

SCHOOL APPROVAL AND ACCREDITATION - BACKGROUND MEMORANDUM

Section 61 of 2009 House Bill No. 1400 (attached as an [appendix](#)) directs the Legislative Council to study statutory criteria for the approval of public and nonpublic schools, regulatory criteria for the accreditation of schools, and the consequences to schools and school districts that fail to meet the criteria.

GOVERNANCE OF THE COMMON SCHOOLS - TERRITORY OF DAKOTA

Webster's New World Dictionary defines a "standard" as a "type, model, or example commonly or generally accepted or adhered to" or as a "level of excellence, attainment, etc. regarded as a measure of adequacy" Standards for schools in North Dakota predate statehood. In fact, at the first session of the Legislative Assembly of the territory of Dakota held in 1862 the following statutes were promulgated to establish standards and expectations for the common schools:

- It shall be the duty of the county superintendent of public instruction . . . [to apportion] the amount of money in the county treasury, for the use of common schools . . . to the several districts, or parts of districts, within the county . . . *Provided*, No district shall be entitled to receive any portion of the common school fund in which a common school has not been taught at least three months during the year. (Chapter 81, Section 5)
- [The county superintendent of public instruction] shall visit each school in the county at least once each term, for the purpose of examining into the condition of the school, of ascertaining the textbooks used, and of giving advice as he may deem proper in reference to the course of studies pursued, and the general interest of the school. (Chapter 81, Section 6)
- [The county superintendent of public instruction] shall see that the annual reports of the clerks of the several school districts in his county are made correctly, and in due time. (Chapter 81, Section 7)
- [The county superintendent of public instruction] shall examine annually, all persons offering themselves as teachers of common schools in his county, in regard to moral character, learning, and ability to teach school, and he shall give to each person examined and found qualified to teach, a certificate signed by him, officially, and any person receiving such certificate, shall be deemed a qualified teacher within

the meaning of this act. (Chapter 81, Section 8)

- In every school district there shall be taught orthography, reading, writing, English grammar, geography, and arithmetic, if desired, during the time the school shall be kept, and such other branches of education as may be determined by the district board. (Chapter 81, Section 41)
- It shall be the duty of the teacher of every district school or graded school, to make out and file with the district clerk at the expiration of each term of the school, a full report of the whole number of scholars admitted to the school during such term. Distinguishing between male and female, the text-books used, the branches taught, and the number of pupils engaged in the study of each of said branches. Any teacher who shall neglect or refuse to comply with the requirements of this section, shall forfeit his or her wages for teaching such school, at the discretion of the district board. (Chapter 81, Section 61)

After 147 years, the laws of North Dakota still contain standards and expectations for schools and school districts. Some of the requirements are statutory and must be met in order for a school to be "approved" by the Superintendent of Public Instruction and others are regulatory and enable a school to be "accredited" by the Superintendent of Public Instruction.

SCHOOL APPROVAL

North Dakota Century Code (NDCC) Section 15.1-06-06 requires each public and nonpublic school in this state to be approved by the Superintendent of Public Instruction. The Superintendent of Public Instruction may not approve a school unless:

1. Each classroom teacher is licensed to teach by the Education Standards and Practices Board or approved to teach by the Education Standards and Practices Board;
2. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under NDCC Section 15.1-09-57;
3. The students are offered all subjects required by law;
4. The school is in compliance with all local and state health, fire, and safety laws; and
5. The school has conducted all criminal history record checks required by NDCC Section 12-60-24.

SCHOOL ACCREDITATION

Senate Bill No. 2269 (1979) authorized the Superintendent of Public Instruction to adopt standards for the accreditation of schools. Any public or private school that complied with the standards would be deemed an accredited school. Compliance with the standards was not, however, mandatory. The standards adopted by the Superintendent of Public Instruction were compiled in a document entitled *North Dakota Accreditation Standards, Criteria and Procedures for the Classification of Elementary, Middle Level/Junior High, and Secondary Schools*. The document set forth standards and criteria that schools had to meet in order to be considered accredited and optional standards and criteria that were "designed to provide some flexibility to schools." Point values were assigned to each section and schools were expected to "accrue at least 85 percent of the total point values and achieve at least 50 percent of the point value assigned to each section." If a school failed to meet a required criterion, if a school failed to accrue at least 85 percent of the total points assigned to the optional standards and criteria, or if a school failed to accrue at least 50 percent of the point value assigned to any one section, the school was placed on an "accredited warned status." If the cited problems were not corrected by the next review cycle, the school was to be considered unaccredited. Required standards and criteria were to be reviewed annually and optional standards and criteria were to be reviewed biennially.

The standards and criteria that were set forth addressed school improvement, administration, instructional personnel, instructional programs, student evaluations, student personnel services, library media services, and school policies.

Although compliance with the accreditation standards was initially voluntary, House Bill No. 1472 (1989) imposed financial sanctions on school districts that operated unaccredited high schools:

School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be supported for the 1991-92 school year or for the first year that they become unaccredited in the amount of the education support per pupil established in subdivision a, which is the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of pupils in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per pupil in the unaccredited school for

each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per-pupil payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.

During the following legislative session, House Bill No. 1458 (1991) extended the financial sanctions to school districts that operated unaccredited elementary schools:

School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the 1992-93 school year or for the first year that they become unaccredited in the amount of the education support per pupil established in subdivision a, which is the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of pupils in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the per-pupil payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.

By the latter years of the 1990s, legislators became concerned that the accreditation process could be used to impose on schools and school districts requirements that were more stringent than legislators would or could support. In an attempt to ensure that there would be legislative oversight, in 1999 the Legislative Assembly enacted NDCC Section 15.1-02-11. This provision authorized the Superintendent of Public Instruction to adopt rules governing the accreditation of public and nonpublic schools. The companion section--15.1-02-12--stated:

Any rule adopted by the superintendent of public instruction in a manner other than that set forth in chapter 28-32 is ineffective after October 31, 1999. For purposes of this section, "rule" includes any regulation, standard, guideline, statement, or policy that has the effect of law or which has either direct or indirect financial consequences for noncompliance.

Today, rules governing the accreditation of schools are found in North Dakota Administrative Code Sections 67-19-01-01 through 67-19-01-43 and the financial penalties imposed upon unaccredited schools are found in NDCC Sections 15.1-27-08 and 15.1-27-09:

15.1-27-08. Per student payments - Unaccredited high schools.

1. If a high school becomes unaccredited, the superintendent of public instruction shall determine the per student payment to which the school district is entitled during the first year in which the high school is unaccredited by:
 - a. Applying the school district size weighting factor assigned under section 15.1-27-03.2 to all students in average daily membership in any public school in the district other than the unaccredited high school; and
 - b. Applying a weighting factor of 1.00 to all students in average daily membership in the unaccredited high school.
2. If the high school remains unaccredited for a second year, the superintendent of public instruction shall determine the per student payment to which the school district is entitled by:
 - a. Applying the school district size weighting factor assigned under section 15.1-27-03.2 to all students in average daily membership in any public school in the district other than the unaccredited high school;
 - b. Applying a weighting factor of 1.00 to all students in average daily membership in the unaccredited high school; and
 - c. Reducing any payment to which the school district is entitled for each student in average daily membership in the unaccredited high school by two hundred dollars.
3. If the high school remains unaccredited for a third year, and each year thereafter, the superintendent of public instruction shall determine the per student payment to which the school district is entitled as provided in subsection 2, and the superintendent shall reduce the payment for each student as provided in subdivision c of subsection 2 by two hundred dollars each year.
4. If the high school regains its accreditation, the school district is entitled to the per student payments provided for accredited schools for the entire school year in which the school becomes accredited.

15.1-27-09. Per student payments - Unaccredited elementary schools.

1. If an elementary school becomes unaccredited, the superintendent of public instruction may not reduce the per student payment to which the school district is entitled during the first year in which the school is unaccredited.
2. If an elementary school remains unaccredited for a second year, the superintendent of public instruction shall reduce the per student payment to which the school district is entitled for each student in average daily membership in the unaccredited elementary school by two hundred dollars.
3. If the elementary school remains unaccredited for a third year, and each year thereafter, the superintendent of public instruction shall reduce the payment for each student as provided in subsection 2 by two hundred dollars each year.
4. If the elementary school regains its accreditation, the school district is entitled to the per student payments provided for accredited schools for the entire school year in which the school becomes accredited.

STUDY

For many years, it has been common practice to think of school approval as mandatory and school accreditation as optional. Approval was granted if the school met the requirements of NDCC Section 15.1-06-06, i.e., teachers were licensed; teachers taught only in those areas for which they were licensed; students were offered all subjects required by law; there was compliance with all local and state health, fire, and safety laws; and appropriate criminal history record checks had been conducted.

House Bill No. 1400 (2009), however, placed additional requirements on school districts and consequently on schools. The requirements include:

- That each school district have available one full-time equivalent (FTE) counselor for every 300 students in grades 7 through 12;
- That each school district have available one FTE student performance strategist for every 400 students in kindergarten through grade 3;
- That each school district acquire and use PowerSchool;
- That each school district annually review its insurance policies;
- That each school district develop a professional development plan;
- That each school district administer the Measures of Academic Progress test;

- That each school district administer a career interest inventory; and
- That each school district ensure students read the United States Constitution prior to graduation.

Such requirements are not unique to the 2009 legislative session. In prior sessions, the Legislative Assembly required school districts to:

- Provide various reports to the Superintendent of Public Instruction on matters of student membership and attendance, student enrollment, district finances, employee compensation, and personnel;
- Observe certain holidays;
- Provide a specific number of instructional days;
- Display a United States flag on the grounds of each school in the district during each schoolday in seasonable weather;

- Adopt rules regarding the suspension and expulsion of students;
- Adopt a policy governing the possession of weapons and firearms on school property or at school functions; and
- Administer state assessments.

This study will provide legislators the opportunity to examine the totality of statutory and regulatory requirements under which schools and school districts currently operate. The study will allow legislators to look at the clarity of those requirements, their appropriateness to 21st century educational delivery, and most importantly, options for enforcement in the event a school or school district is unable or unwilling to meet the stated requirements.

ATTACH:1

2009 HOUSE BILL NO. 1400

SECTION 61. LEGISLATIVE COUNCIL STUDY - SCHOOL APPROVAL AND ACCREDITATION. During the 2009-10 interim, the legislative council shall consider studying statutory criteria for the approval of public and nonpublic schools, regulatory criteria for the accreditation of schools, and the consequences to schools and school districts that fail to meet the criteria. In addition, the study must include a review of statutory sections that place specific requirements on school districts and the consequences to school districts that fail to abide by the requirements. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.