

N.D.A.G. Letter to Sanstead (Oct. 18, 1985)

October 18, 1985

Dr. Wayne G. Sanstead
Superintendent
Department of Public Instruction
State Capitol
Bismarck, North Dakota 58505

Dear Dr. Sanstead:

Thank you for your letter of September 20, 1985, in which you asked this office to render an opinion regarding the last sentence of N.D.C.C. § 15-29-08(10).

N.D.C.C. § 15-29-08(10) states as follows:

15-29-08. GENERAL POWERS AND DUTIES OF SCHOOL BOARD. The powers and duties of the school board of a public school district shall be as follows:

* * *

10. To contract with, employ, and pay all teachers in the schools and, for cause, to dismiss or suspend any teacher when the interests of the school may require it. Every teacher shall be required to hold a valid North Dakota teaching certificate issued by the superintendent of public instruction. No person who is related to any member of the board by blood or marriage shall be employed as a teacher without the concurrence of two-thirds of the board.

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The first question raised in your letter asks what constitutes a "blood relative" under N.D.C.C. § 15-29-08(10). Our research reveals an absence of a definition of this term in the North Dakota Century Code. Our research also reveals an absence of a definition of this term in the legislative history or in North Dakota case law. Therefore, several general rules of statutory interpretation must be used to determine what individuals are to be considered a "person who is related to any member of the board by blood."

N.D.C.C. 1-02-02 provides that words in any statute are to be understood in their ordinary sense. The American Heritage Dictionary of the English Language, New College Edition (1982), defines "blood" as follows:

7. Descent from a common ancestor; parental lineage.
8. Family relationship; kinship.

Blood relation is defined as: a person who is related by birth rather than marriage. Also called "blood relative."

Therefore, if it is determined by the school board that the individual who is seeking employment as a teacher and a member of the school board have descended from a common ancestor or have some type of familial relationship, employment of this person as a teacher requires the concurrence of two-thirds of the board.

This determination must be made on a case-by-case basis. However, it must be kept in mind that statutes must be construed to avoid absurd and ludicrous results. County of Stutsman v. State Historical Society, 371 N.W.2d 321 (N.D. 1985).

The second question you raised in your letter relates to the provision in N.D.C.C. § 15-29-08(10) which requires the concurrence of two-thirds of the board for the employment of a person as a teacher who is related by blood or marriage to a member of the school board. Your question specifically asks whether a two-thirds vote by the members present, in essence a quorum, will satisfy the statutory requirement stated above.

It is my opinion that the statute requires a two-thirds vote of the entire board and that a two-thirds vote of the members present or a quorum is insufficient. This statute is clear and unambiguous on its face. The statute speaks to a concurrence of two-thirds of the board. It does not speak to a two-thirds vote of the members present or a quorum. As a general rule, when the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit. N.D.C.C. § 1-02-04; County of Stutsman v. State Historical Society, 371 N.W.2d 321, 325 (N.D. 1985).

Therefore, no person who is related to any member of the board by blood or marriage shall be employed as a teacher without concurrence of two-thirds of the entire board.

Sincerely,

Nicholas J. Spaeth

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