

OFFICIAL OPINION NO. 70

December 2, 1947.

Hon. Ben H. Watt,
Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of November 12, 1947 received, as follows:

"The National Security Administration, under which Vocational Rehabilitation operates, requires that Indiana show what legal support there is for guarding confidential information. Will you please give the specific statute covering this point? If there is no definite statute covering this matter and there is precedent for such action, will you please make such statement over your signature?"

Supplementing your letter you have furnished me with a memorandum showing the Federal Director of Vocational Rehabilitation is particularly interested in an official statement of this office that the Vocational Rehabilitation Division of the Department of Education of Indiana may hold confidential that information concerning personal facts and circumstances given or made available to the state agency regarding persons participating in such vocational rehabilitation program.

Section 28-4920 Burns' 1943, same being Section 1, Chapter 204, Acts 1921, provides as follows:

"The state of Indiana does hereby, through its general assembly, accept the provisions and benefits of the act of congress, entitled 'An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment,' approved June 2, 1920, and will observe and comply with all requirements of such act."

Section 28-4922, being Section 3 of said act, designates the State Board of Education as the state board to cooperate with the Federal agency in the administration of the provisions of said Federal statute.

Section 28-4923, Burns' 1933, same being Section 4 of said act, authorizes said state board to formulate a plan of cooperation in accordance with the provisions of said act and said Act of Congress, said plan to be effective when approved by the Governor of the state. The foregoing Federal statute, approved June 2, 1920, was finally amended by Public Law 113 of the 78th Congress and was approved July 6, 1943. Section 1 of said act provides as follows:

"Moneys made available for the purpose pursuant to this Act shall be used for making payments to States (and Alaska, Hawaii, and Puerto Rico, herein referred to as 'states') which have submitted, and had approved by the Federal Security Administrator (herein referred to as the 'Administrator'), State plans for vocational rehabilitation of disabled individuals."

Section 2 of said act in detail sets out what the state plan shall contain and Section 7 (c) of said act provides as follows:

"The Administrator is hereby authorized to make rules and regulations governing the administration of this Act, and to delegate to any officer or employee of the United States such of his powers and duties, except the making of rules and regulations, as he finds necessary in carrying out the purposes of this Act."

Thereafter, on October 9, 1943, pursuant to the authority vested in said Federal administrator, he promulgated and issued regulations governing plans and programs of vocational rehabilitation pursuant to said amendment of said Federal statute by Public Law 113, *supra*. Among such regulations was Section 600.13, which reads as follows:

"All information as to personal facts and circumstances given or made available to the State Board or Blind Agency and obtained by it in the course of administration shall constitute privileged communications and should be held confidential. The Plan should provide suitable regulations and safeguards which restrict the use or disclosure thereof to pur-

poses directly connected with the administration of vocational rehabilitation under the Plan.”

Thereafter, in April, 1944, a new state plan was executed pursuant to said adoption of Public Law 113, and on December 19, 1945, an amendment to said state plan was made setting out in great detail the manner in which such state board would guard and keep confidential the privileged communications coming to it in the administration of said program, which amendment was in compliance with the regulations and directives of the Federal agency as necessary to secure Federal aid in carrying on said program. While these amendments are therein also referred to as rules and regulations, they are in fact amendments to the state plan.

Since Section 28-4920, *et seq.* Burns' 1933, *supra*, is an enabling statute by this state for participation in such Federal program, and since the Legislature has specifically authorized the state agency to observe and comply with all the requirements of such Federal act, I am of the opinion the amendment to the state plan, heretofore referred to, directing the safeguarding of such confidential communications as therein set out, is authorized by said Indiana statute.

OFFICIAL OPINION NO. 71

December 2, 1947.

Hon. F. W. Quackenbush,
State Chemist & Seed Commissioner,
Agricultural Experiment Station,
Purdue University,
Lafayette, Indiana.

Dear Mr. Quackenbush:

Your letter of November 14, 1947, has been received in which you request an official opinion as to whether a seed company in another state who sells seeds in the State of Indiana, by mail or otherwise, can be required to comply with the Indiana Seed Law, and with Rule No. 1 promulgated by the State Seed Commissioner under this act. If so, you desire