

Opinion No. 60-120

June 20, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Henry R. Salazar Valencia County Manager Los Lunas, New Mexico

QUESTION

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May a County Commissioner provide financial assistance to baseball leagues, in the form of moneys from the Juvenile Recreational Fund, if the majority of the participating players are of a non-juvenile age?

CONCLUSION

No, see analysis.

OPINION

{*495} ANALYSIS

It is the opinion of this office that a negative answer to your inquiry is demanded by the provisions of Sec. 72-14-14, N.M.S.A., 1953 Comp. (PS). This statute now provides in pertinent part that:

"The funds so distributed to the counties and municipalities of this state shall be used exclusively for recreational facilities and salaries of instructors and other employees **necessary to the operation of such juvenile facilities primarily suitable for juveniles.** . . ; Provided that adults may not be excluded from the use of any such facility which is suitable for use by both juveniles and adults. . ." (Emphasis added).

It has been previously held in A.G. Opn. 58-18 that the portion of the statute quoted above is remedial in nature and thus should be liberally construed. We are in complete accord that, as regards the types of activities which may receive assistance from the Juvenile Recreational Fund, the statute should be liberally construed. We feel that baseball leagues, as such, may be among the contemplated recipients of such funds. However, as the above-quoted and underlined statutory language indicates, county officials are obliged to make a factual determination that the funds disbursed will be for "**facilities primarily suitable for juveniles.**" It is our conclusion that on the basis of the facts stated in the present request for opinion, it would not be proper to expend Juvenile Recreational Funds in assistance of the particular baseball leagues now being considered.

In making the factual determination referred to above, two things must be considered in determining whether a proposed disbursement of funds is proper. First, it must be recalled that Sec. 72-14-14 defines "juvenile" as "every person under the age of twenty-one (21) years." Second, the same statute clearly states that adults may not be excluded from any suitable facility. Therefore, the fact that a contemplated facility or activity will benefit adults as well as juveniles, does not make the facility or activity ineligible for such assistance as long as they are primarily devoted to the recreation of juveniles. This could not be said to be the case if a majority of those using the facility or participating in the activity are over twenty-one years of age.

By: F. Harlan Flint

Assistant Attorney General