

School Trustees, Election Of. School Trustees, Term of Office Of. Election of School Trustees, How Held.

School trustees are elected to hold office for a term of three years and until their successors are elected and qualified, or appointed by the county superintendent of schools and qualified.

In districts of the first class no person shall be elected trustee unless nominated at a public meeting held in the district at least ten days before the day of election, at which at least twenty qualified electors were present, a chairman and secretary elected, and certificate setting forth the place of meeting and names of candidates in full filed with the county clerk at least eight days before election.

March 2, 1911.

Mr. W. Harmon,
Supt. Public Instruction,
Helena, Montana.

Dear Sir:

Your letter of March 1st has been received requesting my opinion upon the following state of facts and questions, to-wit:

On April 2, 1910, the following named persons were trustees of the Missoula City School District:

R. R. Wilbur	3 years.
Stanford H. McCall	3 years.

R. W. Kemp 2 years.
 J. C. Ambrose 1 year.
 W. O. Peat 1 year.

On April 16th, 1910, S. J. Coffee was appointed and on May 14th, 1910, J. M. Price was appointed to complete the number of seven trustees which Missoula county was entitled to on this date as a county of the first class.

Upon this state of facts you submit the following questions:

1. Shall school district No. 1, now a school district with over 8,000 inhabitants, elect an entire new board of seven trustees?
2. If so, for how long shall each hold office,
3. If only four trustees are elected, for how long shall each be elected?
4. Who officially calls a nominating convention?
5. Can more than one nominating convention be held, that is by each of several different parties or factions in different places?
6. If one or several conventions were held, how many people might be nominated at each convention?
7. Is there a limited number of persons who may be placed in nomination by a convention? That is, shall a convention nominate just seven or (four) persons to be voted for, or may it nominate as many persons as may be desired?
8. Shall county clerk accept and place on ballot the names of all persons nominated by one or more public meetings, If such meetings are held and the nominations filed with clerk as specified by law?
9. Do the election laws of 1910, published by the State Publishing Company, contain all the school election laws to-date?
10. May the poll book be so arranged that the names of voters will appear in numerical order? (As in poll books used in the general elections), or must the statutes be technically complied with, in that the names of those having voted shall appear in "alphabetical order?"
11. Will you kindly approve or disapprove the forms submitted, that is the tally sheet, official check list, official returns, poll book, official register, etc.

Your first three questions can be answered collectively. Under the provisions of Section 862, of the Revised Codes, trustees are elected to hold office for a term of three years and until their successors are elected and qualified, or appointed by the county superintendent of schools and qualified. This section supercedes Section 869 of the Revised Codes, being a more recent enactment. This being the case an entire new board would not be elected for the reason that Mr. Wilbur and Mr. McCall have each two years yet to serve, and Mr. Kemp has one year to serve, and Mr. Ambrose and Mr. Peat's time of service expires, and their places should be filled at this election. Under the

provisions of Section 1019, of the Revised Codes, when a vacancy occurs in the office of trustee, it becomes the duty of the county superintendent to appoint some competent person to fill the vacancy, who shall serve until the next annual election. Under the provisions of this section the term of office of Mr. Coffee and Price expires, and their places should be filled at the coming election. Therefore there will be four trustees elected. The policy of the law as shown by the form of ballot provided for in Section 858, of the Revised Codes, is not to have the term of a majority of the trustees expiring at the same time, and for that reason it is advisable and proper for you to elect one trustee for the term of one year and three trustees for the term of three years each. This will give you a majority of old trustees remaining on the board at each election.

The 4th, 5th, 6th, 7th and 8th questions may also be answered together. Under the provisions of Section 858 of the Revised Codes, in districts of the first class, no person shall be voted for or elected as trustee, unless he or she has been nominated by bona fide public meeting held in the district at least ten days before the day of election and at which at least twenty qualified electors were present, and a chairman and secretary were elected and a certificate of such setting forth the place where the meeting was held, giving the names of the candidates in full, and if there are different terms to be filled, the term for which such candidate was nominated, duly certified by the chairman and secretary of such meeting and filed with the county clerk at least eight days before the day of election. Such convention may be called in any manner and as long as it is a public meeting held in the district as above provided at which there are present at least twenty qualified electors and the meeting is organized by the election of a chairman and secretary, the meeting has a right to nominate one person for each office to be filled and certify such nomination to the county clerk. The county commissioners are only permitted to cause to be printed on the form of ballot provided for in Section 858 the names of such persons who were regularly nominated as above provided and whose certificate of nomination was properly filed as hereinbefore stated.

In answer to your 9th question, as to whether or not the election laws of 1910, published by the State Publishing Company contain all of the school election laws to date, I will say, that I did not compile these laws, and have not had an opportunity to compare them and therefore I do not know whether such pamphlet contains all the election laws or not.

In answer to your 10th and 11th questions, I will say, Section 860 of the Revised Codes provides that the clerk shall write down in alphabetical order in a poll book provided for that purpose the name of every person voting at the time he or she deposits his or her ballot. I see no objection to the forms of tally sheet, official check list, poll book and official register, submitted by you. Of course, the names would have to be entered in alphabetical order, otherwise it would be impossible to find them readily in order that they might be checked.

I believe the foregoing disposes of all the questions submitted by

you; but I understand the foregoing communication comes from the county superintendent and county commissioners of Missoula county, with reference to the coming school election, and for that reason I take the liberty of making the following additional suggestions.

The annual election of school trustees shall be held in each school district in the state on the first Saturday in April of each year at the district school house if there be one, and if there be none, at a place designated by the board of county commissioners, this being a district of the first class.

The board of county commissioners shall at least thirty days before the annual election of school trustees by an order entered upon the minutes of the meeting designate and establish a suitable number of polling places and create an equal number of election precincts to correspond, and define the boundaries thereof. The county commissioners are also required, at least 10 days before the election, to appoint three qualified electors of the district, for each polling place established, to act as judges of the election and the county clerk shall notify such persons by mail of their appointment.

It is the duty of the county clerk, at least 15 days before the election required to be held in districts of the first class to give notice of the election by posting a notice in three public places in the district and in incorporated cities and towns, in each ward, which notices must specify the time and place of election, the number of trustees to be elected, and the hours which the polls will be open. If in the judgment of the board of county commissioners the best interest of the district will be served by the publication of such notices of election in some newspaper in the county, they may by an order entered on the minutes of their meeting direct the county clerk to publish notices of election in some newspaper in the county.

I would respectfully refer you to the provisions of Section 850 to 867, Revised Codes of 1907, and by carefully reading these sections you will have no trouble in determining the procedure with reference to elections of trustees.

Trusting that the above gives you the information desired, I am,

Yours very truly,

ALBERT J. GALEN,

Attorney General.