

**LETTER OPINION**  
**97-L-126**

August 7, 1997

Mr. Wayne P. Jones  
Ransom County State's Attorney  
PO Box 391  
Lisbon, ND 58054-0391

Dear Mr. Jones:

Thank you for your letter asking about the proper calculation of state foundation aid to school districts in the school year following discontinuation of some grade services in a school district.

Foundation aid payments are distributed pursuant to N.D.C.C. ch. 15-40.1 and the number of students for which payments may be made are described in N.D.C.C. § 15-40.1-09. That section provides, in part:

Immediately upon the completion of the registration of students at the beginning of each school term and in no event later than September tenth of each year, the business manager of each school district within or without this state which is claiming payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a claim on a form prescribed by the superintendent of public instruction stating the number of students registered in high school and elementary grades for which payments are claimed, and such other information as may be reasonably requested by the superintendent of public instruction. Not later than December first, the superintendent of public instruction shall certify to the office of management and budget a list of the school districts and schools not operated by school districts entitled to payments from state funds, together with the amounts to which the several districts and schools are entitled. Per student aid as provided under sections 15-40.1-06, 15-40.1-07, and 15-40.1-08 must be computed on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever provides the greatest payment, for all current grade levels. Adjustments must be made in the subsequent year according to a comparison between the average daily membership for the year for

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which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's foundation aid payments. . . .

Therefore, the number of students registered in high school and elementary school for which payments are claimed is the number the school district business manager must place on the form by September 10. It is the number of students registered in that school district at the beginning of the school year in question. In practice, this number is referred to as the fall enrollment. This fall enrollment number is the number against which other years' enrollment is compared for the purpose of making adjustments based on average daily membership as described later in the section.

By December 1 of a school year, the Superintendent of Public Instruction certifies to the Office of Management and Budget the school districts entitled to state foundation aid and the amounts to which those school districts are entitled. The per-student foundation aid, in amounts required by N.D.C.C. §§ 15-40.1-06, 15-40.1-07, and 15-40.1-08, is computed on the basis of the previous year's average daily membership reduced by the number of students participating in open enrollment, or the current year's "fall enrollment," whichever provides the greatest payment, "for all current grade levels." Adjustments are made in the subsequent year based on a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, "for grade levels that existed in both years."

N.D.C.C. § 15-40.1-09 therefore requires that both the state aid entitlement for the current year's enrollment and adjustments made in the succeeding year are based on "current grade levels" and on "grade levels that existed in both years." Consequently, if the fall enrollment report required by N.D.C.C. § 15-40.1-09 indicates an absence of enrollment for particular grade levels, it will become apparent that the district in question has ceased to provide grade level services for those grades if prior years' reports included students in those grades. Consequently, the calculation to which a reporting school district is entitled for state aid for the current year and adjustments made during the following year will be based on grade levels having enrolled students. Therefore, if a school district that provided grade level services for grades K through 12

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during the 1995-1996 school year determined to cease to provide grade level services to grades 7 through 12 for the school year following the 1995-1996 school year, the fall enrollment reports for the 1996-1997 school year would disclose that fact and the state aid payments to which that school district was entitled would be based on the fall enrollment in the September 1996 report and adjustments would be made based on the grade levels for years during which services were provided for both of the years which must be compared for making adjustments.

Determining student enrollment and applying the statutory per-student payments with weighting factors based on those enrollments are questions of fact to be determined by the Superintendent of Public Instruction pursuant to required school district reports. It is my opinion that if the calculations with respect to a school district were made pursuant to the above-noted discussion of the law, then the payment amounts calculated by the Superintendent of Public Instruction were correct.

You state in your letter that the school board believes that because it had certain students in certain grades in 1996 "for at least half of that school year," the district was entitled to more money. However, N.D.C.C. § 15-47-04 defines school year as follows:

The school year must begin on the first day of July and must close on the thirtieth day of June of the following year.

Therefore, for "school year" purposes, a school district providing grade level services to students anytime during the first six months of 1996, but which ceases to provide those grade services by July 1, 1996, does not have those students enrolled during any part of the 1996-1997 school year.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

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cc: Dr. Wayne G. Sanstead, Superintendent of Public Instruction