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SCHOOLS FOR CRIPPLED PERSONS—CRIPPLED ADULTS MAY ALSO ATTEND SUCH SCHOOLS—WHEN BOARD OF EDUCATION ENTITLED TO RECEIVE SUBSIDY PROVIDED IN SECTIONS 7757 AND 7758 G. C. FOR ABOVE PURPOSE.

*Under the provisions of sections 7755 and 7761 as effective May 21, 1920, the superintendent of public instruction may issue permits authorizing boards of education to establish and maintain schools for crippled persons, and crippled adults as well as crippled children may properly attend such schools. When such a school is so established and maintained the board of education will be entitled to receive the subsidy provided in sections 7757 and 7758 G. C.*

COLUMBUS, OHIO, April 16, 1920.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction, Columbus, Ohio.*

DEAR SIR:—Your communication of recent date reads:

“This department is asked to grant permission as provided in section 7755 to a board of education so that it may establish and maintain a school for the instruction of crippled persons. It is the intention of that board of education to provide in that school for the instruction of some crippled persons who are of adult age. We wrote a certificate of permission to establish a school for the instruction of crippled children but we are in receipt of a letter inquiring whether this is to be understood as giving permission to instruct in that school grown persons also.

We are led to hesitate to grant such permission because of the wording of section 7760 in which there seems to be an effort to define who may be considered as crippled, for in that section those are defined as crippled ‘who cannot profitably or safely be educated in the public schools as other children,’ and we find further that those defined as crippled ‘may be compelled to attend.’

We therefore ask you to advise us whether we can authorize a board of education to establish and maintain a school for the instruction of crippled persons beyond 21 years of age, or a school for crippled persons part of whom are beyond 21 years of age and the board of education be entitled to the subsidy for the support of such school provided in sections 7757 and 7758.”

While section 7755 G. C. as last amended will not become operative until May 21, 1920, its provisions will be considered herein in the belief that your interest is in reference to the future rather than the present status of the law. This statute gives a board of education ample authority to establish schools for deaf, blind and crippled persons, when permission has been granted by the superintendent of public instruction. This section further provides that there must not be less than three pupils in average attendance at such a school and provides that deaf and blind persons, residents of the state, over the age of three, and crippled persons over the age of five, may be admitted to such schools. This section further authorizes the board of education, with certain limitations, to pay the board of any blind persons attending such school under the age of forty-five.

There are no definite limitations provided as to the age of those who may attend. It is evident that it was the intent of the legislature to permit adult blind persons to attend such a school. If that were not true, certainly the pro-

vision would not have been made relative to paying a blind pupil's board under the age of forty-five. This statute, irrespective of whatever doubt there may be in reference to the meaning of section 7760 to which you refer, clearly indicates that adult blind persons are to be admitted to such schools as are established for the blind.

In the further consideration of the meaning of this law, it must be remembered that this is a humanitarian measure, the object of which is to furnish opportunities to the unfortunate to the end that they may be better fitted to live happy and useful lives and to further relieve the state of the burden of their support. Such legislation must be liberally construed, and such a construction will compel the conclusion that adult deaf, blind and crippled persons may legally attend such schools. If this conclusion is not correct, then we must say that the legislature intended that a blind adult may better his condition by education and that a deaf or crippled adult may not.

It is believed that the legislature did not make or intend to make any such a discrimination. However, it did grant an additional benefit to certain blind persons relative to the payment of their board. The reason for this is very apparent in view of the physical handicap of a person who has lost his vision as compared with the handicap of one who can see though deaf or crippled.

Section 7760 G. C., to which you refer, provides:

"For the purpose hereof, any person of sound mind, who, by reason of defective hearing or defective vision, or so crippled as to be physically unable to care for himself without assistance, cannot profitably or safely be educated in the public schools as other children shall be considered as deaf, blind, or crippled and after the establishment of any such school by any school district, may be compelled to attend such school or a state institution."

While the words "as other children" are somewhat confusing in this section and could technically be construed as distinguishing between deaf, blind and crippled children and children who are not, it is believed in view of the other section above referred to, for the reasons heretofore set forth, that said section should not be so construed. It is further believed that the superintendent of public instruction in granting a permit, or the board of education in establishing a school, must have in mind a school which is open to deaf, blind or crippled children as well as adults. It may be possible for different classes to be arranged which would separate the children from the adults as a matter of expediency and convenience in instructing said pupils, but in so far as seems to be contemplated in the statutes such a school shall be open to all deaf, blind or crippled persons according to the class of school established.

You are therefore advised that under the provisions of sections 7755 and 7761, as effective on May 21, 1920, crippled adult pupils may properly be admitted as well as children to schools properly established under the provisions of said sections, and the superintendent of public instruction is authorized to grant permission to boards of education to establish schools for such purposes. It follows that a board of education establishing such a school would be entitled to the subsidy provided in sections 7757 and 7758.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*