

toward the payment of tuition in consideration of services performed by the student under the direction and control of, and for the sole benefit of, the State Teachers College where he is enrolled.

It is my opinion that the law in question does not apply to such work scholarships, since the Act excludes from its operation individuals employed by "any State or political subdivision thereof" (U.S.C.A. Section 203 (d)). The State Teachers Colleges are established, owned and operated by the State government through the Department of Education (N.J.S.A. 18:16-20), and in rendering services to such an institution, the student is performing work for the State within the meaning of the above-cited section of the Fair Labor Standards Act.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

OCTOBER 24, 1949.

HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey

FORMAL OPINION—1949. No. 103.

MY DEAR COMMISSIONER:

You desire formal advices from this office respecting certain questions relating to the administration of the work of the State Board of Child Welfare, an agency coming within the jurisdiction of your department.

The questions will be answered in the order raised and in the interest of brevity the question will be restated in shorter form.

1. You desire to be advised whether county welfare boards are authorized to issue orders requiring legally responsible relatives to support children who are applicants for or recipients of assistance under your Home Life division.

This question must be answered in the negative for there is nothing contained in Chapter 5, Title 30, Article 4, relating to Home Life of Dependent Children, which authorizes the county welfare board to proceed to the issuance of an order of support contemplated by your question. It is true that the county welfare board has such authority under Chapter 7, Title 44, Revised Statutes, but this authority confines itself solely to the administration of the affairs of the granting of Old Age Assistance, under a separate and distinct division of your department which has no relationship to the category of assistance here under discussion. In the absence of specific language in the statute, it cannot be presumed that the Legislature intended the functions of the welfare board, under Chapter 7, Title 44, to be carried over into Chapter 5, Title 30, Revised Statutes. This for the reason that the county welfare board is a creature of the Legislature and can only carry out the specific duties and respon-

sibilities vested in it by the law creating it or those which may be reasonably presumed from the intent of the law. If the Legislature had intended the welfare board to issue orders of support in Home Life cases, it would have stated so specifically as it did in Chapter 7, Title 44, Revised Statutes.

2. In your second question you ask whether the State Board of Child Welfare is authorized to initiate on its own complaint actions to enforce support from any legally responsible relatives, in view of the fact that there is a specific section in the law (R. S. 30:5-14) which gives the agency authority to take action solely with respect to deserting fathers.

This question must also be answered in the negative for the language of R. S. 30:5-14 confines the power of the State Board of Child Welfare in the matter of enforcing support to a situation relating to the desertion of a father. It cannot be said that the Legislature intended this authority to extend to other legally responsible relatives other than the father. If it had so intended it would have so stated.

3. Your third question is paraphrased as follows: Is the State Board of Child Welfare authorized to require that an applicant for Home Life assistance initiate action against a legally responsible relative, and is the agency further authorized to deny assistance whenever there is a refusal by the applicant to take such action?

Both parts of this question must be answered in the negative for there is no requirement in R. S. 30:5-33, defining eligibility of an applicant mother, which requires her to exhaust other legal means to secure support from her husband in order to qualify for Home Life assistance. Therefore, if the applicant mother meets the requirements of R. S. 30:5-33 she would be deemed eligible for assistance. Accordingly, the agency is not authorized to deny assistance where the applicant refuses to take the legal procedure to compel her husband to support their children.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:HH

NOVEMBER 15, 1949.

MAJOR GENERAL EDWARD C. ROSE,
Chief of Staff,
Department of Defense,
Trenton 10, New Jersey.

FORMAL OPINION—1949. No. 104.

DEAR GENERAL ROSE:

Receipt is acknowledged of your request for my opinion as to your right to lease or rent the National Guard Armory at Jersey City, for the purpose of conducting weekly benefit parties on Sunday evenings during the balance of the present fiscal year.