

OPINION
44-33

March 10, 1944(OPINION)

BOARD OF HIGHER EDUCATION

RE: Executive Secretary - duties

Your letter of March ninth addressed to the Attorney General has been received and contents of same have been noted.

Your inquiry relates to Public Law 113, 78 Congress, approved July 6, 1943, and which is an amendment to House Resolution 4438, approved June 2, 1920, and is "An Act to provide for the promotion of Vocational Rehabilitation of persons disabled in industry or otherwise and their return to civil employment."

The Federal Office of Vocational Rehabilitation has promulgated certain regulations with which the State is required to comply in order to be eligible for benefits under the Federal Act. One of these regulations provides that "the State Director of Rehabilitation or other named official having primary responsibility for the directing of the administration of the State Plan, should be required to devote full time and effort to the Rehabilitation Program."

The Legislative session of the State of North Dakota for 1921 enacted chapter 115 of said session which is the statute that accepts all of the provisions and benefits of the Federal statutes and which Act was approved June 2, 1920. This statute of acceptance provides that the Board of Administration (now the Board of Higher Education which succeeded to all the powers and duties of the Board of Administration) shall designate such assistants as may be necessary to properly carry out the provisions of this Act. The Director of Vocational Education shall be the executive officer of the Board of Administration and carry into effect such rules and regulations as the aforesaid board may adopt and shall prepare such reports concerning the conditions of vocational rehabilitation of persons disabled in industry or otherwise, as the Board of Administration may require.

It will thus be seen from the language of the statute quoted that the Director of Vocational Education in the State shall be the executive officer of the Board of Higher Education and as such, have active charge and supervision of the administration of Vocational Rehabilitation and is charged with the duty to comply with the Federal statutes and so far as possible, with the regulations promulgated thereunder.

It is clear that under the present statutes the executive officer of the Board of Higher Education acting as Vocational Rehabilitation Director may not be required to give full time to the case workers and supervise vocational education. However, from a practical standpoint, the Director of Vocational Education is entitled to assistants, if necessary, to be appointed by the Board of Higher Education, and there is no doubt that he is in position to

administer and supervise rehabilitation work in full compliance with the spirit and intent of both Federal and State law, and that he can at least carry on such work until after the meeting of the next Legislative session of the state.

ALVIN C. STRUTZ
Attorney General