

**INDIANA SOLDIERS' AND SAILORS' CHILDREN'S HOME: Use of public funds in payment of merit awards to children.**

**PUBLIC FUNDS: Use of to pay merit awards.**

January 28, 1943.

Mr. L. A. Cortner, Superintendent,  
Indiana Soldiers' and Sailors' Children's Home,  
Knightstown, Indiana.

Dear Sir:

I have your letter of January 20, 1943, requesting an official opinion, which letter is as follows:

"By authority of the Board of Trustees there was established in the Indiana Soldiers' and Sailors' Children's Home a merit system. This system consists of compensating children who have reached their 13th birthday for the proper performance of their duties in their school work, in their home work, and in their trade. This is done according to a carefully worked out system in which the teacher, the housemother, and the work supervisor have a voice. The maximum amount possible for the child to receive is 45c per month.

"Under the same rules, children can be penalized for misconduct in accordance with a set schedule for specific misdemeanors so as to lose a part or all of the 45c in merits that have been earned. When the necessary records have been completed in accordance with the rules of the system, a voucher is made covering the total amount the children have earned. When the voucher is paid the amount earned by each child is deposited to his account in the Student Bank on which the child may write checks as he sees fit for clothing, novelties, and refreshments at the Institution's Student Store; or he may allow this money to accumulate in a savings account which he may take with him upon his discharge.

"All of the above is in accordance with a set of rules that have been established for its operation. The

system as a whole is an integral part of the training of each child in the Institution and was set up for that purpose. It acts as a reward and compensation for the proper performance of duties, and establishes a penalty for failure and misconduct. It teaches the child the use of a bank account, the pass book, checks, deposit slips, Christmas savings, and the like and teaches him the use of money because he is allowed a free decision in the matter of its spending.

“The question is this: Does this come within the authority of the Board of Trustees to establish such a system and permit the use of State funds in this manner? \* \* \*”

It is necessary to first determine what the rights and duties of the Trustees are, and what the intention of the legislature was as to said Trustees' duties when it created said Children's Home.

Sec. 22-2303, Burns' Statutes 1933, being Acts 1887, Ch. 14, Sec. 2, P. 16, as amended, provides in part as follows:

“The general charge and management of said home shall be entrusted to a board of trustees consisting of four (4) members who shall be appointed by the governor of this state, which board shall be a body politic and corporate, to be known as the board of trustees of the Indiana Soldiers' and Sailors' Children's Home, by which name such board may sue and be sued, plead and be impleaded in any court in this state. \* \* \*”

Sec. 22-2306, Burns' 1933, being Acts 1887, Ch. 14, Sec. 5, P. 16, as amended, provides that:

“\* \* \* Such board shall make such orders, rules and regulations as will carry into effect the provisions and purposes of this act. \* \* \*”

Sec. 22-2326, Burns' 1933, provides:

“The board of trustees of the Indiana Soldiers' and Sailors' Children's Home shall have the care, custody, control, training and guardianship of any and all children admitted to and living in such home, from the

day of their admission thereto until they are eighteen (18) years of age, or until they are discharged therefrom by the board. \* \* \*"

It is clear that the purpose of said Act was to provide said children with the same kind of training and care enjoyed by other children in their own homes. It is common knowledge that like inducements are held out to children in their own homes, and that such a system causes a child to learn obedience, honesty and frugality, and tends to build character. It also teaches a child the use and value of a bank account.

It is, therefore, my opinion that the merit system set out in your letter is legal and is within the discretionary powers of the Board of Trustees of said Home in their training and educating the children entrusted to their care.

It is also my opinion that payments made to children under such plans do not constitute "payment of a salary or other compensation for personal services within the state service" as set out in Sec. 60-1332, Burns' 1942 Supplement, being Acts of 1941, Ch. 139, Sec. 32, P. 387, and known as the "State Personnel Act."

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**PUBLIC SAFETY, DIVISION OF: Whether a licensed osteopath is a physician within the intent of Chapter 71, Section 7 of Acts of 1937.**

**PHYSICIAN: Whether osteopath is a physician.**

January 28, 1943.

Division of Public Safety of the State of Indiana,  
Indianapolis, Indiana.

Attention: Mr. James C. Dunn, Executive Assistant

Dear Sir:

I have your letter of January 13, 1943, to wit:

"Under Chapter 71, section 7, acts of 1937, can the 'report of the examining physician' be given by an osteopath or must same be given by a physician.

"I would like a written opinion on this, since it is being questioned by the osteopaths."