

STATE OF NORTH DAKOTA

ATTORNEY GENERAL'S OPINION 81-101

Date Issued: September 14, 1981

Requested by: Dr. Joseph Crawford  
Superintendent of Public Instruction

--QUESTION PRESENTED--

Whether the county superintendent's decision to refuse to allow a child under the age of sixteen to enroll in correspondence courses may be appealed to the Superintendent of Public Instruction.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that the county superintendent's decision to refuse to allow a child under the age of sixteen to enroll in correspondence courses may be appealed to the Superintendent of Public Instruction.

--ANALYSIS--

Section 15-19-01 of the North Dakota Century Code provides in pertinent part:

'15-19-01. HIGH SCHOOL CORRESPONDENCE COURSES--  
ESTABLISHMENT--ENROLLMENT OF PUPILS--COURSES OF  
INSTRUCTION.--The state shall provide correspondence courses through  
the division of independent study under the following provisions:\*\*\* 2.  
Unless specifically excused in writing upon the course application forms  
by the superintendent or an administrator of the school approving the  
enrollment application, all pupils under the age of sixteen taking  
advantage of the provisions of this chapter shall be required to attend their  
local district schools and to study their correspondence lessons under the  
supervision of a local supervisor. If not required to attend their local  
schools, their work may be done at such place as may be designated by  
the state director in accordance with the rules of the state board of public  
school education. If in attendance at a local school pupils shall be supplied  
with desk space in their respective school without charge, and they shall  
attend school regularly, and shall be under the same disciplinary  
supervision of the teachers as the other high school pupils; . . .' (Emphasis  
supplied)

Section 15-19-03, N.D.C.C., states:

'15-19-03. DUTIES OF SUPERINTENDENTS OF SCHOOLS--  
AUTHORIZATION OF ENROLLMENTS--All applications for enrollment of persons under the age of sixteen years shall be approved by the superintendent or an administrator of a school in the district prior to acceptance of enrollment by the division of independent study. All applications for enrollment of persons under the age of sixteen not residing in a high school district shall be approved by the county superintendent of schools prior to the acceptance of such enrollment.'  
(Emphasis supplied)

These sections require the local superintendent or administrator of the school to authorize the enrollment of a pupil under the age of sixteen in correspondence courses offered through the Division of Independent Study in lieu of that pupil attending public school. Section 15-22-17, N.D.C.C., grants a right of appeal from decisions of the county superintendent to the Superintendent of Public Instruction. It provides:

'15-22-17. TO DECIDE SCHOOL CONTROVERSIES--APPEAL FROM DECISIONS OF COUNTY SUPERINTENDENT--The county superintendent of schools shall decide all matters in controversy arising in his county in the administration of the school laws or appealed to him from decisions of school officers or boards. An appeal may be taken from his decision to the superintendent of public instruction. In such case, a full written statement of the facts, together with the testimony and the decision of the county superintendent in the case, shall be certified to the superintendent of public instruction for his decision, and such decision shall be final, subject to appropriate remedies in the courts.' (Emphasis supplied)

This section grants a right of appeal to the superintendent of public instruction from decisions made by the county superintendent of schools in all matters in controversy arising in his county in the administration of school laws, or appealed to him from decisions of school officers or boards.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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