

Opinion No. 51-5393

July 23, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: General Chas. G. Sage Adjutant General State of New Mexico Santa Fe, New Mexico

{*83} This is in reply to your letter of June 27 requesting an opinion on the requirements of the law relative to the disbursement of the funds for the Civil Air Patrol, set out in the Adjutant General's appropriation for the 40th and 41st fiscal years.

The act creating and establishing the New Mexico Department of Civil Air Patrol was passed in 1949 as Ch. 147, Session Laws of that year. This measure, which created the Civil Air Patrol as an official group, also provided for funds for its operation for the 38th and 39th fiscal years. The last sentence of Section 2 of the Civil Air Patrol Act states:

"No sum of money shall be expended for uniforms or personal equipment of any member of the Civil Air Patrol nor shall any sum or sums of money be paid out from funds appropriated for any salaries."

In my opinion, this sentence would not restrict the payment of authorized CAP expenses from the current appropriation which provides that the CAP fund shall come from the Adjutant General's salary fund. While the meaning of the sentence I have quoted is not altogether clear, it must be construed as nearly as possible to carry out the intent of the legislature. It is my opinion that by that last sentence the legislature intended merely to prohibit the payment of any sums for salaries or for the purchase of uniforms or personal equipment for CAP members.

The funds provided by Section 1 of the 1951 General Appropriations Act provide, in Item (3) of the Adjutant General's appropriation, the sum of \$ 67,100 for office, warehouse, armory and other salaries. A proviso to the Adjutant General's appropriation requires that the sum appropriated for salaries shall also provide the sum of \$ 5000 for each fiscal year for the Civil Air Patrol. This proviso is an effectual appropriation for the Civil Air Patrol.

In my opinion, the legislature, in providing funds for the CAP in the Adjutant General's appropriation for salaries, intended thereby that the Adjutant General should continue to be charged with the duty and responsibility of supervising the expenditure of those funds for authorized CAP purposes as he was under the original Civil Air Patrol Act.

Trusting that this opinion fully answers your inquiry, I remain