

Opinion No. 16-1811

June 3, 1916

BY: FRANK W. CLANCY, Attorney General

TO: M. T. Dunlavy, Secretary-Treasurer, School for Deaf and Dumb, Santa Fe, N. M.

No legal objection to borrowing of money by a state school so long as the indebtedness is kept within the appropriation.

OPINION

{*376} Referring to the matter about which you spoke to me a few days ago, I have to say that the only statutory provision limiting the expenditure of public money by such a board as that with which you are connected, is to be found in Section 5158 of the Codification of last year. That section prohibits every such board from making any contract, incurring any expense, or contracting any liability against the State, or any public fund thereof, which shall make or contemplate any excess of expenditure beyond the terms of the laws authorizing expenditures, and makes it unlawful to contract indebtedness in behalf of such an institution or against the state on account of such institution in excess of the appropriation made for the maintenance and support thereof. The effect of this is merely to require the officers to keep within the limit of the appropriation made. As those appropriations are not all available at the same time, it is obvious that indebtedness may properly be incurred if it does not exceed the amount of money which has been given by the Legislature.

Therefore, I am of opinion that there is no legal obstacle to the borrowing of money by your board so long as you keep your indebtedness within the appropriations which have been made.

I have given similar opinions to other state institutions upon which I believe they have acted and have borrowed money.