

Opinion No. 79**Surplus Property —
Health and Educational Institutions**

HELD: 1. The Board of Directors of non-profit hospitals, private schools and colleges may by resolution designate the persons to execute the necessary documents for surplus property and bind their principals.

2. The Bishop of a religious society which has incorporated as a sole corporation may by directive designate the person or persons to act for each institution under his jurisdiction in executing the contracts as required under the Federal Property and Administrative Act of 1949, as amended.

July 13, 1956

Miss Mary M. Condon
State Superintendent of
Public Instruction
State Capitol
Helena, Montana

Dear Miss Condon:

You asked if the principle expressed in Opinion No. 76, Volume 26, Report and Official Opinions of the Attorney General, dated June 13, 1956, will apply to Public Health and Educational Organizations controlled by governing boards in the State of Montana.

Without question health institutions, educational institutions and units of the University system may designate persons to receive surplus property under the Federal Property and Administrative Services Act of 1949, as amended. However, there is a variance in the manner the Legislature has provided by statutes for the government and administration of the different agencies and it is necessary to group the institutions and specify the manner in which proper persons may be designated to execute warehouse receipts and bind the principal for which he acts to the terms and conditions of transfers.

The six units of the University of Montana, the State Vocational School for Girls, State Orphan's Home,

Montana State Industrial School, Montana State Training School and Montana State School for Deaf and Blind, are under the general control and supervision of the State Board of Education as provided in Section 75-301, R.C.M., 1947. Each of these institutions has a local executive board which boards, with the exception of the board provided for the State Vocational School for Girls, has such powers as are conferred by the Board of Education as specified in Section 75-302, R.C.M., 1947. The executive board of the State Vocation School for Girls exercises its supervisory powers under the direction and subject to the approval of the Governor and the State Board of Education as stated in Section 80-916, R.C.M., 1947. Because of the limited powers of the local executive boards of the above institutions it would appear advisable to have the State Board of Education pass resolutions authorizing each local executive board to designate officers of each institution who may execute the necessary receipts and documents required for the acquisition of surplus property. The Governor should approve the resolution for the executive board of the State Vocational School for Girls not only as a member of the State Board of Education but also in his capacity as Governor of the State of Montana.

The State Board of Examiners has control of the Home for the Aged which was created and established under Chapter 206, Laws of 1949. The management control and supervision of the Montana State Hospital located at Warm Springs is vested in the State Board of Commissioners for the Insane which board is composed of the same officers as the Board of Examiners, Section 38-102, R.C.M., 1947. The Soldiers Home at Columbia Falls, Montana, is supervised and governed by a board of managers consisting of five members. Four of the managers are appointed by the Governor with the consent and approval of the Senate and the fifth member is the Department Commander of the Grand Armies of the Republic and if there be no such commander then the Department Commander of the Spanish War Veterans. The powers of the Executive Board of the Montana State Tuber-

culosis Sanitarium are subject to the control and supervision of the State Board of Examiners under Section 80-203, R.C.M., 1947, and the Board of Examiners could by proper resolution authorize the Executive Board of the Montana Tuberculosis Sanitarium to designate the proper person to receive surplus property and execute the necessary agreements and receipts. A similar resolution should be passed by the State Board of Examiners designating the person to act for the Home for the Aged and the same board as the Board of Commissioners for the Insane should pass an appropriate resolution naming a person to act for the Montana State Hospital. Designation of a proper person to act for the Soldiers Home should be made by the Board of Managers of the Home.

The Boards of Directors of non-profit hospitals, private colleges, elementary and secondary schools which control and manage such institutions could pass the necessary resolution designating the person or persons who would have the authority to accept transfer of surplus property and execute the necessary papers.

Elementary schools, secondary schools and colleges which are owned and operated by a sole corporation incorporated under Chapter 15 of Title 15, R.C.M., 1947, may comply with the required authorization and designation of the proper person to execute the necessary papers for surplus property. Parochial schools are generally owned by and administered by the Catholic Bishop of the Diocese under Section 15-1504, R.C.M., 1947, a sole corporation has the authority to contract in the same manner as a natural person and to buy, sell, lease and in every way deal in personal property. A directive by the Bishop designating a proper person for each school would comply with the requirements of the Federal Property and Administrative Services Act of 1949.

You submitted for my consideration, forms and resolutions to be adopted by the appropriate governing boards of the institutions here-

tofore considered and in my opinion such proposed forms are satisfactory and will bind the institutions.

It is therefore my opinion that the State Board of Education, the Board of Examiners, the State Board of Commissioners for the Insane and the Board of Managers of the Soldiers Home may pass resolutions authorizing the local executive boards of institutions to designate proper persons to act in regard to surplus property where there is a local executive board, otherwise the above named boards should name the persons to act where the institution is directly controlled and managed by the State Board.

It is also my opinion that the board of directors of non-profit hospitals, private schools and colleges may by resolution designate the persons to execute the necessary documents for surplus property and bind their principals.

It is also my opinion the bishop of a religious society which has incorporated as a sole corporation may by directive designate the person or persons to act for each institution under his jurisdiction in executing the contracts as required under the Federal Property and Administrative Act of 1949, as amended.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.