

**OPINION  
65-106**

September 29, 1965            (OPINION)

Mr. James O. Fine

Chairman

Board of Administration

RE:   Grafton State School - San Haven - Same

This is in reply to your letter of September 20, 1965, in regard to whether or not the Mentally Retarded Unit at the hospital at San Haven is considered as part of the Grafton State School.

Generally speaking, of course, they are physically, geographically, and in other ways separate facilities. In a strictly legal context and, of course, to a limited extent depending upon surrounding circumstances, as further considered herein, a different result may obtain.

We note that Section 25-0401 of the North Dakota Revised Code of 1943 was amended by Chapter 197 of the 1956 Session Laws to provide as of July 1, 1961 that:

STATE SCHOOL FOR THE FEEBLEMINDED; MAINTAINED; NAME. - An institution for the feeble-minded shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton State School for the Feeble-minded. The sanatorium at Dunseith known as San Haven shall henceforth be known as the San Haven State School for the Feeble-minded, and wherever the words 'state school' appear in this chapter it shall mean and include both the Grafton State School for the Feeble-minded and the San Haven State School for the Feeble-minded."

However, same was amended to delete these provisions by the 1961 Legislature so that same now provides:

DEFINITIONS. In this title unless the context or subject matter otherwise requires:

\* \* \*

5. 'State school' shall mean the Grafton state school and such portion of the state institution at San Haven that is designated for the care of the feeble-minded."

\* \* \*. "

To conclude, it is our opinion that, in the situation where the phrase "state school" is used generally in Title 25 of the North Dakota Century Code it includes both the mentally retarded unit in the hospital at San Haven and the Grafton State School unless, of course, context or subject matter otherwise requires. The same

result must necessarily follow in some practical contexts even though the question does not involve construction of a part of Title 25 of the North Dakota Century Code to the extent that the same activities will be carried at both sites. On the other hand, it seems doubtful that mail addressed to one of the two addresses for the institution for the feebleminded will reach the other address for the institution without going through appropriate official channels.

The physical, geographical separation of the two parts of the institution will remain even though legally they will be for many practical purposes one institution.

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