

**OPINION
60-89**

March 21, 1960(OPINION)

EDUCATION

RE: Powers and Duties of School Board - Power to lease Building

We have received your letter dated March 16, 1960, requesting an opinion on the following matter.

Mott School District is a common school district. The district wishes to lease the National Guard armory for use in its physical education and athletic program. You ask whether under present law the district is empowered to enter into such lease agreement.

Physical education and athletic programs have become a recognized part of the school curricula in this country and credits are given students in these subjects, and housing facilities to carry on education in these courses are a necessity.

Section 15-2506(1) of our North Dakota Revised Code of 1943 in defining general powers of a common school district provides the board "shall: Have the general charge, direction, and management of the schools of the district;". Subsection 3 of the same statute as amended provides that the board "shall: Organize, maintain, and conveniently locate schools for the education of children of school age within the district, and change the location or discontinue any of such schools as provided in this title; and to acquire sites, construct buildings, and operate schools, to discontinue such schools, and liquidate the assets thereof, outside its district boundaries, as authorized by the state board of public school education."

School officers may exercise only powers expressly or impliedly granted by statute and in this instance there does not seem to be any express statutory power conferred upon a board of a common school district to lease facilities. We must look for an implied power to do so, if we are to conclude that the board has such power.

The statutes cited above give broad general powers to common school district boards in the management of the schools in the district.

We believe it would be too restrictive a construction of these statutes to say that the school board was powerless to lease a building for school purposes when that becomes necessary for the proper and usual operation of the schools in the district.

For the above stated reasons we are of the opinion that a common school district may legally lease an armory to carry out its physical education and athletic programs.

LESLIE R. BURGUM
Attorney General