

Opinion No. 32-355

January 23, 1932

BY: Frank H. Patton, Asst. Attorney General

TO: Mr. Arsenio Velarde, Secy., State Board of Finance, Santa Fe, New Mexico.

{*130} Your letter of January 22nd, 1932, enclosing letters from J. O. Seth and Miss Florence Perkinson, Superintendent of the Girls' Welfare Home, has been received.

It is desired to know in this correspondence whether or not the Girls' Welfare Home is entitled to any distribution of the proceeds derived from public land grants under the Enabling Act for "State charitable, penal and reformatory institutions." We believe Mr. Otero in his opinion dated December 3, 1929, fully covered this situation at that time, and agree with his conclusion that the Girls' Welfare Home was not entitled to such distribution.

Since that date, however, by Chapter 36, Laws of 1931, the Girls' Welfare Home has been designated as a State Institution, but it is seriously doubted if this designation by the Legislature is sufficient to entitle the Girls' Welfare Home to come within the definition of the Enabling Act and we so hold. It might be well for Miss Perkinson to have this matter tested by appropriate action in the courts, and a mandamus proceedings to compel the treasurer to make such distribution is suggested.

We, of course, do not know how the court of last resort would feel about this question, but we are of the opinion that such distribution under the law is not authorized.