

OFFICIAL OPINION NO. 77-57, Incorporation of the Associated School Boards of South Dakota

June 30, 1977

Mr. Sam Tidball, Executive Secretary
Associated School Boards of
South Dakota
Post Office Box 1211
Pierre, South Dakota 57501

Official Opinion No. 77-57

Incorporation of the Associated School Boards of South Dakota

Dear Mr. Tidball:

You have requested an opinion from this office based upon the following facts:

FACTS:

At the annual meeting of the Associated School Boards of South Dakota held in October, 1976, the delegate members of the association instructed the Board of Directors to proceed with incorporation of the Association.

Articles of Incorporation have been drafted and approved by the Board of Directors but a statutory question has arisen.

In SDCL 13-8-10.1 and 13-8-10.2, authority is granted to school boards to pay dues to an association of school boards and to pay expenses of members attending meetings of the association.

Based on the above factual situation, you ask the following question:

QUESTION:

Does the term "association" as used in SDCL 13-8-10.1 and 13-8-10.2 preclude a school

district from paying dues to the Associated School Boards of South Dakota if the association is in fact a corporation?

It is my opinion that if the Associated School Boards of South Dakota were to incorporate, SDCL 13-8-10.1 and 13-8-10.2 would authorize school boards to pay dues and expenses of members attending the meetings of the Associated School Boards of South Dakota, Inc.

In the case of *Tri-State Fair Association v. Lasell*, 187 N.W. 824 (1922), the South Dakota Supreme Court briefly discussed the relationship between the words "corporation" and "association." The Court there provided:

Again it is claimed that the words "corporation" and "association" are words of different import, and mean entirely different institutions; "corporation" being a creature of the statute, while an "association" partakes of the nature of a corporation and somewhat of the nature of a partnership. 5 Corpus Juris 1333.

The term "association" frequently enters into the names bestowed upon corporations by the legislatures or chosen by the incorporators themselves, and in its broadest sense may include "corporation."

So the term as employed in statutes is frequently held by reason of the object and scope of the object to include "corporation" or to be synonymous therewith.

In view of the above rationale whereby the term "association" is deemed to include the term "corporation," it is my opinion that the Associated School Boards of South Dakota could establish itself as a nonprofit corporation and not jeopardize its ability to operate under SDCL 13-8-10.1 and 13-8-10.2.

Respectfully submitted,

William J. Janklow
Attorney General

WJJ: DOC: mhb