

OPINION NO. 71-067**Syllabus:**

Under the authority of Section 325.11, Revised Code, and upon approval from the board of county commissioners, a county board of mental retardation may pay membership dues from its general operational funds in order to obtain a membership in the State Association of Boards of Mental Retardation.

To: J. Walter Dragelevich, Trumbull County Pros. Atty., Warren, Ohio
By: William J. Brown, Attorney General, October 6, 1971

I have before me your request for my opinion, which reads as follows:

"Is it legal for the Trumbull County Board of Mental Retardation to pay membership dues from its operational funds to obtain a membership in the State Association of Boards of Mental Retardation?"

The powers and duties of a county board of mental retardation are set forth in Section 5126.03, Revised Code, which provides, in pertinent part, as follows:

"The county board of mental retardation * * * shall:

"(A) Administer and supervise facilities, programs, and services established under section 5127.01 of the Revised Code * * *;

"(B) Submit an annual report * * * to the commissioner [of mental retardation] and to the board of county commissioners * * *;

"(C) Employ such personnel and provide such services * * * as are necessary;

"(D) Provide such funds as are necessary for the operation of facilities, programs, and services established under section 5127.01 of the Revised Code."

Section 5127.01, Revised Code, provides for the establishment of the facilities, programs and services for the special training of the mentally retarded, which are to be administered and supervised by the county board. In pertinent part, the Section reads as follows:

"The commissioner of mental retardation * * * shall establish in any county or district a training center or workshop, residential center, and other programs or services for the special training of mentally retarded persons, * * *."

A county board of mental retardation should be carefully distinguished from a community mental health and mental retardation board, which is provided for in Sections 340.01 through 340.10, Revised Code. The county board's function is limited to supervision of the training centers and programs established under Section 5127.01, supra. The community board, on the other hand, has a general planning and coordinating function with respect to all mental health and retardation facilities, programs and services in the community (which may extend over three counties), with the exception of those facilities, programs and services administered by the county board under Section 5127.01, supra.

A question generally similar to yours was answered by one of my predecessors, in Opinion No. 760, Opinions of the Attorney General for 1964. The question was whether county commissioners would be justified in paying the annual dues of any elected county officer, deputy, or employee of the county to a professional or occupational group or association of which such officer, deputy, or employee was a member. In determining that such payment was not justified, my predecessor stated, as follows:

"I must answer your question in the negative as there is no statutory authority for such payment. The implication that payment of such annual dues is authorized by reason of the authority granted the county commissioners to reimburse county officers, deputies, or employees for registration fees expended in connection with an association meeting does not follow logically, since attendance at an association meeting does not

necessarily contemplate membership in the association. I feel that Section 325.20, Revised Code, must be construed in light of the words 'attend' and 'attendance' used therein irrespective of the nature of the association, or the relation of the registrant's work to the association."

In 1967, three years after the issuance of Opinion No. 760, supra, the General Assembly enacted Section 325.21, Revised Code, which specifically authorizes membership at county expense in associations related to county affairs. That statute provides as follows:

"A board of county commissioners may authorize the county to join an association or non-profit organization formed for the improvement of county government. Such board shall have the authority to appropriate from its general fund an amount sufficient to pay the dues, subscription costs, or membership charges of such association or non-profit organization.

"The board may also authorize any elected county official to join an association related to county affairs, at county expense. * * *"

As stated in 133 Ohio Laws, 2376, the purpose of Section 325.21, supra, is:

"* * * [T]o authorize a county to join an association or non-profit organization for the purpose of improving county government and to permit county officials to join associations related to county affairs."

In enacting this provision, the General Assembly recognized the public purpose to be served by use of public funds to enable county agencies to join such coordinating associations. Recent Supreme Court Opinions have given a more liberal interpretation to the concept of "public purpose" as applied to the use of public funds. State, ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951); State, ex rel. Bruestle v. Rich, 159 Ohio St. 13 at pages 26-27 (1953). I think it clear that the statute does not mean that the county itself must join the association, but that the board of county commissioners may authorize the county board of mental retardation to join the state association as a representative of Trumbull County.

In specific answer to your question, therefore, it is my opinion, and you are so advised, that under the authority of Section 325.11, Revised Code, and upon approval from the board of county commissioners, a county board of mental retardation may pay membership dues from its general operational funds in order to obtain a membership in the State Association of Boards of Mental Retardation.