

Date Issued: May 14, 1981 (AGO 81-45)

Requested by: Dr. Joseph Crawford, Superintendent of Public Instruction

- QUESTION PRESENTED -

Whether the Superintendent of Public Instruction may allow days used for parent-teacher conferences to be counted as classroom instruction days required by section 15-47-33 of the North Dakota Century Code.

- ATTORNEY GENERAL'S OPINION -

In my opinion, the Superintendent of Public Instruction has no authority to allow days used for parent-teacher conferences to be counted as classroom instruction days required by section 15-47-33, N.D.C.C.

- ANALYSIS -

Section 15-47-33, N.D.C.C., provides as follows:

15-47-33. LENGTH OF ELEMENTARY AND SECONDARY SCHOOL YEAR TERM. All elementary and secondary schools in this state shall provide at least one hundred eighty days of classroom instruction during each school term. Any three holidays selected from those listed in subsections 2 through 10 of section 15-38-04.1 which have been decided upon after consultation with the teachers, and any day in which classes cannot be held because of acts of God, epidemic, or failure of physical facilities shall be included in the one hundred eighty days provided for in this section and teachers shall be paid therefore.

The specific exceptions from the one hundred eighty-day requirement are: (1) the three holidays, (2) class days canceled because of acts of God, (3) epidemic, or (4) failure of physical facilities. Parent-teacher conference days are not mentioned. Section 15-47-33, N.D.C.C., is framed in the mandatory "shall" and there is no authority vested in the Superintendent of Public Instruction to change this requirement. If the Legislature wished to have included parent-teacher conference days as an exception, it could have done so. In addition, it does not appear that such days may be properly construed as "classroom instruction."

The foundation aid program is governed by chapter 15-40.1, N.D.C.C., and not section 15-47-33, N.D.C.C. Section 15-40.1-09 defines "average daily membership" for purposes of the foundation aid program. In addition, that section does not indicate that parent-teacher conference days may be properly counted for purposes of receiving foundation aid payments.

- 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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