support and protection of the inmates thereof when necessary; also to employ all teachers, physicians, wardens or superintendents and employees, and to prescribe the duties and compensation of each, and they shall have full power to remove or discharge any officer or employee appointed or selected by them in any of such institutions, when in their judgment the interest of such institution shall require."

From the language of the above quoted sections it is my opinion that the superintendent of the Blind Institute, either with or without the approval of the Board of Trustees, is without authority regarding the admission of the Blind youth of the State to the Blind Institute. In other words, all blind youths of this State making application for admission must be admitted thereto.

Of course, there can be no question as to the authority of the Board of Trustees to adopt and enforce such reasonable rules and regulations as they may deem necessary

for the proper conduct of the institution, and, if necessary, to expel patients or students who refuse to comply with such regulations but I do not think the Board should undertake to pass upon the mentality of any of the inmates. That being a question to be decided by the courts.