

N.D.A.G. Letter to Sanstead (Feb. 6, 1991)

February 6, 1991

Dr. Wayne G. Sanstead
Superintendent
Department of Public Instruction
State Capitol
Bismarck, ND 58502-0440

Dear Dr. Sanstead:

Thank you for your January 28, 1991, letter requesting my opinion on the scope of N.D.C.C. § 15-19-01, relating to correspondence courses.

N.D.C.C. § 15-19-01 provides in pertinent part:

The state shall provide correspondence courses through the division of independent studies under the following provisions:

1. A complete high school curriculum
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3. The high school correspondence work must be completed in accordance with the rules established by the state board of public school education.

N.D.C.C. § 15-19-01 (emphasis supplied).

The State Board of Public School Education may only perform those tasks and engage in those endeavors which are specifically provided for by law or which are necessarily implied therefrom. See, American Fed'n of State, County & Mun. Employees v. Olson, 338 N.W.2d 97 (N.D. 1983) (public officials have only the authority expressly granted and necessarily implied from an express grant of authority.) The Reference to correspondence courses in N.D.C.C. § 15-19-01 pertains only to high school curriculums. Although "high school" is not defined in the Century Code, "high school student" is. A high school student is a resident of this state who has "completed all of the work of the first eight grades but [has] not completed the work of the twelfth grade." N.D.C.C. § 15-40.1-01. It is therefore my opinion that N.D.C.C. § 15-19-01 authorizes the State Board of Public School Education only to specify curriculums for grade levels nine through twelve.

Sincerely,

Nicholas J. Spaeth

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