

Opinion No. 63-49

May 7, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Phil Carter Superintendent Los Lunas Hospital and Training School Los Lunas, New Mexico

QUESTION

FACTS

The New Mexico Association for Retarded Children, in cooperation with the Albuquerque Association for Retarded Children and the Los Lunas Hospital and Training School have applied for a grant from the Joseph P. Kennedy Foundation to establish a summer camp at the Los Lunas Hospital and Training School especially for retarded children. The foundation will select sites for eight different demonstration camps for the mentally retarded. The camps will be designed not only to provide a period of enjoyable recreation for the retarded children who attend, but to demonstrate that the retarded can learn to use their leisure time constructively. Further, the camps are designed to provide a readiness program for subsequent vocational rehabilitation efforts. Finally, the project also is intended to acquaint the public and surrounding communities with the complex problems involved in caring for the mentally retarded. The camp would accommodate approximately 35 to 75 children, and the foundation will provide matching grants of up to \$ 3,000.00. Funds to match the foundation grants would be obtained by means of donations by private contributions from organizations and citizens, and possibly a slight charge to parents of such children. The Los Lunas Hospital and Training School would not itself donate funds but would make available to the camp, buildings of the institution not currently in usage, and lend personnel to assist in the operation of the camp.

QUESTION

May the Los Lunas Hospital and Training School lawfully participate in the establishment of a temporary camp for mentally retarded children, and permit the use of the facilities of the hospital and training school?

CONCLUSION

Yes.

OPINION

{*103} **ANALYSIS**

Section 34-3-2 N.M.S.A., 1953 Compilation provides for the establishment and maintenance by the state of the Los Lunas Hospital and Training School for the "care, custody, employment, education and training of mental defectives." Incidental to the carrying out of such an institutional program is the concomitant power to promote and assist whenever feasible, the carrying out of plans designed to help mentally retarded children of this state.

From a careful reading of the statutes governing the institution, Section 34-3-1 N.M.S.A., 1953 Compilation, et seq., and from our review of other state acts, we believe that the authority exists for the board of directors of the hospital and training school to permit the use of institutional facilities for establishment of such temporary summer camp, if such activity does not otherwise materially detract from, or interfere with the regular operation and functioning of the institution. Since such program is designed to assist mentally retarded children and further the understanding of their problems, it is closely akin to the specific purposes for which the institution was originally created. And since the operation of such camp will be self sustaining financially through the use of moneys derived from a private grant and from donations from private sources or from the imposition of reasonable charges in order to defray the cost of such camp, we believe that it is within the proper and permissible scope of authority of the institution to make available a portion of its facilities and staff for establishing such temporary camp.

By: Thomas A. Donnelly

Assistant Attorney General