

Opinion No. 44-4511

May 15, 1944

BY: EDWARD P. CHASE, Attorney General

TO: Mr. B. W. Jarboe, President, Board of Regents School of Mines, c/o Me-Tex Supply Co., Hobbs, New Mexico

We have your letter of May 13, 1944, wherein you state that on March 17, 1944, the Board of Regents of the New Mexico School of Mines directed the President of the institution to secure the services of certain instructors for the ensuing year; and that pursuant to this action, various instructors were advised that they would be retained for the succeeding year at a definite salary. You further point out that the various professors accepted this notice and advised the President that they would accept such employment. Due to a curtailment of the activities of the School of Mines, you state that you now find it impossible to retain the above persons for the ensuing year.

In view of this situation, you ask whether or not the School of Mines is obligated to retain such persons next year, even though the school will be curtailed to such an extent that there will be no need for their services.

From the matters which you have called to my attention it would appear that it was generally understood that the notice which you sent out was understood to merely lay the foundation for a subsequent contract. Therefore, since such a contract has not been entered into at this time, it is my opinion that the School of Mines probably is not bound. In any event, one of the types of contracts which the School of Mines enters into with its teachers provides for a 90-day notice of termination of such contract by the School of Mines when such is deemed proper by the school. Therefore, even under the terms of the contract which it was contemplated to enter into with the teachers, the School of Mines could have terminated such contract prior to its effective date by giving 90 days notice of termination.

In order that there be no question upon this matter, we suggest that you now give notice of termination of any contracts, whether oral or written, and further notify such persons that they will not be employed for the coming school year.

Hoping that the foregoing fully answers your inquiry, I am

By HARRY L. BIGBEE,

Asst. Atty. General