

**School District, Election of Trustees in. Trustees, Election of in Third Class District.**

Where two trustees are elected in a district of the third class, with less than fifty children of school age, their terms not being designated, they must, by agreement between themselves, determine their respective tenure of office.

Helena, Montana, April 21, 1910.

Hon. R. Lee McCulloch,  
County Attorney,  
Hamilton, Montana.

Dear Sir:

I am in receipt of your letter of April 16, wherein you state that at an election for school trustees in your county four persons were nominated for the office, the district being one of the third class, with less than fifty children of school age. You further state that two trustees were to be elected, one for a term of three years and one for a term of one year, but that the respective terms were not designated at the time of nomination or election. Further, that two candidates received nineteen votes each, and two received sixteen votes each, and that the two receiving nineteen votes each, by agreement, decided their respective terms.

Your query is as to whether or not this procedure is regular:

Section 852, revised codes, which governs the conduct of election of trustees in districts of this class does not require that the length of time for which a person is a candidate be designated, either at the time of nomination or election.

Section 858 provides the method of voting in districts of the first class, and requires that the name or names of the candidates, and the length of time for which they are elected, appear upon the ballots.

By incorporating this provision in elections in districts of the first class, and omitting it from the section governing elections in districts of the third class with less than fifty children of school age, the implication seems to be that such designation of the terms is not necessary in school districts of the third class.

You are, therefore, advised that, in my opinion, the two candidates for trustee receiving the highest number of votes, could, by agreement, decide who should take the three and who the one year term.

Very truly yours,

ALBERT J. GALEN,  
Attorney General.