

Schools—School Districts—High Schools—Taxes—Counties.

A joint school district maintaining a high school is entitled to include all pupils attending from either county whether residents of the district or not.

Jas. E. McKenna, Esq.,
Deputy County Attorney,
Lewistown, Montana.

December 16, 1925.

My dear Mr. McKenna:

You have requested my opinion as to the construction to be given section 1281-A as it appears in chapter 10, laws of 1925.

The particular question submitted is whether a joint district maintaining an accredited high school is entitled to receive from each of the counties in which it is located a proportionate share of the high school tax based upon attendance or teaching positions, and whether pupils attending from outside the district may be included in determining attendance.

Section 1281-A provides:

“Each accredited high school maintained by a joint school district shall for all the purposes of this chapter be considered as situated in each county in which any part of said joint school district is situated, regardless of the actual situs of such school; and each such joint district maintaining an accredited high school within the meaning of this chapter shall share in the apportionment of the proceeds of the high school tax of each such county according to the provisions of section 1280 of this code, if such county maintains a (county) high school, or according to the provisions of section 1281 if such county does not maintain a (county) high school.”

The purpose of this section was to permit a joint district maintaining an accredited high school to share in the county high school tax of each of the counties of which it is a part, regardless of the number of students included in the district in each county; that is, the high school is an

accredited high school of either county, and any pupils of either county may attend such high school free of tuition charge the same as any other accredited high school in either county participating in the county tax.

The proviso which limits the computation of daily attendance to those students attending from another county, and proportionately in determining the number of teaching positions, was intended to prevent the district from receiving double apportionment; that is, as to each particular county its proportionate share should be determined on the number of students attending from that county.

It is, therefore, my opinion that the district is entitled to have the tax computed on the basis of all those who attend from either county, whether they reside within the boundaries of the joint school district or not.

Very truly yours,
L. A. FOOT,
Attorney General.