

**LETTER OPINION
2003-L-30**

June 9, 2003

Honorable Merle Boucher
State Representative
PO Box 7
Rolette, ND 58366-0007

Dear Representative Boucher:

Thank you for asking about the meaning of “unobligated general fund balance” as used in N.D.C.C. § 15.1-27-05. The amount of state aid school districts receive is dependent in part on a school district’s “unobligated general fund balance” on the preceding June thirtieth. N.D.C.C. § 15.1-27-05.

Your question relates to when funds are considered “obligated.” State law does not define either “obligated” or “unobligated” funds for the purposes of N.D.C.C. § 15.1-27-05. Therefore, “unobligated” must be construed according to its context, rules of grammar, and usage of the language. N.D.C.C. § 1-02-03.

The word “obligate” means “to commit (money, for example) in order to fulfill an obligation.” The American Heritage Dictionary 857 (2d coll. ed. 1991). To determine when a school district commits funds to fulfill an obligation, in this case for purposes of state aid to public schools, other sections of law come into play. The Superintendent of Public Instruction is required to implement a uniform system for the accounting, budgeting, and reporting of data for all school districts in the state. N.D.C.C. § 15.1-02-08. To fulfill that responsibility, the Superintendent of Public Instruction has created the “North Dakota School District Financial and Reporting Manual” (“Manual”), along with various other forms that relate to school district reporting of financial information. For purposes of state aid to public school districts, school districts must file certain documentation with the Superintendent of Public Instruction in order to receive the per student payments provided by law. One of those required documents is an annual school district financial report. N.D.C.C. § 15.1-27-02(1)(b).

School district financial reports are prepared using a “basis of accounting.” Manual at 2 (2000). The basis of accounting is either a “cash basis” or an “accrual basis.” Id. at 2-3. The cash basis recognizes transactions when cash is either received or disbursed. Id. at 2. The accrual basis of accounting, deemed superior for school districts, allows a school district to determine its financial position by measuring economic resources and

“obligations.” Id. at 3. In other words, use of the accrual basis of accounting allows a school district to recognize its commitments to fulfill its obligations before it has actually prepared a check in payment of those obligations. Therefore, for North Dakota school districts, funds are “obligated” or “unobligated” depending on the basis of accounting used by the respective district.

This meaning of the obligation of school district funds does not, however, resolve the issue between the school district on whose behalf you inquire and the Superintendent of Public Instruction. From the documentation you provide and from other information received from the Department of Public Instruction, it appears the school district filed its annual report and then requested to make an informal amendment to that annual report to reduce its general fund ending balance and improve its position under N.D.C.C. § 15.1-27-05.

The Department of Public Instruction, by memorandum dated April 11, 2003, informed the school district that to have the expenditures it sought deducted from its general fund ending balance for the year in question, the district would be required to restate its annual financial report because the school district’s proposed amendment required a change in its basis of accounting. I understand that this restatement of the school district’s annual financial report is required because, in the absence thereof, the school district would effectively be deducting the expenditures it requested not only from the annual financial report it sought to amend informally but also from the succeeding year’s annual financial report where those same expenditures would appear again because of its existing basis of accounting. This after-the-fact amendment the school district proposed would result in misstating the expenditures and ending general fund balance for the purpose of N.D.C.C. § 15.1-27-05 for two school years in a manner not provided by law or by the accounting manual the Superintendent of Public Instruction is required to prepare and which school districts must use. It is therefore my opinion that if the school district is to receive recognition of the expenditures it submitted, it is required to follow the instructions of the Department of Public Instruction to accomplish that task by restating its annual financial report and its basis of accounting.

Sincerely,

Wayne Stenehjem
Attorney General