

School Officers, Removal from District. Removal, of School Officer from District. Vacancy, When Caused by Removal of School Officers. Trustee, When Office Vacant.

Vacancy exists in the office of school trustees ipso facto upon change of residence, or without change of residence, by absence for a period of sixty days from the district.

Helena, Montana, October 13, 1916.

Ron. H. A. Davee,
Superintendent of Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your recent letter, containing the following proposition:

"The school law, Section 502-6, provides that absence from the school district for sixty consecutive days shall constitute a vacancy in the office of trustee. The first clause of the same section alludes to removal from the district as a cause of vacancy in that office. Will you kindly let me know whether the provision at the end of the paragraph is a limitation on this clause or simply provides an additional cause? That is to say, does removal from a district immediately cause a vacancy in the office of school trustee or can a trustee who has removed his residence continue to hold office to the expiration of his term merely by visiting the district once in sixty days?"

In reply, I beg to advise that the phrase "removal from the district," as used in the section referred to, means, and is equivalent to the expression "change of residence." Under the law where a school trustee changes his residence by removal from the district, the office becomes ipso facto vacant, and it becomes the duty of the clerk of the district to immediately certify such fact to the county superintendent, who must immediately appoint some competent person to fill such vacancy. The proviso to the section of the law to which you refer, has reference to absence from the district, and not to a change of residence, and the proper interpretation of the proviso is that the voluntary and unexplained absence of a trustee, who has made no attempt to change his residence, for sixty days, shall constitute a vacancy in the office of trustee.

Yours very truly,
J. B. POINDEXTER,
Attorney General.