

Opinion No. 32-501

August 19, 1932

BY: Quincy D. Adams, Asst. Attorney General

TO: Mr. Guy A. West, Dean, New Mexico State Teachers College, Silver City, New Mexico.

{*173} This is in reply to your letter of August 18, 1932, in which you ask this office for an opinion concerning the use of the student loan fund. I gather from your letter that this fund is made up from donations by various persons and that it was intended by the donors that the money so given should be used only for the purpose of making loans to needy students to help carry them thru school.

It would thus appear that this fund is in the nature of a trust fund and that the New Mexico State Teachers College or certain officials thereof act as the trustees.

I am doubtful whether the Board of Regents, as such, has the power to act as a trustee in a matter of this kind. I am convinced that it has no power to guarantee the payment of any notes held in this fund by means of endorsement. I see no difficulties in the way of transferring the said notes so long as the Board does not obligate the college in any way. In other words, it might indorse the notes without recourse if it so desires.

Keeping in mind the purpose for which this fund was created, It would seem to me rather questionable whether individual notes such as are mentioned in your letter should be transferred to persons who might harass students in order to collect these notes. Once the notes are out of the hands of the college authorities there is no telling what persons might secure possession of them.

Many other questions may suggest themselves in connection with the use of this fund in the manner outlined in your letter which it would be impracticable to discuss at this time. The principal question which seems to concern you is whether or not the Board of Regents has authority to obligate the college by indorsing these notes and as heretofore stated I am of the {*174} opinion that it does not have such authority.