

N.D.A.G. Letter to Sanstead (May 16, 1990)

May 16, 1990

Dr. Wayne Sanstead
Superintendent
Department of Public Instruction
State Capitol
600 E. Boulevard Avenue
Bismarck, ND 58505

Dear Dr. Sanstead:

Thank you for your letter of April 27, 1990, wherein you request advice regarding the extent of the discretion accorded to the Department of Public Instruction in disbursing funds pursuant to N.D.C.C. ch. 15-27.6, entitled "School District Boundary Restructuring."

N.D.C.C. § 15-27.6-05(2) states:

Each participating school district is entitled to receive state aid for a period not to exceed three years in the amount of from one hundred twenty-five to one hundred sixty-five dollars per full-time equivalent pupil in average daily membership the previous year in the participating school districts. The superintendent of public instruction shall distribute the payments pursuant to section 15-40.1-05. Prior to being entitled to the maximum payment under this subsection, a participating school district must have one or more administrators jointly assigned and the participating districts' plan must be attempting to improve the quality of instruction as determined by the superintendent of public instruction.

(Emphasis supplied.)

The specific question you ask is whether the Department of Public Instruction has the authority to specify the type of jointly assigned administrator or administrators required to qualify for the maximum payment of \$165.00 per full-time equivalent pupil in average daily membership.

The underlined statement in the statute quoted above is ambiguous because it raises the issue of what type of administrators qualify a participating school district for the maximum payment.

When a statute is ambiguous, other matters such as the legislative history may be considered. See N.D.C.C. § 1-02-39. The legislative history indicates that the purpose of providing for a jointly assigned administrator is to ensure the presence of strong leadership which will be instrumental in accomplishing the intent of the participating school

districts to restructure their boundaries. Hearing on H.B. 1507 Before the House Subcomm. on Education and Environment of the House Comm. on Appropriations, 51st N.D. Leg. (April 12, 1989) (Statement of Rep. Ole Aarsveld, Tape 1, Side A). Thus, the Department of Public Instruction may require that the administrator which is jointly assigned be a program coordinator for the consortium before the participating school districts will be entitled to the maximum payment of \$165.00 per full-time equivalent pupil in average daily membership.

Sincerely,

Nicholas J. Spaeth

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