

OPINION
65-246

September 9, 1965 (OPINION)

Mr. E. J. Rose

State's Attorney

Sioux County

RE: Schools - Attendance Out-of-State - Reciprocity

This is in reply to your letter of August 30, 1965, relative to the above-captioned statute. You state the following questions:

We would like to have your office give us an official opinion as to how to interpret three separate words in the closing sentence of said section. The section ends as follows: 'Be it further provided that students from areas historically attending school in a bordering state and residing in a district annexed to or reorganized with another district or districts within North Dakota shall be permitted to continue attending school in a district in a bordering state.'

The three words in question are these:

- (1) By the use of the words students does it mean two or more or all?
- (2) Areas: Could this mean a complete district, or just part or parts of a district.
- (3) Historically: How many years would be necessary, and I presume that would mean consecutive years, to be classified as being historical.

Also, we would like to know whether or not the statute means former students or students from areas which formerly were attending."

The statutory provision cited above was included with section 15-40-15 of the North Dakota Century Code, as amended, by the 1965 Legislature. Section 15-40-15 is concerned with reciprocal agreements for payment from county equalization funds for students attending school in a bordering state. The payment by the district of residence for each student is not to exceed the payments established by the reciprocal agreement less the amounts paid from the county equalization fund.

We note that the pertinent section is applicable only to districts annexed to or reorganized with another district or districts within North Dakota. Once these districts become a part of another district they are, of course, no longer a district. It would therefore appear that the term "area" as used in the above-quoted statute was intended

to be synonymous with district.

The statute uses the plural word "students" and this ordinarily signifies more than one student. However it is the area or district which is significant and not the individual students who might have been attending school in a bordering state at the time the area or district was attached to another district. The term "students" was apparently used in its broad sense and therefore we believe that the term includes both the singular and plural and refers to one or more students.

With respect to the word "historically" the statute is apparently primarily concerned with the area or district at the time it is attached, by reorganization or annexation, to another district or districts. We therefore believe the word "historically" could be said to refer to the school year immediately preceding the date of annexation or reorganization with another district during which students from such district were attending school. However we are also aware that the term can be construed to mean more than the year immediately preceding annexation or reorganization during which students from the district were attending school. In this sense the question of the definition of the word "historically" is a question of fact to be determined in each specific instance and is a question which this office cannot and will not answer.

In direct reply to your questions:

1. It is our opinion that by the use of the word "students" the Legislature meant one or more students.
2. It is our opinion the word "area" refers to the original districts which have been attached to an adjoining district or districts.
3. While we believe the year immediately preceding attachment to an adjoining district or districts during which students from the district were attending school must be given considerable weight in determining this question, this office cannot and will not determine the exact significance of this word since it necessarily involves a question of fact to be determined from all circumstances in a given situation.
4. It is our opinion the statute refers to the area or original district from which students were attending school in a bordering state and not to the individual students who might have been attending school in a bordering state.

HELGI JOHANNESON

Attorney General