

**DEPARTMENT OF PUBLIC INSTRUCTION: Disbursement
of funds provided by Federal Government for vocational
rehabilitation.**

January 31, 1944.

Opinion No. 10

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. Malan:

I have your request for an official opinion, which, as I understand your letter, in substance asks the following question:

Does the Department of Education have exclusive authority to direct the disbursement and administer the use of all Federal funds provided by the Federal Government for vocational rehabilitation in Indiana?

The Federal Vocational Rehabilitation Law of 1920, as amended, provides that a state plan for vocational rehabilitation shall

“designate the State board of vocational education (herein referred to as the ‘State board’) *as the sole agency* for the administration, supervision, and control of the State plan; except that where under the State’s law, the State blind commission, or other agency which provides assistance or services to the adult blind is authorized to provide them vocational rehabilitation, the plan shall provide for administration by such State blind commission or other State agency of the part of the plan under which vocational rehabilitation is provided the blind.”

Title 29, U. S. C. A. Supp., Sec. 32.

Title 29, U. S. C. A., Section 32, states that for each dollar of Federal money expended there shall be expended in the State under the supervision and control of the State Board at least an equal amount for the same purpose. It further states that no portion of the appropriations shall be used by

any institution for handicapped persons except for vocational rehabilitation.

In accordance with the Federal Act, a statute was passed by our Legislature in 1921, accepting the benefits obtainable. Quoting in part:

“The board heretofore designated by law as the state board for vocational education to cooperate with the federal board for vocational education in the administration of the provisions of the vocational education act, approved February 23, 1917, is hereby designated as the state board for the purpose of cooperating with the said federal board in carrying out the provisions and purposes of said federal act providing for the vocational rehabilitation of persons disabled in industry or otherwise * * * and to direct the disbursement and administer the use of *all funds* provided by the federal government in this state for the vocational rehabilitation of such persons.” (Our emphasis.)

Sec. 28-4922, Burns' Indiana Statutes 1933.

The State Board of Vocational Education was created in 1917, consisting of the members of the State Board of Education (Sec. 28-4919, Burns' Indiana Statutes 1933). Thus the State Board, designated to cooperate with the Federal Board in providing for vocational rehabilitation, is in fact the State Board of Education. No other agency or organization is named by law to act in the same capacity. The law clearly provides that *all funds* provided by the Federal Government and this State for vocational rehabilitation shall be disbursed and administered by the State Board, i.e., The State Board of Education.

We have in Indiana a Board of Industrial Aid for the Blind, created by statute in 1915, whose duty it is to act as a bureau of information to aid the blind in finding employment and to teach them industries which may be followed in their homes. This Board offers a partial program of vocational rehabilitation for the blind. However, the program is limited in its scope and does not cover the broad field of vocational rehabilitation contemplated by the State and Federal statutes on that subject. The Board of Industrial Aid for the Blind is not authorized by the law of its creation or by amendment

to accept the benefits or cooperate in the Federal plan for vocational rehabilitation.

It is fundamental that every administrative agency of the state must find the source of its authority in the statute conferring it, and can only exercise the power conferred in conformity with the statute.

State ex rel. Licking Township v. Clamme, 80 Ind. App. 147;

State Board of Tax Commissioners v. McDaniel, 199 Ind. 708.

Insofar as the Federal funds are concerned, the intent of our State Legislature is clearly expressed in the Appropriation Act, Chapter 296, Acts 1943, under the heading of "Vocational Rehabilitation."

"For Vocational Rehabilitation: Operating Expense: Operating expenses for the fiscal year beginning July 1, 1943, seventy-five thousand dollars (\$75,000). Operating expenses for the fiscal year beginning July 1, 1944, seventy-five thousand dollars (\$75,000).

Provided, That if the appropriations herein made are not sufficient to enable the state, through the above designated agency, to avail itself of all federal funds which may be allotted or granted to the state for the above purposes during either fiscal year of the biennial period, there is hereby appropriated such further sum as may be required for such purposes, the amount, however, to be subject to the approval of the budget committee.

"The appropriation herein made includes an authorization for the expenditure of any federal funds received for the above purposes."

My conclusion is that the State Board of Education, acting as a State Board for Vocational Rehabilitation, has exclusive authority to direct the disbursement and administer the use of all Federal funds provided by the Federal Government for vocational rehabilitation in Indiana.