

OPINION
64-243

August 4, 1964 (OPINION)

Mr. A. R. Nestoss

Deputy Superintendent

Public Instruction

RE: Schools - Annexation - Remaining Territory

This is in reply to your letter of July 31, 1964, relative to section 15-27-06 of the North Dakota Century Code, as amended.

You state a petition for annexation of a part of the North Central School District of Towner County to the Mt. Pleasant School District of Rolette County is being considered. The area in question is in Towner County and was a part of the Rosedale School District which, about a year ago, was dissolved by annexation and attached to the North Central District and the Mt. Pleasant District. As of this time the area in question is in all respects a part of the North Central School District and the petition for annexation would in effect detach the area from the North Central School District and attach it to the Mt. Pleasant School District. A question arises as to the use of the term "original" in section 15-27-06.

Section 15-27-06 of the North Dakota Century Code, as amended, provides:

LIMITATIONS ON POWER TO DETACH AND ATTACH TERRITORY. No territory shall be detached from one school district for annexation to another school district if the part of the original district remaining after the proposed annexation would have an assessed valuation of less than one hundred thousand dollars, or less than one hundred twenty-five thousand dollars for each teacher employed in the remaining territory if the remaining territory has a graded school with two or more teachers."

The term "original" as used in the above statute does, we believe, refer to the district as it is composed immediately prior to the consideration of any given annexation proposal. It does not refer to a school district as it was constituted at the time it was first organized. Such interpretation would be impossible to administer and would serve no useful purpose since several of the school districts in this state have altered their boundaries on numerous occasions.

In the situation outlined above the "original" district would refer to the North Central School District as it is presently constituted. The phrase "part of the original district remaining after the proposed annexation" would refer to the North Central School District as it would exist if the proposed annexation were approved. Thus, if the proposed annexation petition would be approved, the remaining

territory of the North Central District would have to meet the requirements set forth in section 15-27-06. If the remaining valuation was not sufficient to meet these requirements the annexation could not be approved.

In summary, it is our opinion that the term "original district" as used in section 15-27-06 of the North Dakota Century Code, as amended, refers to a district as it exists immediately prior to the consideration of any given annexation proposal.

It is our further opinion that the term "original district remaining after the proposed annexation" refers to the district as it exists immediately prior to the consideration of any given annexation proposal less that area which the petition proposes to be detached from the district and attached to another district.

HELGI JOHANNESON

Attorney General