

Opinion No. 58-98

May 16, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Howard M. Rosenthal,
Assistant Attorney General

TO: Mr. David F. Cargo, Assistant District Attorney, Second Judicial District, Grants,
New Mexico

QUESTION

FACTS - QUESTION

The duly appointed Director of Parks and Recreations for the Town of Grants arranged for a trip for himself, his assistant and several children to another town within the state. The purpose of the trip was to obtain training through special classes for the children who went on the trip. It is intended that those children would return to Grants and participate in a recreational program wherein they would teach other children the arts they had learned in the aforesaid special school.

Can the traveling and other incidental expenses of the children going on the trip be paid out of the Juvenile Recreation Fund?

CONCLUSION

Yes.

OPINION

ANALYSIS

Reference is here made to such portion of Sec. 72-14-14 as appears to bear on the subject:

"All revenues produced by taxes . . . shall be placed . . . in a fund to be known as the 'County and Municipality Recreational Fund', which fund is for use for juvenile recreational facilities and salaries of instructors and other employees necessary to the operation of such juvenile facilities. . ."

Continuing in the same section, we also find:

"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 . . ."

And further:

"Any municipal officer who approves any expenditure or expends such funds for any purpose other than operation and construction of recreational facilities and salaries of instructors and other employees necessary to the operation of facilities . . ."

It would appear quite obvious from a reading of the above statutory excerpts that it was the intent of the Legislature to have these moneys used for the establishment of recreational facilities for juveniles. The sole question appearing to be raised in your inquiry is whether the payment of the traveling expenses heretofore referred to are "necessary" within the purview of the statute. With this in mind, and without laboring the point, reference is made to A. G. Opn. 58-18 in which this statute is held to be remedial in purpose and, therefore, to be liberally construed as to its intent with regard to all material contained in the section other than the penal provision reciting penalties for violation thereof. On the strength of this interpretation, this office has on several previous occasions permitted the expenditure of such moneys as are herein inquired about and similar moneys to be made on projects not precisely, on strict construction, included in salaries and facilities, as is specifically stated in the statute. (A.G. Opn. 6173, A.G. Opn. 57-285). Without extending the examples unduly, this office points out that we have permitted such funds to be expended for purchase of land and buildings for the statutory purpose. (A.G. Opn. 58-18). We have also permitted court funds to be expended by various juvenile offices for out-of-state travel for the purpose of acquiring information as to procedures designed to assist in the successful controversion of juvenile delinquency. (A.G. Opn. 57-64, as to juvenile court funds).

Hence, it would appear that the word "necessary" in regard to definition in this particular section is not to be limited to those items without which the entire program must fail. The word "necessary" must be defined with the additional sense of "desirable" as well. Inasmuch as there can be no question that a very substantial part of the successful operation of a juvenile recreational facility includes not only the mere physical facilities for such but also the skilled and trained supervision required by youngsters using the facilities.

Hence, with this desirable goal in view and cognizant of the need for educated supervision in the operation of juvenile recreational facilities, this office is of the opinion that such expenses as are made towards the achievement of supervisory skill come within the statutory purview of the above cited legislation.