

**Opinion No. 43-4260**

March 30, 1943

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

**TO:** Miss Lois S. McVey, Supervisor, Child Welfare Services, Department of Public Welfare, Santa Fe, New Mexico

I have your letter of March 27, 1943, wherein you request an opinion of this office concerning the compulsory school attendance law and the child labor law.

As you point out, Section 55-1203 of the New Mexico 1941 Compilation provides for compulsory education of children under seventeen years of age.

The child labor law, Sections 57-501 to 57-515 inclusive, of the New Mexico 1941 Compilation regulates the hiring of children under sixteen years of age, making an apparent gap of the sixteenth year.

I also call your attention to Section 55-1204 of the New Mexico 1941 Compilation which was passed at the same time and included in the same chapter with Section 55-1203.

Section 55-1204 provides that:

"Children subject to the provisions of this act, between the ages of fourteen (14) and sixteen (16) years, may be excused by issuance of certificate of employment, from full time public school attendance \* \* \*"

In view of the fact that Sections 55-1203 and 55-1204 are related sections and part of a same chapter of the original act, it is my opinion that they must be construed together, and therefore the phrase found in Section 55-1204:

"between the ages of fourteen (14) and sixteen (16) years"

must be construed to have the identical meaning as was intended in Section 55-1203, wherein the phrase is found:

"children between the ages of six (6) and sixteen (16) years, both inclusive,"

In view of the foregoing it is my opinion that children under seventeen are subject to the compulsory attendance law and may only be excused by issuance of a certificate under Section 55-1204.

The act relating to the employment of children, Sections 57-501 to 57-515 inclusive, of the New Mexico 1941 Compilation, specifically refers throughout this article to children under sixteen years of age. However, while these sections prohibit children under

sixteen to be employed unless they have a proper certificate, it does not authorize the employment of children between sixteen and seventeen in violation of the compulsory school laws. These sections are directed to the employer and provide that such children shall not be employed unless certain certificates are obtained.

It is therefore my opinion, that it would not be unlawful for an employer to employ a child between the ages of sixteen and seventeen who had not obtained a certificate. Nevertheless the child would still be subject to the compulsory school attendance law and could be compelled to attend school rather than work, unless he obtains a certificate of employment under Section 55-1204 of the 1941 Compilation.

By HARRY L. BIGBEE,

Asst. Atty. General