

County Superintendent of Schools—Funds—School Districts—Taxes.

Where a school district is divided and a new district created the County Superintendent of Schools should from time to time apportion the school funds raised by special levy, and which are not paid in at the date of the division of the district on the basis of the school census as it existed before the division of the district.

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

My dear Miss Trumper:

You have requested my opinion as to what course of procedure should be taken to enable a school district created since July 1, 1923, to secure its portion of the special ten-mill levy for maintenance of school.

Section 1027, Revised Codes of 1921, provides that no new district organized out of an existing district "shall be entitled to any share of public money belonging to the old district until school has actually been taught one month in the new district." Section 1028 provides for the distribution of funds, on the creation of a new district, after providing for all outstanding debts, except such as are incurred for building and furnishing schoolhouses, as follows:

"The basis for the division of the school fund shall be the school population, as shown by the last school census before the division of the district or districts occurred, and shall apply to such funds as remain to the credit of said old district or districts at the time of the organization of said new district, and said district shall receive funds in proportion to its per cent of census."

In making the levy for the year 1923, the School Board of the old district in computing the amount of money necessary to carry on school during the coming school year took into account the number of children of school age in the district for whom schooling must be provided and a tax levy to provide this amount was thereafter made. The funds raised by taxation are for the benefit of each

child within the district. If the district is divided before the taxes are collected this ought not to deprive a portion of the children of school facilities by reason of a division of the district. Each child is entitled to its proportion of the funds the same as though no division had taken place.

It is, therefore, my opinion that the County Superintendent of Schools should from time to time apportion the school funds raised by special levy, and which are not paid in at the date of the division of the district, on the basis of the school census as it existed before the division of the district.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.