

## OFFICIAL OPINION NO. 18

March 16, 1945.

Mrs. Harriett W. Geiger,  
Parole Agent,  
Indiana Girls' School,  
Rural Route 2, Box 440,  
Indianapolis, Indiana.

Dear Mrs. Geiger:

Your letter of February 8, 1945, received requesting an opinion on what action should be taken by the Indiana Girls' School under the following stated facts:

A girl was sent to your school from Allen County in June, 1942. On January 12, 1944, she was paroled to her sister in Marion, Indiana. In December, 1944, she became acutely ill and was taken to the Marion Central Hospital where she had considerable care as she was quite ill. Her family has asked the Indiana Girls' School, or her home county to pay for this hospital service. Allen County has denied liability for such expense. This girl is still a ward of your institution and will be until her twentieth birthday on March 31, 1946.

Where an office is created by statute, public officers may exercise only such powers as are expressly authorized by statute.

State, *ex rel.* v. Goldthait (1909), 172 Ind. 210, 216, 217;

State, *ex rel.* v. Home Brewing Co. (1914), 182 Ind. 75, 91, 92;

The State v. The Portsmouth Savings Bank (1886), 106 Ind. 435, 451;

Dept. of Insurance v. Church Members Relief Assn. (1940), 217 Ind. 58, 60.

An exception to the above general rule is recognized where certain incidental powers are implied for the purpose of carrying out the express powers given a public officer.

43 Am. Jur., Public Officers, Section 250;  
State, *ex rel.* v. Goldthait (1909), 172 Ind. 210, 216, 217.

I do not find a statute of this State specifically authorizing the Indiana Girls' School to pay for the emergency medical treatment of inmates committed to that institution, who have been paroled therefrom, nor would that authorization be necessarily implied as an incident of any express power otherwise granted.

Irrespective of any duty which might be imposed upon the Indiana Girls' School to give such emergency medical treatment to inmates actually confined in said institution, it is clear that in the instant case, where such girl has been paroled to the custody of her sister and was living in Marion, Indiana, at the time of such illness, that during the time such parole was effective the liability and responsibility of the Indiana Girls' School for the furnishing of food, shelter and the necessities of life to said girl ceased.

I am therefore of the opinion there is no liability on the Indiana Girls' School for the expense of hospitalization for this girl while she was on parole from such institution. There being no liability on the State of Indiana in this case, this office will not express an opinion on the question of possible liability of other persons for such expense.

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OFFICIAL OPINION NO. 19

March 22, 1945.

Hon. A. V. Burch,  
Auditor of State,  
State House,  
Indianapolis, Ind.

Dear Mr. Burch:

I am in receipt of your letter dated March 20th, requesting an official opinion as follows:

"The question has arisen as to whether or not petroleum products sold as stove and light naphtha are subject to the inspection fee under the Oil Inspection Law, coming as it does within the gasoline specifications as set out in the law.

"It appears that the claim of a 'no fee charge' is based on the fact that this product is sold and marketed