

## Opinion No. 56-6466

June 13, 1956

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Larry W. Waterman, Executive Secretary, New Mexico Commission on Youth,  
P. O. Box 2034, Santa Fe, New Mexico

We have your letter of April 2nd in which you ask questions concerning the provisions of Chapter 263, Laws of 1955. Your question is:

"1. Under what circumstances can the County Commissioners expend their 'Juvenile Recreational Fund' within a municipality?"

We are enclosing a copy of Attorney General's Opinion No. 6459, dated June 6, 1956, which we think answers this particular question.

Your second question is as follows:

"2. Chapter 67, Laws of 1945, provide that the governing body of a municipality or county, by resolution or ordinance, may vest the authority in a special board or other body to maintain and equip playgrounds, recreation centers and buildings thereon, employ play leaders and other recreational personnel, and to make such expenditures therefor as this board shall deem necessary or advisable, from any fund provided for by said municipality or county?"

Chapter 67, Laws of 1945, briefly provides that the governing bodies of any municipality or county may create a special board or other body to maintain and equip playgrounds, recreational centers and buildings, and also employ leaders and other recreational personnel to supervise recreation. This chapter also authorizes such governing body to expend such funds as come into its hands for the purposes specified in its creation. It is true that Chapter 263, Laws of 1955, does not specifically provide for the expenditures of such funds. However, such law does provide that the funds shall be used exclusively for juvenile recreational facilities.

We are therefore of the opinion that the tenor of the Act is such that it is incumbent upon the respective governing bodies of the city and county that they see and supervise the expenditures of such funds. In other words, they are responsible for seeing that such funds are used exclusively for juvenile recreational facilities.

We are thus of the opinion that the governing bodies of either the county or municipality do not have any right to turn the expenditures of these funds over to any kind of board and allow such board to spend the same as they see fit under their power as a park and recreational board. In other words, there cannot be an indiscriminate release of the

control of the expenditures of these funds by the governing bodies of a county or municipality.

In view of the answer given to Question No. 2 above, we deem it best not to pass upon the sample ordinance which you submitted to this office. Since both counties and municipalities have their own attorneys we feel it would be best to have such ordinances drafted by the local attorneys in the area who are familiar with the various problems of the locality, and do not deem it advisable to have a sample ordinance which may or may not cover all the situations as presented in the State of New Mexico.

Trusting we have answered your questions, we remain

By: Paul L. Billhymer

Assistant Attorney General