

Opinion No. 63-72

June 27, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Verlon Davis, Secretary Artesia Recreation Commission Artesia High School
Artesia, New Mexico

QUESTION

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May monies from the juvenile recreation fund be used to defray, in part, the cost of a proposed 200-acre park site with recreational facilities thereon?

CONCLUSION

Yes.

OPINION

{*151} ANALYSIS

On the plat which you enclosed with your request we note that the 200-acre park site is to include two large picnic areas, several ball fields, a considerable area for court games, a swimming pool, a driving range and a golf course.

Section 72-14-14, N.M.S.A., 1953 Compilation, governing the use of juvenile recreation funds, provides in part as follows:

"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 {*152} 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"

The Act also defines "juvenile" as every person under twenty-one years of age.

Viewing the total project contemplated, it is our opinion that a factual determination that the facilities are primarily suitable for juveniles would be warranted. See Opinion No. 60-120. Therefore, the fact that the contemplated facilities will benefit adults as well as juveniles does not render the project ineligible for assistance.

We would also point out that while a juvenile recreation board or commission may be created to design or draw up a tentative juvenile recreation program, it is for the

governing body of the political subdivision to make the final determination as to the purpose for which expenditures from the fund are to be made, and this authority is non-delegable. Opinion No. 57-104. Further, monies from the fund cannot be expended for recreation programs that are not either municipally owned, operated, or sponsored. Opinion No. 61-2.

By: Oliver E. Payne

Assistant Attorney General