

May 26, 1966

Anna M. Orser
County Superintendent of Schools
Steele County
Finley, North Dakota

Dear Madam:

This is in reply to your letter of May 25, 1966, in which you ask several questions relative to school matters. You state: The questions concern the Colgate School District. There has been no school in session for the past two years and the County Committee on School Reorganization is contemplating the dissolution of the district in June. Petitions have been received for annexation to the Hope District and the Page District (Cass County). The Committee rejected the annexation to the Page District and approved the petition to annex the Hope District. There are 14 sections of the Colgate District that lie in Cass County and in preliminary talks the County Committee had planned that these 14 sections would be annexed to the Page District. If the Hope petition is approved at the hearing June 2nd, the next step would be the attachment of these sections to the Page District.

The questions and our replies thereto are as follows:

"1. Can a school district transfer moneys from the General Fund into the Sinking and Interest Fund to pay off the bonded indebtedness?"

General Fund moneys can be used for any legitimate school purpose including the payment of bonds the proceeds of which were used to construct school buildings. The only limitation is a practical one, i.e., that sufficient moneys be left in the General Fund to carry on the normal operations of the school district.

"2. Can a district sell the building (in this case a gym attached to the school) and use the money to pay off the bonded indebtedness of this building?"

Section 15-29-08(4) of the North Dakota Century Code, as amended, provides:

"The powers and duties of the school board of a public school district shall be as follows:

* * *

5. To purchase, sell, and exchange schoolhouses and rooms, lots, or sites for schoolhouses, teacherages and dormitories, and to lease such facilities for a period not to exceed one year.

* * *"

The above authority would include the authority to sell a gymnasium no longer needed by the school district.

“3. Will such a sale need to be advertised on bids or can the school board sell it outright?”

While there are no statutes requiring the advertising of property to be sold by the school district, this office has consistently advised that the school board should publicly advertise such property for sale in order to avoid any conflict and to give everyone concerned equal opportunity to purchase.

“4. What disposal shall be made of the land on which a school house or a teacherage is on if the buildings are sold?”

Apparently your question contemplates sale of the buildings with the provisions that same be removed from the premises, i.e., the lands on which the buildings stand are not being sold with the buildings. In such instance the land would either become a part of the assets of the district to which the Colgate District is to be attached or the land could be sold under the provisions of section 15-29-08(15). See reply to question 2 herein.

We should note that if the district is to be divided and annexed to the two separate districts as contemplated in your letter, the arbitration board appointed under the provisions of section 15-47-19 of the North Dakota Century Code would have to divide the assets among the Hope District and the remaining territory of the Colgate District. The remaining assets of the Colgate District would then become a part of the arbitration of assets and liabilities between the Colgate District and the Page District at a later date. If, of course, the annexations are consummated simultaneously, the boards may meet together and determine the proper adjustment of assets and liabilities.

I trust this will satisfactorily answer the questions presented.

Yours very truly,

Gerald W. VandeWalle
Assistant Attorney General

cc: Mr. Curt Brown, Clerk, Colgate School District, Colgate, North Dakota
Mr. Robert Erickson, Steele County Auditor, Finley, North Dakota