

Opinion No. 55-6317

November 10, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Kermit Nash, Assistant District Attorney, Fifth Judicial District, Hobbs, New Mexico

We have your letter of September 8 in which you ask whether the Girl Scouts, Boy Scouts, Red Cross and March of Dimes come within the provisions of Chapter 249, Laws 1955, and the further question, whether, if these organizations do come within these provisions of this law, one registration is sufficient or must each local group have to register.

Section 1 (a) and (d) of Chapter 249, Laws 1955, defines charitable organization as follows:

"(a) 'Charitable organization.' Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such.

"(d) 'Person.' Any individual, organization, group, association, partnership, corporation, or any combination of them."

Section 2 requires the registration of such organizations except for those exempt by Section 3. Clearly the organizations mentioned in your letter do not come within the exemptions.

We are enclosing an opinion from this office which covers the American Red Cross.

If the Girl Scouts, Boy Scouts or March of Dimes come within the definition above quoted, each would have to comply with the provisions of Chapter 249, Laws 1955.

A benevolent organization has been defined as follows:

"'A benevolent corporation' is one that ministers to all, and the purpose may be anything that promotes the mental, physical or spiritual welfare of man." In re Rockefeller's Estate, 165 N.Y.S.154, 158, 177 App. Div. 786. See also 5 Words and Phrases, at Page 348 et seq. for other definitions.

Philanthropic organization has been defined as an organization which promotes "the welfare of mankind by works of charity" and also denotes an unselfish purpose to advance the common good in any form or manner." Westchester County Soc. for Prevention of Cruelty to Animals v. Mengel, 54 N.E. 2d 329, 331, 292 N.Y. 121. Patriotic organization is one which is actuated by love of country and promotes the interest of country or nation.

Eleemosynary organization is one which carries on charitable purposes. See 14 Words and Phrases, page 342.

It is the opinion of this office that the Boy Scouts and Girl Scouts come within the definition of Charitable Organization as defined by Chapter 249, Laws 1955. Certainly these organizations are for the promotion of the wellbeing of the boys and girls of this country. Likewise we are of the opinion that the "March of Dimes" comes within this definition. We are of the opinion that the purpose of this law was to secure the registration of all organizations who solicit funds from the general public except those specifically exempt by the terms of the act. Certainly the Boy Scouts, Girl Scouts and the March of Dimes purport and hold themselves out as organizations which promote the public good from the donations received by the drives.

If the fund raising campaigns are carried on through the state organizations and the control of the drives are directed by the State organizations, we are of the opinion that only the State organizations would register and one fee would be sufficient. If, on the other hand, the drive for funds is directed for the **sole benefit** of the local unit, it seems that this unit would have to comply with Chapter 249, Laws 1955.

Trusting we have answered your question, we remain

By: Paul L. Billhymer

Assistant Attorney General