

**OPINION
48-113**

January 15, 1948 (OPINION)

EDUCATION

RE: Indian School Fort Yates - Participation in Equalization Fund

This is in reply to your letter of January 8 addressed to this office in which you make inquiry as to whether or not the Ft. Yates School District is entitled to participate in the several divisions of the state equalization fund, more especially on a teacher unit basis.

You state that the Indian Service School at Fort Yates is maintained by the Federal Government for the purpose of providing educational facilities for the Indian pupils of school age in that part of the reservation. The local state school district has also a number of white pupils attending this school and it employs and pays the salaries of three or four teachers in the same school.

The Government School is fully accredited both as an elementary and full four year high school and in fact maintains a higher scholastic standard than any regular North Dakota schools. It is under the accrediting supervision of the Director of Secondary Education in the Department of Public Instruction.

It is, of course, true that the Federal Government furnishes the larger number of instructors, all of whom are paid by the Federal Government, no contribution being made to the salaries of the Federal employed teachers by the local school district. The local school district, however, is also maintained jointly with the Federal Government and the children of the white people in the district are attending the school and are eligible for and receive all the educational privileges extended to the Indian children. It may be said, therefore, that this school is maintained jointly by the Federal and the State Governments for the benefit of the children in the district, both Indian and white.

The course of study so far as educational standards are concerned is of a very high grade and more thorough than in the course of study pursued in many of the regular state schools. The school is non-sectarian and in every way conforms to the educational standards and requirements prescribed by the constitution and the statutes of this state.

Considered from the standpoint of educational standards, the grade of instruction furnished to Indian and white pupils alike, the fact that it is non-sectarian; and the further fact that the course of study is approved by the Department of Public Instruction, and that all teachers are duly certified and have the necessary educational qualifications, is such school entitled to participation in the state equalization fund on the teacher-unit basis?

Section 15-4017 so far as the same is pertinent to the question involved reads as follows: "As used in this chapter and in the provisions relating to payments made from the fund on a teacher-unit

basis, the term 'teacher-unit' shall mean one teacher who is devoting his entire time to teaching of grade or high school subjects." I am informed that all of the teachers in the Ft. Yates school, those employed and paid by the Federal government and those employed and paid by the local school district, give their entire time to teaching in the grades and in the high school.

Section 15-4018 relating to payments on teacher-unit basis as amended by Chapter 164 of the Session Laws of 1947 provides as follows:

PAYMENTS FROM FUND ON TEACHER-UNIT BASIS. To qualify for payments from the fund on the teacher-unit basis, a school district shall file with the county superintendent of schools, its statement giving the name of each teacher employed within the district and the monthly salary paid to each such teacher. No aid on the teacher-unit basis shall be given to any district for any teacher who is not teaching in a district organized by virtue of a special charter, or who did not receive at least the minimum salary provided by law. Payments from the fund on the teacher-unit basis shall be made to the several school districts as follows:

1. To a school employing one to four teachers, three hundred dollars per year for each grade or high school teacher-unit maintained by such district during the then current year;
2. To a school employing more than four teachers, two hundred fifty dollars per year for each grade or high school teacher-unit maintained by such district during the then current year."

It will be noted that in the two subdivisions quoted there appears the phrase, "teacher-unit maintained by such district during the then current year."

It may be argued, of course, that to entitle a district to participate in the equalization fund on a teacher-unit basis, the teacher units must be maintained exclusively by the local district. While there may be some force to this argument nevertheless in view of the fact that the local district is receiving the benefit of grade and a full four year high school through cooperation with the Federal Government and that the pupils of the district, that is, the white pupils are receiving all of the benefits of a full grade and four year high school, and in view of the other advantages as well as the fact that the course of study of such school complies in every respect with the course of study prescribed by the Department of Public Instruction, it would be my opinion that the school district would be entitled to participation in the state equalization fund on a teacher-unit basis and that in arriving at the amount of assistance to which the district is entitled, all of the teachers furnished by both the local school district and the Federal government should be included.

You inquire further whether, if an affirmative opinion is given, what would be the effect on the present status of all Indian government schools such as Ft. Totten which receives no money locally, has no mill levy and does not actually exist within the school district. My

answer would be that the opinion that we have given here applies only school districts where the facts are similar or identical to those existing at the Ft. Yates School District.

You also inquire how such opinion would affect the model high schools connected with our State Teachers Training Colleges. My answer to this question is that they would not be affected by the opinion and would not be entitled to participation on a teacher-unit basis since the main purpose of the model high schools maintained in connection with the State Teachers Colleges is to furnish training for the teachers attending such educational institutions.

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