

**LETTER OPINION
2007-L-18**

December 20, 2007

The Honorable Kenton Onstad
House of Representatives - District 4
3515 66th Ave NW
Parshall, ND 58770-9456

Dear Representative Onstad:

Thank you for asking my opinion whether a public school district can use public monies to fund college scholarships for graduated seniors. It is my opinion that a public school district is not authorized to undertake activities other than kindergarten through 12th grade education, and a public school district is prohibited from providing scholarships for college or other postsecondary institutions.

ANALYSIS

The North Dakota Supreme Court has held:

[t]hat public schools of the State are under legislative control and that school boards have no powers except those conferred by statute. . . ; that school boards may exercise only such powers as are expressly or impliedly granted by statute . . . ; and that, in defining the powers of school officers, the rule of strict construction applies, and any doubt as to the existence or extent of such powers must be resolved against the school board. . . .¹

A diligent search of North Dakota's statutes regarding public schools and public school districts, taxation in support of public schools, and state tax money which is distributed to public schools reveals no statute which directly or impliedly allows a public school from this state to undertake activities or to spend public money for purposes other than kindergarten through 12th grade education. To the contrary, legislative intent is demonstrated by statutes providing that even when a student is allowed to receive high school credit for

¹ Myhre v. School Board of North Central Public School District No. 10, County of Richland, 122 N.W.2d 816, 819-20 (N.D. 1963) (citations omitted).

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attending a postsecondary institution, the student or the student's parents or guardians pay for any costs to attend.²

Therefore, it is my opinion that a public school district may not undertake activities other than kindergarten through 12th grade education, and a scholarship for high school graduates to attend college or other postsecondary institutions is not authorized by statute.

Sincerely,

Wayne Stenehjem
Attorney General

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This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.³

² N.D.C.C. §§ 15.1-25-01, 15.1-25-03.

³ See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).