

**School District—Dissolution Of—Territory, Transfer Of
—Property.**

Where the territory of a school district is transferred, it is dissolved for all practical purposes, and under the common law rule the property thereof would pass to the district to which it is attached.

June 21, 1919.

Miss May Trumper,
State Superintendent of Schools,
Helena, Montana.

Dear Miss Trumper:

I have your letter of recent date accompanied by a letter from the County Superintendent of Schools of Carbon County, in which last letter the following questions are propounded: (a) Can a district be legally dissolved by transfer of territory to different districts? (b) What becomes of the property belonging to the dissolved district?

I take it by reference to the County Superintendent's letter that a change in the boundaries of School District No. 26 has been made by petition under the provisions of Section 406 of the School Law and that by granting two petitions, the entire territory of this district would be transferred to other districts. This office has recently held in a case arising in Mineral County where a district was divided under the provisions of Section 406 and where the change in the boundary cut off a school house belonging to the district and the same was attached to another district that the school house became the property of the district to which it was attached, there being no provision in the statute where a change in the boundaries of a district is made under this section for a division of the property and funds of the district, that the Common Law rule must be evoked and that under this rule it is held that when a part of the territory or the property of a school district is separated from it by annexation to another district or by the creation of a new district, the old district retains its property, powers, rights and privileges and continues to be responsible for all its debts and liabilities, that is, it leaves the property where it is found and the debts upon the original debtor. Citing Los Angeles County vs. Hollywood School District, 105 Pac. 122. The question here presented would leave the old school district without any property whatever. As I understand it, the question is, does this dissolve the district? I find no provision in the statute for dissolving a district in any case other than that where it has failed to hold school for two years. It would seem to me that for all practical purposes except for the payment of its debts, the district would be dissolved, as it would have no school

census, and therefore would not be entitled to any of the school funds, that statute having failed to provide for a division of the funds and property, the property would, under the Common Law, pass to the district to which it was attached. The funds of the district would of course be applied to the payment of the indebtedness. The letter does not state what indebtedness the district has.

Trusting that this answer answers your questions satisfactorily, I remain

Respectfully,

S. C. FORD,

Attorney General.