

Schools—School Boards—Community Building.

A school board has no authority to authorize the construction of a community building on school grounds.

Miss May Trumper, January 29, 1925.
Superintendent of Public Instruction,
Helena, Montana.

My dear Miss Trumper:

You have submitted to this office the question whether a public building for community purposes may be located upon public school grounds and if so to whom does the building belong and who has control of its use?

The statutes of this state relating to school sites, so far as applicable, are as follows:

Section 1015. R. C. M. 1921, as amended by chapter 122, laws of 1923, provides:

“Every school board * * * shall have power and it shall be its duty: * * *

“8. To purchase, acquire, sell and dispose of plots or parcels of land to be used as sites for school houses, school dormitories and other school buildings, and for other purposes in connection with the schools in the district; * * * provided

that they shall not * * * purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district voting at an election held in the district for that purpose."

Section 1173 provides, in part, as follows:

"The school site shall be selected in a place that is convenient, accessible, suitable, and well drained provided that in districts of the first and second class the site shall be not less than one-half of an average city block, and in districts of the third class shall contain not less than one acre."

Under these provisions it is apparent that the school board has no authority to acquire land for any purpose except in connection with schools nor is there any provision of statute which gives it authority to hold land except for school purposes.

The statute does not provide for a community or public building to be erected in connection with schools, and it is my opinion that the school board has no authority to authorize the construction of a building not for school purposes upon land belonging to a school district.

The statute apparently contemplates that a school building shall have sufficient land to provide play grounds for the children: in cities, not less than one-half of a city block, and in third-class districts not less than one acre.

If the school district has sufficient land in excess of the minimum required by statute I can see no objection to the district disposing of a part of its excess holdings for a community building, provided it does so in the manner authorized by law, that is, upon direction of a majority of the electors of the district voting at an election held in the district for that purpose.

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