

Opinion No. 63-95

August 8, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Marshall S. Hester Superintendent New Mexico School For the Deaf 1060 Cerrillos Road Santa Fe, New Mexico

QUESTION

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The New Mexico School for the Deaf owns considerable dairy items, including equipment and dairy stock. May the institution lawfully dispose of such items and stock, and what procedure should be followed?

CONCLUSION

Yes, such equipment and stock may be lawfully disposed of under the statutory provisions designated herein.

OPINION

{*206} ANALYSIS

The statutory provision governing your question presented herein is § 6-1-8, New Mexico Statutes Annotated, 1953 Compilation, as amended. This Section sets out as follows:

"A. Any department, commission, agency **or institutional board of this state**, or local public school district **is empowered to sell or otherwise dispose of real or personal property** belonging to such {*207} state department, commission, agency, institution or local public school district, **subject to approval of the state board of finance**; provided, however, the governing authority of each state agency and local public body, as defined by section 4-4-2.1, New Mexico Statutes Annotated, 1953 Compilation (being Laws 1957, Chapter 248, Section 1), may dispose of items of personal property having a current resale value of fifty dollars (\$ 50.00) or less, belonging to such agency or body without necessity of prior approval of the state board of finance, wherein the governing authority of the state agency or local public body has affirmatively complied with the provisions of the preceding section of this 1961 act (6-1-7.1).

B. The director of the department of finance and administration shall have the power to credit any payment received from the sale of any such real or personal property to whatever fund of such state department, commission, agency, institution or local public school district as he deems appropriate. And the head of such department, or the

president, or chairman of the commission, or the governing board of such agency or institution is authorized to execute such deeds, leases, right-of-way easements, bills of sale or other documents necessary to convey all or any interest in the real or personal property of the governing authority without warranty." (Emphasis added).

Under the above Statute the Board of Regents of the New Mexico School for the Deaf may, with the express approval of the state board of finance, "sell or otherwise dispose of real or personal property" of a value of over fifty dollars belonging to the institution. Such sale may be either by private or public sale.

In implementing this statute the board of regents should solicit bids from purchasers for the sale of such property and may enter into an agreement of sale with individuals, **subject** to the express provision that such sale shall not be final or binding upon the institution until or unless approved by the State Board of Finance. Under Section 6-7-11, New Mexico Statutes Annotated, 1953 Compilation, the institution may in its discretion avail itself of the facilities and services of the State Purchasing Agent; however, such is not mandatory. It is our recommendation that the institution, prior to consummating the sale of such personal property, determine whether such is needed by any other state agency or department or institution in order to permit the state first opportunity to purchase such items.

As provided in the Statute cited above, an individual item of personal property having a **current resale value** of fifty dollars or less may be sold by the institution without approval of the State Board of Finance.

By: Thomas A. Donnelly

Assistant Attorney General