

**LETTER OPINION
2002-L-71**

December 23, 2002

Mr. James P. Wang
Benson County State's Attorney
PO Box 211
Minnewaukan, ND 58351-0211

Dear Mr. Wang:

Thank you for your letter asking if a public school superintendent may hire a basketball coach for a junior high team without the consent or approval of the school board.

A public school district board may contract for the services of a district superintendent, provided that the contract, which may be renewed, does not exceed a period of three years. N.D.C.C. §15.1-09-33(25). A school district board may also contract for the services of a principal. N.D.C.C. § 15.1-09-33(26).

Concerning other school personnel, the law provides that a school board may:

20. Contract with, employ, and compensate school district personnel.
-
22. Suspend school district personnel.
23. Dismiss school district personnel for cause.

N.D.C.C. § 15.1-09-33(20), (22), and (23).

If a public school district board hires a school district superintendent, that school district superintendent has the duties provided by law as follows:

A school district superintendent shall:

1. Supervise the general operation of the school district.

2. Supervise the provision of education to students.
3. Visit the schools of the district.
4. Supervise school personnel.
5. Prepare and deliver reports requested by the board of the district.
6. Perform any other duties requested by the board.

N.D.C.C. § 15.1-14-01.

It is clear that it is the school board, and not the superintendent, that has the authority to employ school district personnel and to suspend or dismiss the district's personnel. A school district superintendent, if one is employed, is authorized to supervise the school personnel. Under N.D.C.C. § 15.1-14-01(6), the board of a school district may request a school district superintendent to perform other duties. However, without the permissible delegation of the matter to a school district superintendent, nothing in N.D.C.C. § 15.1-14-01 authorizes a school superintendent to hire or discharge employees of the district.

It is therefore my opinion that a public school district superintendent is not authorized to hire, suspend, or discharge school district personnel unless the board of the school district, by board policy adopted by resolution of the board, directs the superintendent to perform those functions. Thus, a school district superintendent who has not been authorized in advance by the board to hire school district personnel may not do so without the consent and approval of the school board. The amount of compensation, if any, to be paid to the person working for the school district does not change the authority of the school district superintendent.

Sincerely,

Wayne Stenehjem
Attorney General