

**School Districts, Change of Boundaries. Districts, Creation of New. Petition for School Districts, Change of. Boundaries, New School District, Change of.**

Where a petition is filed for the creation of a new school district, neither the county superintendent nor the county board has authority to change the boundaries as named in the petition.

January 8th, 1914.

Hon. Robert C. Stong,  
County Attorney,  
Billings, Montana.

Dear Sir:

I am in receipt of your letter submitting the question:  
"As to whether a petition filed for the creation of a new school district may be subsequently changed in a material matter by the county board of commissioners, when the same reaches it on appeal?"

The conclusion reached by you that no such authority is vested in the board, is affirmed. The petition required by Sec. 404, Chap. 76 of the Laws of 1913, is jurisdictional and among other things it must describe the boundaries of the proposed district. The petitioners sign it with this description as stated therein, and any substantial change in any of the material matters stated in the petition would vitiate it, and make of it a petition different from that which the parties signed. There is no direct authority of law given, either to the county superintendent or to the board, to change the petition as to any material matter. Hence, if the petition as presented is insufficient, it cannot be remedied by being changed or amended by anyone.

The boundaries specified in the petition, as stated in your letter, are certainly very indefinite and perhaps do not include all of the property which the petitioners intend should be included in the new district, but the remedy in such cases would be by the filing of a new petition which, of course, would be the institution of a new proceeding.

Yours very truly,

D. M. KELLY,  
Attorney General.