

**OPINION
60-174**

December 10, 1960(OPINION)

PUBLIC WELFARE

RE: Children's Homes - State Aid - Protection of Religious Faith

Re: Children's Homes

Your opinion request of December 1, 1960, has been received.

You state that a question has arisen concerning the operation of a children's home which is licensed under chapter 50-11, North Dakota Revised Code of 1943, as amended. You set forth the facts as follows:

1. A children's home is duly licensed under chapter 50-11 by a Lutheran organization.
2. This home has been accepting indigent children, and they have also been receiving state aid.
3. This organization would like to establish the policy of requiring incoming children to be trained in the Lutheran faith."

Your question is "whether or not this policy (viz., the policy of requiring incoming children to be trained in the Lutheran faith) would render the home ineligible for state aid."

You note that "Section 50-09004, N.D.R.C. 1943 provides that the county and state agencies shall preserve and protect the religious faith of children coming under their jurisdiction and children are placed by those agencies in licensed homes and institutions with the explicit understanding and on the condition that the faith of the placed child will be preserved and protected. If the home or institution seeks to supplant the child's faith with another, or if it neglects to nourish and keep alive the child's faith, the child can be withdrawn from that home or institution and the license of such home or institution can be revoked. See section 50-1107.

In the case at hand, the home should take the steps necessary to the end that children of the Lutheran faith are trained in that faith. However, children placed in that home who are not of the Lutheran faith must not be trained and instructed in that faith; rather, they must be trained and instructed in their own faith. Therefore, if the home in question wishes to keep children who are not of the Lutheran faith, and if it does not wish to hazard its license, it will not subject non-Lutheran children to Lutheran training and instruction.

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Attorney General