

LETTER OPINION
98-L-101

August 12, 1998

Dr. Wayne G. Sanstead
Superintendent of Public Instruction
600 East Boulevard Avenue
Bismarck, ND 58505-0440

Dear Dr. Sanstead:

Thank you for your memorandum asking about the summer school programs to which the one and one-half percent limitation in N.D.C.C. § 15-40.1-07 applies.

The language about which you inquire states:

School districts offering high school summer school programs are eligible for proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction. The superintendent may adopt rules regarding eligibility for school districts to receive proportionate payments for summer education programs. The proportionate payment made under this section during the biennium for high school summer school programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for foundation aid and transportation aid during the biennium.

(Emphasis supplied.) N.D.C.C. § 15-40.1-07.

"High school student" is defined by N.D.C.C. § 15-40.1-01 as including only those students who:

1. Have completed all of the work of the first eight grades, but have not completed the work of the twelfth grade.
2. Are residents of this state or who are attending a North Dakota school under a foreign student exchange program.

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N.D.C.C. § 15-40.1-01.

Words in the Code are to be understood in their ordinary sense according to their context, the rules of grammar, and the approved usage of the language. N.D.C.C. §§ 1-02-02 and 1-02-03. It is improper to attempt to construe the provisions of a clear and unambiguous statute to make additional requirements or proscriptions which the words of the statute do not themselves provide. Haggard v. Meier, 368 N.W.2d 539, 541 (N.D. 1985).

The portion of the statute noted above relates to high school summer school programs consisting of courses that satisfy requirements for graduation, comprise as many clock hours as courses offered during the regular school year, and comply with rules adopted by the Superintendent of Public Instruction. High school summer school programs relate to courses offered to students who are residents of North Dakota and have completed the first eight grades but have not completed the twelfth grade. The Superintendent of Public Instruction may adopt rules concerning receipt by school districts of proportionate payments and the proportionate payments made under this section during a biennium for high school summer school programs may not exceed one and one-half percent of the total amount appropriated for foundation aid and transportation aid for that biennium.

It is my opinion that the one and one-half percent limitation for proportionate payments in N.D.C.C. § 15-40.1-07 applies only to high school summer school programs consisting of courses that satisfy the requirements for graduation, comprise the relevant clock hours, and comply with rules adopted by the Superintendent of Public Instruction under that section. This would not include children of migratory workers and students with disabilities unless they are attending a program that meets the requirements of N.D.C.C. § 15-40.1-07. It is my further opinion that the one and one-half percent proportionate payment limitation does not apply to programs or courses attended by students during the summer if such summer programs or courses are attended or authorized pursuant to any section of law other than N.D.C.C. § 15-40.1-07.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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