Criteria to Consider for Allowing Operation of Attendance Center Within the Boundaries of Another School District

During the July 9, 2015 School District Boundary Task Force (SDBTF) meeting, a request was made for the department to gather suggestions from certain school districts on criteria to be considered when determining if a public school district should be allowed to operate an attendance center within the boundaries of another school district. The districts that were initially surveyed were:

- Chester Area School District
- Madison Central School District
- Rapid City Area School District
- Sioux Falls School District

From this group, three criteria were suggested:

- Virtual Schools
- Religious exemption
- Grandfather clause

Full text of responses from the initial request can be found in Attachment A.

To assure that all opinions were considered, a request for comments was included in the August 11, 2015 weekly email to superintendents from Dr. Schopp. Responses to this request were received from the following school districts:

- David Pappone, Brandon Valley School District
- Terry Gerber, Canton School District
- Jim Holbeck, Harrisburg School District
- Vince Schaefer, Madison Central School District

From this second round of requests, the following comments should be noted. Full responses can be found in Attachment B of this report.

- Established alternative schools like East Dakota Education Coop should continue to be allowed to operate
- Allowing non-resident districts to provide services to students when the resident district is either unwilling or unable to provide for all students in their district

- A request to not allow schools to have teachers physically provide services in another district
- Religious preference was mentioned again

A search regarding how similar situations are handled in surrounding states yielded the following information contained in a frequently asked questions document from the Montana Department of Education's website (http://opi.mt.gov/GetAnswers/questions/302/Attendance+Centers):

> Q: Can a school district establish an attendance center at a Hutterite Colony in an adjacent district without the district's permission? For example, could a school such as Valier School District set up an attendance center at a colony within Dupuyer School District territory without Dupuyer's permission?
>
> A: No. OPI advises the resident and nonresident districts to sign an interlocal agreement if an attendance center is to be established in a nonresident district. Montana law authorizes school district trustees to determine where to provide educational programs for their resident students within the boundaries of their own district. However, Montana law does not indicate intent to authorize districts to provide programs for nonresident students inside another district's boundaries without permission of that district. OPI does encourage cooperation between districts.

If the committee is interested in pursuing a path similar to Montana, draft legislation for this is included in Attachment C of this report.

In conclusion, if the committee decides to direct the Board of Education to make determinations on whether a school district can operate an attendance center within the boundaries of another school district, criteria that should be considered are virtual schools, religious exemptions, whether there is already an existing school of this nature operating. In addition, considerations should be made for virtual schools. Another option would be to require the school districts being affected to enter into an agreement. A third option would be to not allow the practice.

Darnall, Tamara

From: Larson, Heath
Sent: Thursday, July 30, 2015 3:29 PM
To: Darnall, Tamara
Subject: RE: School District Boundary Task Force Request for Input - Please Respond by July 27

Here's a couple factors to consider for starters:

1. Religious reasons/exemption
2. Grandfather clause

From: Darnall, Tamara
Sent: Thursday, July 30, 2015 1:54 PM
To: Larson, Heath
Subject: RE: School District Boundary Task Force Request for Input - Please Respond by July 27

Thank you. As stated before, what we need are some ideas on guidelines and what factors should be considered when making the decision. If you come up with any ideas please let me know.

Thanks!

Tami

She was unstoppable.
not because she did not have failures or doubts.
but because she continued on despite them.
-Beau Taplin ||Unstoppable

From: Larson, Heath
Sent: Thursday, July 30, 2015 11:46 AM
To: Darnall, Tamara
Subject: RE: School District Boundary Task Force Request for Input - Please Respond by July 27

Hello: I don't have specific suggestions regarding criteria for it. Frankly, I think it would be best for all if we stop trying to create specific criteria or potential legislation for this topic. I think schools would accept a decision from the secretary of ed saying yes you can or no you can't. Just my two cents. Heath

---

From: Darnall, Tamara
Sent: Thursday, July 30, 2015 11:21 AM
To: Larson, Heath
Subject: RE: School District Boundary Task Force Request for Input - Please Respond by July 27

Good morning –

As I am trying to compile a report to provide to the committee I am realizing that I have not collected the information I need. You commented below that you would respect a decision from the Secretary. Do you have suggestions on what type of criteria should be considered in making that decision?

Thanks!

Tami

She was unstoppable.
not because she did not have failures or doubts.
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-Beau Taplin ||Unstoppable

From: Larson, Heath
Sent: Monday, July 27, 2015 10:41 AM
To: Darnall, Tamara
Subject: RE: School District Boundary Task Force Request for Input - Please Respond by July 27

My first thought is that there are districts and virtual scenarios that have instruction being provided to students in boundaries of other districts all across the state. Secondly, I would respect a decision from the secretary of education to say yes or no. Heath

---

From: Darnall, Tamara
Sent: Monday, July 20, 2015 10:14 PM
To: Larson, Heath
Subject: Re: School District Boundary Task Force Request for Input - Please Respond by July 27

Hi Heath -

The email went to you, Rapid City, Sioux Falls, and Madison.

"Larson, Heath" <Heath.Larson@k12.sd.us> wrote:

Hi Tammy: Who received this email to provide input?

Heath Larson
(605) 222-6043

On Jul 20, 2015, at 8:36 PM, "Darnall, Tamara" <Tamara.Darnall@state.sd.us> wrote:

> Good evening –
>
> As you may be aware, SB 134 of the 2015 Legislative Session established the School District Boundary Task Force. The task force has met twice so far this summer to examine school district boundary issues. During the July meeting the task force made a decision to look at instances where a school district may be sending a teacher into another school district to provide instruction to students enrolled in the serving district. It was decided that the department would reach out to a few school districts to see if they could come up with criteria or instances when this practice might be acceptable. From there the task force will look at possibly creating a form for districts to request permission for this.
>
> Your district is one of the districts that was recommended to be contacted. Could you please provide input on what type of criteria should be in a request form and offer any other comments, suggestions, or insight you may have on this? Please respond by Monday, July 27.
>
> For more information on the School District Boundary Task Force, please visit http://www.doe.sd.gov/secretary/SDBTF.aspx

Thank you.

Tami

<image001.jpg>

Darnall, Tamara

From: Farrell, Tom
Sent: Friday, July 24, 2015 8:03 PM
To: Darnall, Tamara
Cc: Koch, Cotton; Guse, Janel; Brooks, Mitchell O; Shaw, Adam; Schaefer, Vince
Subject: Boundary Task Force

To Whom It May Concern:

The Madison Central School District is pleased to provide the following input as a school district that has been impacted by another district placing a teacher in an attendance center located within the physical boundaries of our district. Mr. Schaefer, superintendent is on a much needed vacation and had asked me as board president to collect responses from the district administrators as well as from myself.

The Madison Central School District for a period of 40 plus years provided educational services to the Gracevale colony providing teachers, para professionals and other support. The colony did a split following the completion of the 2013 – 2014 school with a portion of the students moving to a new colony in the Rutland school district. A decision was made by the remaining Gracevale colony families to open enroll all students to the Chester school district. The real concern does not come from the open enrollment application but rather the fact that the Chester school district is educating the open enrolled students in facilities that are on the colony owned land which is located within the Madison Central School District physical boundaries.

I submit to you comments by administrators within the Madison Central School District

Adam Shaw high school principal:

> In my opinion, the issued faced by MCSD is not a "boundary" issue, but, more an ethical issue. I struggle to understand how a district can open enroll students from the MCSD and then send a teacher into an attendance center in the MCSD boundaries after being advised not to do this by the SD Secretary of Education.
>
> There needs to be penalties assessed or student aid withheld for school districts who don't follow the rules established by the state legislature in regards to ethical issues.
>
> Thanks,
> Adam

Janel Guse Elementary Principal:

> The issue seems to be that district boundaries represent tax base. Many states do not even allow out of district buses to cross district lines to pick up students for the purpose of open enrollment. One district should not be allowed to pirate land from another district.
>
> Perhaps, what we should be considering and discussing is why a district would send a teacher into another district when the home district is required to provide a free and appropriate public education to all students. If that is not happening there are pathways in place to address the issues including open enrollment out and legal action.
>
> If the home district cannot provide the needed services it should be the home district's responsibility to contract for services from a district that can. Again, processes are already in place for this action.

Districts do share staff from time to time in an effort to become more economically efficient and to provide more diverse course offerings so this process could also be explored alongside dare I say it... consolidation.

In the case of one district opening a school withing another school district boundaries, I believe there are laws on the books. Most neighboring states enforce the laws by withholding school funding if a district knowingly violates the law.

Finally, it seems that this question is bigger than it's surface. Will we be considering publicly funded charter schools within our districts or online schools outside of our state? Where does state and local control fall into this discussion?

Please feel free to contact me if anyone would like to pursue this discussion farther.

Have a great day

Janel Guse
Principal
Madison Elementary School
Madison, SD 57042
605-256-7721
janel.guse@k12.sd.us

Mitchell Brooks district business manager:

My thoughts on an attendance center in another district's boundaries:
Attendance centers should be within the district that they are a part of, we should not be able to open a center in another district without some type of agreement in place.

My thoughts on transportation provided to students outside of a school's boundaries:
If a family open enrolls a student, they should be responsible for the transportation of the students to the school/pickup site within the boundary of the receiving district. Buses should not cross district boundaries to pick up students.

Mitchell Brooks
Business Manager
8th Grade Boy's Basketball Coach
Madison Central School District 39-2
Prairie Lakes Educational Coop
Phone: 605-256-7710

Cotton Koch middle school principal:

When I read this email I think we are separating out property line (district boundary) for example West Central and SF (property taxes) versus a School District simply setting up a school in a district (Chester and MCSD). I cannot see any reason why a school should be allowed to set up a school in a different district without express consent from the home district.

Open-enrollment should have no bearing on this issue. If a family wants to leave their home district then it is the new districts or parents responsibility to transport to the new district. Open enrollment should not be used as a tool to stretch a school district boundary line. I believe that is completely different issue.

If the committee is looking into this specific matter then they need to expand their scope to include enforcement and penalties for schools who break the rules. At the very least there should be a required meeting with the districts and DOE. DOE then needs the authority to act and make a decision based on state statute.

Thanks

Cotton Koch

Tom Farrell board president:

As stated so well above by district administration what was has happened during the 2014-2015 school year and what appears to be in place for future years is not allowed under SDCL. However as is the case with so many other legislative solutions to problems there has not been a provision for the South Dakota Department of Education or anyone else to provide for enforcement of violations with any thing short of a law suit funded by the violated district. We saw a similar circumstance with a conflict related bus stops with another district and the number of bus stops within our community.

The practice of allowing school districts to provided teachers within boundaries of another district is the beginning of a very slippery slope that may well cause school districts and boundaries of school districts as we have known them to completely disappear especially through allowances for open enrollment students.

Thanks for taking time to read our response to your question relating boundary issues that have impacted us as a school district.

Tom Farrell, President of the Madison Central School District

Darnall, Tamara

From: Maher, Brian
Sent: Friday, July 24, 2015 10:31 AM
To: Darnall, Tamara
Subject: RE: School District Boundary Task Force Request for Input

Tamara,

Thank you for giving Sioux Falls the opportunity to weigh in on this topic. I have had numerous conversations with my new colleagues in South Dakota on this topic. Most conversations turn back to that of being good neighbors. I would agree with my colleagues on being neighborly as a key component in the settling of boundary issues/disputes.

Having laid that theoretical foundation, I would suggest that boundary issues be settled by the districts involved. I believe locally elected boards of education should have the authority – and the duty – to work with neighboring districts to settle issues pertaining to contiguous boundaries. To the extent that you can, I would encourage you to come up with a finding that is that simple. I would encourage the committee to refrain from making the conversation more restrictive than just that – let the local boards determine what is fair regarding the boundaries that separate their districts.

I believe well intended thoughts could get in the way of allowing local boards to work through this issue. For example, it would seem to me that local boards would trade land only if the land being traded is of comparable value. However there may be times where the assessed value of land is an incomplete and inaccurate picture of the value of land for a particular district. Put the authority to swap/trade/purchase/exchange land in the hands of the local boards. If they agree to the exchange – let them do so. If they do not agree – both parties – no exchange takes place.

I am certain my examples are overly simplistic – but I am hopeful that the committee will come up with something along these lines.

Thank you again for allowing me the opportunity to speak for the Sioux Falls School District.

Brian Maher

From: Darnall, Tamara
Sent: Monday, July 20, 2015 8:33 PM
To: Maher, Brian
Subject: School District Boundary Task Force Request for Input

Good evening –

As you may be aware, SB 134 of the 2015 Legislative Session established the School District Boundary Task Force. The task force has met twice so far this summer to examine school district boundary issues. During the July meeting the task force made a decision to look at instances where a school district may be sending a teacher into another school district to provide instruction to students enrolled in the serving district. It was decided that the department would reach out to a few school districts to see if they could come up with criteria or instances when this practice might be acceptable. From there the task force will look at possibly creating a form for districts to request permission for this.

Your district is one of the districts that was recommended to be contacted. Could you please provide input on what type of criteria should be in a request form and offer any other comments, suggestions, or insight you may have on this? Please respond by Monday, July 27.

For more information on the School District Boundary Task Force, please visit http://www.doe.sd.gov/secretary/SDBTF.aspx

Thank you.

Tami

Tamara Darnall
Director
Division of Finance and Management
South Dakota Department of Education
(605) 773-6231 Work
(605) 280-8264 Mobile
Tamara.Darnall@state.sd.us
MacKay Building
800 Governors Drive
http://doe.sd.gov/

Darnall, Tamara

From: Pappone, David M
Sent: Tuesday, August 11, 2015 8:55 AM
To: Darnall, Tamara
Subject: Crossing boundary

Tamara,

An exception to providing services within another district should include established alternative schools like East Dakota Education Coop which serves students from the three member districts of Brandon Valley, Lennox and West Central (and others who pay tuition). The EDEC employs its own staff so this is not exactly like sending a teacher into another district, but we would like to be sure any rule change does not inadvertently cause an issue for EDEC.

Thanks,
Dave Pappone

Darnall, Tamara

From: Gerber, Terry
Sent: Tuesday, August 11, 2015 8:19 PM
To: Darnall, Tamara
Subject: School Boundary Task Force

Tamara:

I am sending this email in response to Secretary Schopp's request for comments concerning the School Boundary Task Force and if school districts should be allowed to send a teacher to provide services in an attendance center within the boundaries of another school district. I would like to make the DOE aware of our situation.

The Canton School District provides home-schooled students access to online curriculum through the Black Hills Online Learning Community (BHOLC). This past school year, the Canton School District had 41 students enrolled in the BHOLC at one point. Not all of these students reside within the Canton School District. In fact, the majority of our BHOLC students open-enrolled into our district because their resident district was unwilling to participate in the BHOLC program. The Canton Board of Education agreed to allow these students to enter our district because their philosophy is that all students in our state deserve access to rigorous and relevant curriculum.

As you can imagine, we had a percent of our BHOLC students who struggled, and it wasn't necessarily about the manner in which the curriculum was delivered through an online format. Some of these students, who had been home-schooled their entire life, had an undiagnosed learning disability. We worked with these students and families in an effort to afford them the best education possible.

The Canton School District is providing services, both electronically and physically, to students who do not reside in our district. Is it reasonable that our district can provide electronic services to a non-resident student…….but not be allowed to supply a person who can provide SpEd or tutoring services?

I don't support allowing school districts to build/own an attendance center in a neighboring district. However, I do support allowing non-resident districts to provide services to students when the resident district is either unwilling or unable to provide for all students in their district.

Thank you,

Terry Gerber
Canton School District Superintendent

Darnall, Tamara

From: Holbeck, Jim
Sent: Wednesday, August 12, 2015 3:48 PM
To: Darnall, Tamara
Subject: feedback

Tami:

From the weekly letter from Melody, she said to contact you if we had any opinions on letting someone teach in another school district. So here goes.

I believe we have had in statute in the past that a school could not create a school inside a different school's boundaries. While in Clark, a neighboring Hutterite Colony asked for me to staff their colony with teachers and for us to count their kids. Of course that was not pursued or would be allowed. I believe most everyone has understood this law and followed it. I do know what is prompting this question today and believe we already have a statute that DOE could enforce in this case.

If you change the law to allow schools to put a teacher on the ground in another district, I think you are opening up a can of worms. People will play all sorts of games creating all sorts of exceptions basically resulting in running a full school in another's district. I really don't think you want to open up that change. I foresee a lot of issues that will be at the DOE's doorstep to solve.

Since we are poor here in Harrisburg, I am only able to give you one cent of my two cents on this.

Jim

TO: Tami Darnall
Blue Ribbon Task Force
FROM: Vince Schaefer, Superintendent
Madison Central School District
RE: School District Boundary Study
DATE: August 13, 2015

Within this message you will find Madison Central's response pertaining to your request for input in regard whether or not a school district should be allowed to provide services within another school district's boundary. The example presented was for religious reasons.

Because Madison Central has already endured something very close to this scenario our comments are based on real life experience. Our colony went through a dividing process where half of their population left the local site and moved to another location outside of our district. The colony leadership team changed completely which played a role in the colony deciding to open enroll to Chester Area after being part of Madison Central for fifty plus years.

Madison Central was surprised that a colony could open enroll because typically open enrolling means attending school in another district. This did not happen as Chester Area came into our district with their teaching staff and provided the K-8 program in the colony school house. This action occurred after all parties involved received the same notice from the South Dakota Department of Education dated June 19, 2014 signed by Dr. Melody Schopp that stated as follows: "In my opinion, nothing in these statutes (13-28-43 and 13-28-44) or SDCL 13-28-19 impliedly authorize what Chester is contemplating here." The final statement in the letter stated that "If the parties want a formal and final resolution in this matter, then they must seek it from the circuit court." The school board of Madison Central and administration chose not to pursue the issue in court feeling the issue needed to be resolved by the Department of Education and/or the State of South Dakota.

The issue of religious preference did become part of the issue through discussion between Superintendent Heath Larson of Chester and myself. His comments inferred their legal advisors indicated they would build their case along the lines that the colony students can stay in Madison's district and receive education from Chester because their religious beliefs do not allow them to attend school outside of their colony. If that is a fact and they are under that religious umbrella then they are a private school not entitled to public dollars for educational purposes, in my opinion. This could then impact all colony schools in South Dakota and endanger their receiving public dollars for "private education."

Effectively the box is open and now it is time to determine what are we going to do about it? We are pleased the issue has become part of the School District Boundary Study and hope it resolved along with the many other boundary concerns.

If we can be of further assistance please feel free to contact us.

Vincent Schaefer, Superintendent

Madison Central School

Draft Print: 08/18/2015

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

469X0035

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to allow a school district to operate an attendance center
2 within another school district.
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
4 Section 1. That chapter 13-23 be amended by adding thereto a NEW SECTION to read as
5 follows:
6 A school board may establish an attendance center outside the boundaries of its school
7 district that is within the boundaries of another school district only when both school districts
8 have entered into a joint powers agreement pursuant to chapter 1-24 to provide instruction to
9 the students enrolled in the attendance center.

170 copies were printed on recycled paper by the South Dakota Legislative Research Council at a cost of $.098 per page.

Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.