

**Opinion No. 43-4242**

February 18, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Senator Joe B. Garcia, P. O. Box 432, Alamogordo, New Mexico

We are in receipt of your letter of February 15, 1943, in which you ask whether or not a person who has been employed thirty years at the New Mexico Institute for the Blind at Alamogordo, New Mexico, and has reached his sixty-fifth year will be entitled to a pension under Section 10-420 of the 1941 Compilation.

The Section referred to by you was enacted as Chapter 110 of the Laws of 1941 and provides as follows:

"That every person or persons, who has served the Territory and the State of New Mexico for a period of thirty consecutive years, and who has passed the age of sixty-five (65) years, shall be entitled to receive a pension in the sum of One Hundred and twenty-five (\$ 125.00) dollars per month for the rest of his or her life."

The Legislature in the same year enacted Chapter 210 which is compiled as Section 55-2804 to 55-2810 of the 1941 Compilation. Section 55-2804 provides as follows:

"That the Board of Regents or other governing body of each of the state education institutions mentioned in Section 11 of Article XII of the Constitution of New Mexico, and including the Eastern New Mexico Normal and museum of New Mexico, shall have the power, by a majority of all of its members, to retire from active service and establish an emeritus employment status with any member of the faculty or employee of such institution, and after such retirement to pay to the person so retired a monthly pension for remainder of his or her natural life in conformity with the provisions of this act."

Since the School for the Blind is one of the educational institutions mentioned in Section 11, Article 12 of the Constitution, its members are specifically covered by this Act.

Since the Legislature made specific provisions of members of the School for the Blind by Chapter 210, it is my opinion that the rights of an employee of such an institution to retirement and pension would be governed by this Chapter rather than the general provision of Section 10-420.

By ROBERT W. WARD,

Asst. Atty. General