

School Districts, Funds of. New District, Apportionment to. Distribution, Fund of Between New and Old District. County Superintendent, Duty of.

It is the duty of the county superintendent to notify the county treasurer of the proper division to make of the funds between an old and new school district.

December 16th, 1913.

Hon. H. A. Davee,
State Superintendent Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 8th instant, submitting the question:

"As to the method of procedure in paying money from an old district to a new district where the old district has been divided, and the new district is entitled to a part of the funds remaining in the treasury of the old district."

Subdiv. 4 of Sec. 404 of Chap. 76 of the Laws of 1913 specifically provides that:

"All divisions of funds under this provision shall be made by the county superintendent,"

And the section further provides that where the moneys are subsequently collected by taxation that the county treasurer shall retain the same

"Until the same shall be apportioned by the county superintendent, whose duty it shall be to apportion such money," etc.

No reference is made in this section to any action on the part of the school trustees or to the issuance of any warrant.

In the case of distribution of indebtedness it is distinctly provided that the trustees of the new district shall issue a warrant to the old district.

The division of the school funds in the hands of the county treasurer does not involve the paying out of any money. It is merely a system of bookkeeping which would increase the funds of the new district and decrease the funds of the old district. I am fully con-

vinced from the wording of this law that the county superintendent is charged with the duty of notifying the county treasurer of the proper division to make, and that upon receiving such notice it is the duty of the treasurer to immediately credit to the new district the amount ascertained to be its due and to charge a like amount to the old district.

Yours very truly,

D. M. KELLY,
Attorney General.