

Opinion No. 56-6490

July 11, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Office of John D. Murphy, District Attorney, Second Judicial District, Court House, Albuquerque, New Mexico. Attention: H. L. Williams, Assistant District Attorney

Answering yours dated May 14, 1956, in which query is made to this office concerning the authority of your Board of County Commissioners.

We understand this to be the issue:

Can the Board of County Commissioners of Bernalillo County standardize employment policies, including such items as weekly work hours, vacation, sick leave, holidays, etc., for all county employees whether such employees are under direct control of the Board or some other official or official body? We take for granted that there is no thought to change policies, rights, privileges or obligations covered by statutes of New Mexico nor to make rules or regulations that would interfere with such privileges or obligations -- in fact, we are assuming quite the opposite; that such policies will tend to assist other county officials in the proper performance of their duties and that such rules and regulations will not be contrary to the meaning and intent of the statutes concerning the duties of such officials, official bodies and employees of both.

New Mexico Statutes, 1953, § 15-37-1, provides: "The powers of a county as a body politic and corporate shall be exercised by a board of county commissioners." A corporate body has the power to make rule and regulation concerning the terms of employment of its employees. " ___ A county board may adopt such means as in its judgment shall be expedient in assisting county officers properly to discharge the duties of their offices." 20 C.J.S. 855. New Mexico Statutes, 1953, § 15-37-16, provides as a duty of a Board of County Commissioners, "To represent the county and have the care of the county property **and the management of the interest of the county in all cases where no other provision is made by law.**" (Underling ours).

We refer you to the previous opinions of this office under the section, supra, not necessarily dealing with the same or even similar matters herein under discussion, but nevertheless delineating numerous fields of activity allowed Boards of County Commissioners even though not specifically granted by statute. We will quote the following, indicating the opinion of this office as to the wide range of implied power we believe vested in Boards of County Commissioners:

"This section gives the County Commissioners very wide discretionary power in management of interest of county in cases not otherwise provided by law." 1915-16, page 64.

While no explicit authority is given the County Boards to make employee rule and regulation, it appears apparent that such authority is necessarily implied in order that the County Boards may carry out their administrative functions.

Inasmuch as standardization of rule and regulation concerning the work week hours, vacations, sick leave, holidays, etc., would serve the interest of the County and make more efficient the discharge of the duties of the various county officials and county official bodies, it is the opinion of this office that the County Commissioners of Bernalillo County (or any county) may establish a uniform employment practice for all county employees provided the statutes of New Mexico do not specifically or impliedly prohibit such actions, place the authority for the same elsewhere, or already contain employment terms contrary to the standards intended to be set up.

By Howard M. Rosenthal

Assistant Attorney General