

District High Schools—Apportionment of Funds.

A district high school upon being accredited is entitled to share in high school moneys levied and collected for maintenance for the school year during which such district high school is accredited and the apportionment is based upon the average daily attendance for the year preceding.

February 22, 1917.

Mr. R. Lewis Brown,
County Attorney,
Phillipsburg, Montana.

Dear Sir:

I have your letter of February 14th, enclosing copy of opinion rendered by you to the Superintendent of Schools of Granite County, relative to the apportionment to the Drummond District High School of the funds raised for the county high school for the year 1917. It appears that the Drummond District High School was accredited in December 1916 for two years' high school work, and I note that it is your opinion that none of the funds raised for the maintenance of the county high school can be apportioned to the Drummond District High School for this school year.

Paragraph 1 of Section 2112 of the School Law, Chapter 76, 1913 Session Laws, as amended by Chapter 119 of the 1915 Session Laws is as follows:

"In any county where a high school has been established, any school district which maintains high school classes duly accredited by the State Superintendent of Public Instruction shall be entitled on such accrediting to share in all county high school moneys levied and collected for maintenance, and the money derived from such levy shall be apportioned by the county superintendent of schools to the several accredited high schools in the county according to the average daily attendance in accredited high school classes for the school year next preceding, as determined by the said county superintendent."

Section 2108 of the school law, as amended by Chapter 115 of the 1915 Session Laws, is as follows:

"At the regular April meeting or at some succeeding meeting, called for such purpose, said trustees shall make an estimate of the amount of funds needed for building purposes, for payment of teachers' wages, and for payment of contingent expenses and they shall present to the board of county commissioners a certified estimate of the rate of tax required to raise the amount desired for such purpose, and the board of county commissioners must levy such tax as other county taxes are levied. But in no case shall the tax for such purpose exceed in one year the amount of five mills on the dollar on the taxable property of the county."

You will note that a district high school is only entitled to use in any case a portion of the county high school moneys levied and collected for maintenance. The estimate prepared by the high school trustees in accordance with Section 2108 includes the amount that is needed for building purposes, for payment of teachers' wages and the payment of contingent expenses. Thus a district high school cannot in any case share in the funds levied and collected for building purposes, but only in the high school moneys levied and collected for maintenance.

Paragraph 4 of Section 106 of the school law authorizes the State Board of Education to accredit high schools, and not the State Superintendent. But in construing Section 2112, as amended, we must assume that it was the intention of the Legislative Assembly to allow district high schools to share in high school moneys upon being duly accredited as provided by law, that is, by the State Board of Education of which the State Superintendent of Public Instruction is the Secretary. According to Section 607 a school year begins September 1st and ends August 31st.

In view of the mandatory provisions of Section 2112, as amended, that a school district which maintains high school classes duly accredited, shall be entitled on such accrediting to share in all county high school moneys levied and collected for maintenance, I am of the opinion that immediately upon a district high school being accredited by the State Board of Education, it is entitled to share in the high school moneys levied and collected for maintenance for the school year during which such district high school is accredited, and that such apportionment shall be made by the County Superintendent to the district high school, based upon the average daily attendance for the school year preceding. And that, therefore, it is the duty of the County Superintendent of your county to apportion to the Drummond school district a share of the funds levied and collected by the county for high school purposes for the year 1916-17 (for maintenance only) and that such apportionment shall be based upon the average daily attendance for the school year 1915-16. It is true that this construction may, in some cases, work a hardship upon a county high school, but it would appear to me that it is the duty of the board of trustees of a county high school to know something about what the several district schools in their county may be doing in the way of teaching high school subjects, and in making their estimates for high school purposes, be guided accordingly.

It would appear to me that any other construction of Section 2112, as amended by Chapter 119 of the 1915 Session Laws, would be in violation of the mandatory provisions of said section.

Respectfully,

S. C. FORD,

Attorney General.