

**OPINION
50-169**

May 20, 1950 (OPINION)

SCHOOLS

RE: Riverdale

This is in reply to your letter of May 20, 1950, in which you request the opinion of this office as to the authority of your department to enter into a contract with the United States for the operation of the public schools heretofore maintained by the Federal Government in the town of Riverdale, McLean County, North Dakota.

The proposed contract was duly considered at a joint meeting of your department and Col. F. M. Albrecht, Corps of Engineers, District Engineer, Contracting Officer, a short time ago, at which meeting the writer was present. The provisions of the contract were considered in detail and tentatively agreed upon subject to approval by the Attorney General of this state.

The state provides in substance that:

The state shall provide the staff necessary to operate the Riverdale Grade and High School, administer its affairs, and furnish the required educational services to enrolled children, who are dependents of persons engaged in the construction of the Garrison Reservoir Project, for the period of their enrollment, or for such periods of time as may be directed in writing by the Contracting Officer. Said staff shall include a Superintendent, a grade school Principal, a high school Principal, a sufficient number of qualified teachers and instructors, and the necessary number of clerical and custodial employees to maintain the required records and to keep the school building and premises in a clean, sanitary, and orderly condition.

The Government shall furnish for the use of the State the necessary school building, or buildings, grounds and appurtenant facilities, shall maintain structurally said buildings, grounds, and appurtenant facilities, and shall also furnish heat, light, water, and necessary bus service for authorized school use. The Government shall also furnish all textbooks and workbooks, library books, training shop equipment, blackboards, schoolroom furniture and all other equipment, services, and supplies, necessary for the operation of a grade and high school in accordance with the laws, standards, and requirements of the State of North Dakota.

The Government shall pay to the State for educational services rendered a certain sum per annum based upon the cost of operation and divided into twelve equal monthly payments. Said monthly payments will be made immediately after the end of each calendar month and upon receipt of duly certified invoices.

The State of North Dakota is to furnish such funds as are available under the laws of the state from the State Equalization Fund and the County Tuition Fund, such funds to be used together with the funds

furnished by the Federal Government for the operation of the school system in the said town of Riverdale.

The Legislative Assembly of 1949 of the State of North Dakota enacted Chapter 153 of the Session Laws for 1949 which provides as follows:

Section 1.) The superintendent of public instruction in order to carry out the purposes of any federal statutes pertaining to public education may enter into agreements with any agency of the federal government and with the school board or board of education of any school district in the state, may make agreements with the federal government for and in behalf of the public school districts of the state and may adopt necessary rules of administration to insure the proper and efficient operation of such agreements and to comply with such conditions as may be necessary to obtain the full benefits of such federal statutes. Provided, however, that such contracts, agreements or arrangements shall in no way impair the rights powers, duties or authority of local school districts and school boards in the management and control of their local schools.

Section 2.) All contracts, agreements or arrangements affecting public tax supported schools or school systems under the supervision of the state superintendent of public instruction which may be made and entered into with agencies of the federal government shall be entered into in accordance with regulations prescribed by the superintendent of public instruction and in no other manner."

I have given careful consideration to the provisions and terms of the contract which it is proposed to enter into by the State of North Dakota and the Federal Government, a copy of which is attached hereto. It is therefore not necessary to set out the provisions in this opinion.

After such consideration I am of the opinion that the commitments and agreements on the part of the State of North Dakota through the Department of Public Instruction is in harmony with the educational policy and the public school system of the state, and that the Department of Public Instruction, acting through the Superintendent as one of the contracting parties on behalf of the state, is duly authorized under the law of this state to enter into said contract, having particular reference to Chapter 153 of the Session Laws for 1949 quoted herein.

WALLACE E. WARNER

Attorney General