

Opinion No. 55-6308

November 1, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. W. Burrell, State Labor Commissioner, Santa Fe, New Mexico

Reference is made to your letter of October 17, 1955, in which you asked whether or not Opinion No. 6207, addressed to Mr. Dick Valdez, Finance Director of the New Mexico State Hospital in Las Vegas, applied only to the employees of the State Hospital or to all employees of the State of New Mexico and its political subdivisions. Said Opinion stated that it was the opinion of this office that public employees probably could not organize into labor unions and if they did, they would have no official recognition without legislation authorizing the same. This Opinion was directed primarily to the employees of the New Mexico State Hospital in Las Vegas, however, we feel that the same general rule applies to all employees of the State and its various subdivisions.

Any organization of public employees, which might organize as a labor union, would not have to be recognized by the employer or governing body without legislation requiring said employer or governing body to do so. In fact, it is the general rule that if membership in such organization is contrary to orders or ordinances prohibiting the same, such may be insubordination and grounds for dismissal. However, there is nothing in our statutes prohibiting an employer or governing body of a political subdivision from informally dealing with such an organization, or any individual employee, if they so desire, but said organization, without statutory authority, would not have the power to sign contracts, the right to strike, to picket, etc., which are the general tools of labor organizations. It would be merely an informal relationship based upon the consent of the employer or of the governing body.

Please understand that this does not amend our Opinion No. 6207 but is supplementary to it in extending it to apply to all employees of the State of New Mexico and its various political subdivisions.