

**LETTER OPINION**  
**96-L-230**

December 3, 1996

Ms. Robin Huseby  
Barnes County State's Attorney  
230 4th St NW # 303  
Valley City, ND 58072

Dear Ms. Huseby:

Thank you for your letter asking whether a district board of health has authority under N.D.C.C. § 23-14-10 to set employment policies concerning benefits and leave for part-time employees of the health district.

The duty to set compensation for personnel employed by a health district is assigned to the district board of health pursuant to statute:

The salaries of the district health officer and assistant health officers must be fixed by the district board of health. The district board of health shall determine the compensation of such personnel as may be allowed by the district board of health, and the district board of health also shall determine the amount of mileage and other expense to be paid for the necessary travel of the district health officer, his assistants, and other personnel, in the manner and to the extent allowed state officers.

N.D.C.C. § 23-14-10 (emphasis supplied). This statute does not distinguish between full-time and part-time employees, and therefore applies equally to all employees.

A district board of health possesses exclusive authority in establishing the salaries of its employees where such salaries are within the limitations of the district's budget as approved by the board or boards of county commissioners. 1986 N.D. Op. Att'y Gen. 146. However, the board of county commissioners, or the joint board in a district comprising more than one county, has the authority to approve or disapprove the budget as submitted by the health district, and may thereby require the district board of health to modify its budget before granting approval. Id.

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The nature of a health district as representing different political subdivisions, each with potentially conflicting personnel policies, implies that the Legislature intended each district to set its own policies under N.D.C.C. § 23-14-10. The Legislature's intent in enacting N.D.C.C. § 23-18-10 can be determined by interpreting that statute in relation to other statutes on the same subject. Johnson v. N.D. Workers Comp. Bureau, 484 N.W.2d 292, 295 (N.D. 1992). A health district may consist of two or more counties, a county and one or more cities within the county, or a combination thereof. N.D.C.C. §§ 23-14-01, 23-14-01.1, and 23-14-01.2. Each county member, and each city member of a city-county health district, is entitled to representation on the district board of health. N.D.C.C. § 23-14-04.

Accordingly, a health district is a separate entity from the member counties or cities. Therefore, the employees of a health district are employees of a separate governmental entity. A written employee policy manual of a county or city which is a member of a health district does not define the employment contract of the employees of the district because the district is a separate employing entity. This is unlike a county board of health organized under N.D.C.C. ch. 23-03 because a county board of health is a county agency. See N.D.C.C. § 23-05-07 (expenses of county board of health are certified to county commission for payment from general fund of county while expenses of district board of health are paid out of board of health budget).

With this purpose in mind, it must be determined whether the term "compensation" as used in N.D.C.C. § 23-14-10 includes benefits and leave policy. Although compensation is often in the form of money or wages, see The American Heritage Dictionary, 301 (2d coll. ed. 1991), Black's Law Dictionary, 283 (6th ed. 1990), compensation may include the right to paid vacation as a form of additional wages. See State ex rel. Hagen v. Bismarck Tire Center, 234 N.W.2d 224, 226 (N.D. 1975). See also Aasmundstad v. Dickinson State College, 337 N.W.2d 792 (N.D. 1983) (employee was entitled to be compensated for unused accumulated annual leave pursuant to employment contract). I recently concluded that the term "wages" as defined by N.D.C.C. § 34-06-01(6) includes both compensation in the form of monetary payments and compensation which does not take the form of monetary payment such as earned vacation pay or paid leave if that is part of an employee's compensation agreement. Letter from Attorney General Heidi Heitkamp to Doug Mattson, May 31, 1996.

Therefore, it is my opinion that the district board of health has the authority to set the compensation, including employment benefits such as leave policies, of all district employees, including part-time employees, subject to the limitations of the district's budget as

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approved by the board of county commissioners or joint board of county commissioners.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

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