

**School Districts—Acknowledgment of Petition for Consolidation—District High School, Discontinuance of.**

A petition for consolidation of school districts should be acknowledged in the same manner as a deed. Trustees have the power to discontinue high school classes.

March 8, 1917.

Miss May Trumper,  
State Superintendent of Public Instruction,  
Helena, Montana.

Dear Madam:

You have submitted to me letters from the Principal of the Drummond Public School in connection with the following propositions:

1. What is the meaning of the word "acknowledged" in Section 407 (2) of the School Law requiring a petition for consolidation to be signed and acknowledged by a majority of the resident freeholders?

2. Can Trustees of a District of the third class now maintaining high school classes abolish such high school?

1. Section 407 (2) of the School Law, Chapter 76 of the 1913 Session Laws, provides that when the County Superintendent of Schools receives a petition signed and acknowledged by a majority of the resident freeholders of each district affected praying for consolidation, he shall give notice of an election. An acknowledgment is defined as a proceeding provided by statute whereby a person who has executed an instrument may, by going before a competent officer or court and declaring it to be his act and deed, entitle it to be recorded or to be received in evidence without further proof of execution, or both. The term is also used to designate a certificate of an officer or court showing the performance of such act.

1 Cyc. 512-3.

It has also been held that the acknowledgment of a deed includes both the act or acknowledging and the written evidence thereof by the officer.

It would appear to me that the object of requiring the several signers of the petition for consolidation of school districts to acknowledge the same would be to furnish the County Superintendent with evidence that the signatures to the petition are genuine, and that the petition has been properly signed.

Section 4663 of the Civil Code gives the form of a certificate of acknowledgment. I would suggest the following form of acknowledgment be used for a petition for consolidation:

State of Montana,  
County of..... } ss.

On this.....day of....., A. D. 19....., before me, a Notary Public in and for the State of Montana, personally appeared..... known to me to be the persons whose names are subscribed to this petition, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

.....  
Notary Public in and for the State of Montana,

residing at.....

My commission expires.....

2. Section 507 (2) of the School Law, provides that whenever the interests of a district require it, the Board of Trustees may establish a high school, employ a Principal teacher and subordinate teachers and grade the school into departments and classes. Section 603 of the School Law provides that the Boards of Trustees have power to establish a high school as hereinbefore provided. And by Section 600 a public school is defined so as to include high school grades. It would appear to me that if the Trustees of a school district have a right to establish a district high school and provide for instruction in high school subjects, that they would also have power to abolish a high school. A condition might very easily arise where it would be for the best interests of a school district to discontinue high school classes, and in such case the Board of Trustees should certainly have power to discontinue the high school. A school district, having once established a high school, certainly cannot be required to maintain it indefinitely regardless of conditions. And the Board of Trustees are the only ones who have authority to decide upon the question of abolishing a high school.

Respectfully,

S. C. FORD,

Attorney General.