

Opinion No. 12-971

December 26, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Dr. Frank H. H. Roberts, President, New Mexico Normal University, Las Vegas, N. M.

INDIGENT STUDENTS.

At the end of four year term of indigent student at Normal University at Las Vegas, any balance remaining of appropriation for his benefit should be returned to State Treasurer.

OPINION

{*131} Your letter of the 21st instant was received on the 23rd but I have had no time sooner to answer.

You ask whether an indigent student, who, at the beginning of this school year, had to her credit \$ 40.00 which had not been used {*132} in the last school year, may use that sum in the present school year or whether she must use between September 1st and September 1st \$ 200. At the first glance it appeared to me that the \$ 200 or so much thereof as might be necessary, must be used during each school year and that any surplus could not be made available for the next school year; but upon closed examination I have reached the opposite conclusion.

The statute controlling this matter is to be found at pages 361 and 362 of the Laws of 1909. It is provided that "Two hundred dollars per school year is hereby allowed to each of such students to pay actual and necessary expenses while in attendance at such institutions." If this stood alone I believe I would be compelled to say that when the actual and necessary expenses during any school year had been paid and their payment had not consumed the \$ 200, there would be nothing more available for the benefit of the student, but the next paragraph provides that "All actual and necessary expenses of such students, while in attendance at such institutions, shall be paid out by the president of any such institution," and by another paragraph provision is made for the return to the territorial treasurer of any money remaining to the credit of any such student "after the term of his appointment," indicating that the final accounting as to the moneys drawn for the benefit of each student is to be only after the expiration of the term of his appointment. Each year the auditor draws a warrant on the state treasurer for \$ 200 for each student, and the only requirement is that when the president makes a requisition for the next payment of \$ 200 there must also be sent receipted bills showing the expenditure of the amount previously drawn. In the case of this student who had \$ 40.00 remaining at the end of the last school year, under this statutory provision you could not get another \$ 200 until you could show the expenditure of the \$ 200 drawn for

her benefit last year. When that money is expended, and then only, you can draw another \$ 200.

I do not know what may have been the actual practice in sending in such receipted bills or what the auditor may have done in drawing such warrants, but I think this examination of the statute clearly shows that the full sum of \$ 800 for each student, covering his term of four years if he remains a student for that length of time, is provided to pay his expenses and only at the end of the four years is anything to be returned to the state treasury if the money has not been fully expended. I can see no possible objection to the result reached because it is only the actual and necessary expenses of the student which are to be paid by the president of any institution, and the \$ 40.00 in addition to the current \$ 200 would of course be paid out only for such expenses.