

Schools—School Trustees—Joint School Districts.

Section 1037, Revised Codes of 1921, construed as not requiring Boards of Trustees to concur in the recommendations of the County Superintendents for the discontinuance of a joint district, provided the recommendations of the County Superintendents are concurred in by the Board of County Commissioners.

Raymond Shelden, Esq.,
County Attorney,
Ekalaka, Montana.

My dear Mr. Shelden:

You have asked whether, under Section 1037, R. C. M. 1921, it is necessary for the School Trustees in a joint school district to vote on the matter of discontinuing the joint district, or whether it may be discontinued by the concurrent action on the part of the County Superintendents of both counties affected and the Boards of County Commissioners of the respective counties.

Section 1037 referred to reads as follows:

"Whenever the County Superintendents of two or more counties having a joint district are agreed that there is no good and sufficient reason for the continuance of such district as a joint district, they may, after holding a hearing with the Trustees of the district, certify in writing to the County Commissioners of the several counties concerned, their reasons for desiring to discontinue such district as a joint district, who shall, within thirty days of receiving notice from the County Superintendent, inform the County Superintendent of their own county whether, in their judgment, the district should be discontinued as a joint district. If the several Boards of County Commissioners are agreed to the discontinuance of the district as a joint district, then the several County Superintendents, each for her own county, shall proceed, either to organize a new district, or districts, under the provisions of Section 1024 or 1025, as the same may require, or to attach abandoned territory to adjacent district of the same county, under the provisions of Section 1033."

As stated by you, it appears that both County Superintendents are favorable to the discontinuance of the district, but, owing to the fact that a majority of the Board of Trustees live in one county and maintain their schoolhouse there, they are opposed to the discontinuance of the joint district.

Under the provisions of Section 1037, above referred to, the County Superintendents of the respective counties, in which the district is located, must hold a hearing with the Trustees of the joint district. The statute makes no provision as to what is to be done at this meeting, aside from merely discussing the matter, presumably with the Board of Trustees. The statute does not say that the Trustees must act upon the matter in any particular way, or that it is necessary that a majority of those composing the meeting favorably act upon the resolution to dissolve the district, but the district may be discontinued when both County Superintendents are agreed that there is good and sufficient reason for its discontinuance after having a hearing of the matter with the Trustees of the district, and providing that they thereafter certify, in writing, to the Board of County Commissioners of both counties concerning their reasons for desiring to discontinue the district.

It is, therefore, my opinion that it is not necessary for the Board of Trustees to concur in the recommendations of the County Superintendents, provided the recommendations of the County Superintendents are concurred in by the Board of County Commissioners.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.