

LETTER OPINION
94-L-291

October 25, 1994

Honorable Merle Boucher
State Representative
606 Highland Street
Roulette, ND 58366

Dear Representative Boucher:

Thank you for your September 12, 1994, letter concerning the status of the Dunseith Day School as a federal school under North Dakota law and the responsibility for the education of certain students attending that school who are not eligible for enrollment in the tribe for whose benefit the school is operated.

The legal criteria for making the factual determination on your first question is contained in my recent letter to Senator Dan Jerome, a copy of which is enclosed for your information. See Letter from Attorney General Heidi Heitkamp to Senator Dan Jerome (October 25, 1994).

Concerning your question on the financial obligation for the education of certain students attending the Dunseith Day School who are not eligible to be enrolled members of the tribe, if the students are residents of a North Dakota public school district, the school district in question is responsible for the education of those children if they actually attend a public school of the district or the district authorizes their attendance at another North Dakota public school district either upon payment of tuition, tuition waiver, or by open enrollment. See N.D.C.C. ? 15-29-08(1) and (3), N.D.C.C. chs. 15-40.2 and 15-40.3. Further, if the students in question attend school in the district as noted in the letter to Senator Jerome, then the public school district may contract with a federal school for their education. Finally, if the parents of the child choose to send the child to a private school approved in North Dakota, then the financial responsibility for the child's education is with the parents.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

rel/pg

Enclosure

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

Instruction