

N.D.A.G. Letter to Richardson (Feb. 20, 1990)

February 20, 199

Mr. John Richardson
Commissioner
Board of Higher Education
State Capitol
Bismarck, ND 58505

Dear Commissioner Richardson:

Thank you for your January 19, 1990, letter inquiring of the ability of the Board of Higher Education to convert Mayville State University and Valley City State University to two-year colleges without amendment of the North Dakota Constitution. I assume conversion of these institutions to two year colleges will occur by modification of the courses offered at the institutions as well as by reorganization of each institution's work.

Pursuant to Art. VIII § 6 of the North Dakota Constitution, the Board of Higher Education has the control and administration of the state normal schools and teachers colleges at Valley City, Mayville, Minot, and Dickinson. The constitution also states that the Board of Higher Education has full authority over those institutions under its control "with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions." N.D. Const. Art. VIII, § 6(b). However, the constitution also states that the board must work "within constitutional and statutory limitations" when the board organizes the work of each institution under its control and to do that which is necessary and proper for the efficient and economic administration of that educational institution. Id.

Another provision of the constitution also mentions the normal schools located at Valley City and Mayville. N.D. Const. art. IX § 12(4), (7). In both instances, however, the reference is only to a "normal school" and no mention is made of a teachers college.

The constitutional mention of "normal schools and teachers colleges" must be assumed to refer to institutions of a similar character. At the time the relevant constitutional provisions were adopted, teachers colleges were not separately identified in the constitution or in statute. Normal schools were further described by statute when these constitutional provisions were adopted. That situation continues as of today. Thus, I can only assume that the reference to teachers colleges is indeed a reference to normal schools.

Because Mayville and Valley City State Universities are identified as normal schools and teachers colleges by the constitution and as the constitution requires the Board of Higher Education to work within the constitutional and statutory limitations in organizing or reorganizing the work of each institution under its control, Valley City and Mayville State Universities must maintain the status of state normal schools unless modification is made to the constitution.

However, you have told a member of my staff that the reduction in the available courses of study at Valley City and Mayville State Universities contemplated by the Board of Higher Education would not affect the status of these institutions as normal schools and teachers colleges. Assuming these facts to be correct, I find no constitutional prohibition against the contemplated board action. The board may rely upon its authority to prescribe, limit, or modify the courses offered at the institutions under its control in implementing this proposal. The board may also rely upon its authority to organize or reorganize each institution's work, and to do that which is necessary for the efficient and economic administration of the state's higher educational institutions. So long as the implementation of the board's proposal will not affect the status of these schools as normal schools and teachers colleges, there is no need to amend N.D. Const. Art. VIII, § 6(l)(d).

I hope this discussion is helpful for your purposes.

Sincerely,

Nicholas J. Spaeth