

OFFICIAL OPINION NO. 71-1, Minimum number of students enrolled in an elementary school which would prevent the school district from receiving general support foundation funds.

STATE OF SOUTH DAKOTA
OFFICE OF
THE ATTORNEY GENERAL

January 5, 1971

Dr. Gordon A. Diedtrich
State Superintendent of Public Instruction
State Capitol Building
Pierre, South Dakota 57501

OFFICIAL OPINION NO. 71-1

Minimum number of students enrolled in an elementary school which would prevent the school district from receiving general support foundation funds.

Dear Dr. Diedtrich:

You have cited the following statutes:

In order to be eligible to receive general support foundation funds as herein provided, a school district must not have operated **a one-teacher rural school with an average daily membership of five or less pupils** within five miles by publicly traveled roads of any other public elementary school in operation during the previous school fiscal year. (Emphasis supplied)

SDCL 13-13-15 reads as follows:

The school board of an independent school district shall continue to operate any elementary school in operation as of December 5, 1968 until such time as only the resident voters of the area which operated said elementary school shall vote to cease operating said school or schools. Such election shall be called by the school board of the independent school district by resolution or upon a petition by twenty per cent of the electors residing in such area and shall be conducted in accordance with the laws governing elections in independent school district, provided, however, that the provisions of this section shall not apply to any elementary school which by its continued operation would make the district ineligible for state aid under the provisions of sections 13-13-10 to 13-13-41, inclusive.

SDCL 13-23-1 reads as follows:

The school board of an independent school district shall have the power to establish and discontinue high schools and the exclusive power to establish and discontinue elementary schools except as limited by law.

You have requested an official opinion on the following question:

What is the least number of students a one-teacher rural school may have enrolled before such a school would place the school district in jeopardy of not receiving general support foundation funds?

The South Dakota Dictionary of Educational Terms for Elementary and Secondary Education issued by the South Dakota Department of Public Instruction as Bulletin 10-4-(1970) defines "Average Daily Membership" as follows:

In a given school fiscal year, the average daily membership is the sum of the aggregate days of membership for the regular and all special terms divided by the number of days in the regular school term.

The term "Enrollment" is defined in part as follows:

The total number of original entries in a given school unit ...

It is my opinion that if a one-teacher rural school has an enrollment of only five students, then all five students would have to be a member every day the school was in session in order to have an average daily membership of five. Such a one-teacher rural school would cause the district to be ineligible for general support foundation funds, if such school was within five miles of publicly traveled roads of any other elementary school in operation during the previous school fiscal year.

In answer to your specific question, it is my opinion that the least number of students a one-teacher rural school may have enrolled before such school would place the school district in jeopardy of not receiving general support foundation funds is six.

Respectfully submitted,

Gordon Mydland
Attorney General