

**OPINION
70-315**

March 9, 1970 (OPINION)

Mr. Harold Shaft
Attorney for Grand Forks Public School District

RE: Schools - Tuition - Military Bases

This is in reply to your letter of March 4, 1970, relative to the Grand Forks Public School District. You state the following facts and questions:

Representing the Grand Forks Public School District, we are concerned with the legal status of the children of Grand Forks Air Force Base personnel who reside on the base.

As you are probably aware, for some years we have been operating two elementary schools on the base and have been receiving Air Base resident students in our high schools and furnishing transportation to and from the base, for which we have received payment from the Department of Health, Education & Welfare under the so-called PL 874 and 815.

These impact funds have now been so drastically reduced by Congress that we can no longer finance the schooling of these children.

The Grand Forks Air Force Base is not within the boundaries of Grand Forks Public School District. It appears to be 'unorganized territory', not within any district. Its residents have no vote in school elections and, of course, the federal housing etc., is not taxed.

We believe Mr. Snortland has discussed this matter briefly with you, but we would like your opinion as to whether or not we have the right to refuse admission to our city schools of Air Base resident pupils except upon payment of tuition and whether or not we are required to furnish them free transportation.

Incidentally, if you are aware of any state source from which the tuition of these students could be paid, we would appreciate being advised."

We assume you are referring only to students residing without the physical boundaries of the district. The law does not require, or for that matter permit, a school district to accept students who are not residents of the district in the schools of the district except upon payment of the prescribed tuition. See sections 15-29-08(3) (14), 15-40-17 of the North Dakota Century Code, as amended. To permit non-resident students to attend the schools of the district without payment of tuition would appear to be an undue burden on the taxpayers of the district, and might well constitute an unauthorized expenditure of school district funds by the school board of the district. The same rationale is, of course, applicable to the providing of free transportation to students who are not residents of

the district.

It is therefore our opinion the Grand Forks School District may not accept students who are not residents within the district for school purposes within the schools of the district, except upon the payment of tuition prescribed by law. It is our further opinion the Grand Forks School District is not required to furnish free transportation to students who are not residents of the district.

We have not considered herein any contracts which the school district might have executed since we obviously do not know the contents thereof.

We would further note we are unaware of any state source from which the tuition of the students in questions would be paid.

HELGI JOHANNESON

Attorney General