

## **Opinion No. 19-2213**

March 14, 1919

**BY:** HARRY S. BOWMAN, Assistant Attorney General

**TO:** Dr. Frank H. H. Roberts, President New Mexico Normal University, East Las Vegas, New Mexico.

Board of Regents of Normal University Has Authority to Lease and Purchase Property for School Purposes.

### **OPINION**

I have made such investigation as the limited time would permit in regard to your oral inquiry concerning the right of the Board of Regents of the University to enter into a contract with the Armory Board of the Las Vegas Armory for the use of the basement of the building for manual training purposes for a period of ten years and I have come to the following conclusions:

Section 5158, Code of 1915, which was Section One, Chapter 69 of the Laws of 1912, provides a limitation upon Boards of Institutions concerning expenditures to be made by them. This section in brief prohibits the contracting of any indebtedness in behalf of any State Institution in excess of the appropriations made for the maintenance and support thereof.

If the contract in question would provide for the expenditure of funds in excess of the appropriation made by the Legislature for the maintenance and support of the Normal, I would be of the opinion that such contract would be invalid and unenforceable unless a provision were inserted therein that the same is to be effective if the Legislature should make such appropriation as would enable the Board of Regents to pay for the expenditures necessary and contemplated by the contract.

I understand that no rental is to be paid the Armory Board for the use of the building but that the Board will expend certain sums in repairs and improvements to the Armory, and in heat, lighting and care thereof, and that these expenditures will constitute the consideration to be received by the Armory Board for the use of the building by the Normal School. If these expenditures are kept within the appropriation provided for by the Legislature, for the Normal, I am of the opinion that no objection can be made to contract such as is above suggested.

The second inquiry involves the right of the Board of Regents to use for the purpose of the purchase of a home for the President of the University, funds that have been saved out of the appropriation for support and maintenance made for each year by the Legislature.

I can conceive of no objection which could be made to the expenditure of such fund for such a purpose. If the officers of the Institution have by economical management of its affairs been able to lay apart part of the sum provided for the support and maintenance thereof and desire to expend such a sum in the construction or purchase of real estate or the erection or purchase of a building to be used as a residence for one of its officers, the title of the property to be vested in the Board of Regents of the Institution, there is nothing to prevent, so far as my examination of the statutes is concerned, and I am of the opinion that no one could legally complain of such action by the governing board of the Institution.