

**OPINION
64-108**

December 11, 1964 (OPINION)

Miss Ruby M. McKenzie

Registrar

University of North Dakota

RE: Higher Education - Military Science - Authority of Board

Your letter dated December 9, 1964 has been referred to my desk for attention.

Your question is: "Would you interpret the North Dakota Code (section 15-10-21) relative to Military Service to mean it is mandatory for all male students, (physically able), at the University of North Dakota and at the State University at Fargo, to enroll in Military Science or would you interpret this section to mean that the two Universities must offer military training for male students?"

Section 15-10-21 of the North Dakota Century Code provides:

MILITARY INSTRUCTION REQUIRES. - The university and the agricultural college shall give theoretical and practical instruction in military science under such rules and regulations as the state board of higher education may prescribe." (Emphasis supplied)

You will note that this statute requires only that the university and the agricultural college give theoretical and practical instruction in military education. The type, amount and to whom this instruction is to be given was left entirely to the discretion of the state board of higher education.

It is our opinion, therefore, that section 15-10-21 requires only that the University of North Dakota and the State University at Fargo given instruction in military science.

The question of whether it be mandatory for all male students (physically able) to enroll in Military Science depends upon whether the State Board of Higher Education has, by rules and regulations, so prescribed.

HELGI JOHANNESON

Attorney General