

**Opinion No. 102****Joint School Boards — Formation —  
Powers—Contracts — County Superin-  
tendent—Voting.**

HELD: Where a superintendent is hired in joint session between a district board and high school board, either board can decide not to re-hire him without the agreement of the other.

A joint board cannot be formed where a majority of one board opposes it.

Although a superintendent has held his position for five years, the board may discharge him without giving reasons for its action.

A county superintendent has no right to vote at a meeting of the county high school board excepting in cases where there is a tie which continues for three successive ballots.

---

March 7, 1933.

I have your letter asking a number of questions concerning the formation and operation of the joint board provided for by Sections 58, 59, 60 and 61 of Chapter 148 Session Laws of 1931.

This board is purely statutory. As stated in Section 58, "they may form

a joint board for the purposes and with the jurisdiction in this chapter specified." Your first question is:

"If a superintendent is hired in joint session between a district board and high school board, can either board decide not to re-hire him with-

out giving the other board a vote?"

This joint board is neither a high school board nor is it a district school board. Consequently, the provisions of the statute relative to tenure of office, do not apply. The hiring is merely for such term as the joint board shall determine. At the expiration of the term of hiring, there is no automatic continuance of the contract. If the boards decide to do so, they can meet and re-hire the principal or teacher for another term. The cost is apportioned between the district and the county high school and it is only intended to be effective as the act states, whenever the board of trustees of the county high school and the board of trustees of the school district deem it for the best interest of both school systems.

Your second question is: "Can a vote be thrown out as illegal if one member is kept from voting?"

The answer to this question all depends upon the facts of the particular case, which you have not stated.

Your third question is: "Can a joint board be formed if one board is unanimously in favor but the other board is three to four against it. Is it necessary to have a majority of both boards in favor?"

A joint board could not be formed under such circumstances. Each board must act independently of the other in determining whether a joint board will be formed. In doing this they are governed by the same rules as in any other case where a question is submitted to, and decided by the board. When a joint board is formed it, of course, votes as a board and requires a majority of all of the voting members.

Your fourth question is: "After a superintendent has held this position for five years, can he be discharged without the board giving him sound reasons for their action?"

This question has been answered by answer to the former questions. The board being purely statutory, the pro-

visions of Section 1075 and of Section 39 of Chapter 148, Session Laws of 1931, do not apply. Consequently, there is no re-hiring without action by the joint board.

Your fifth question is: "Has the county superintendent the same status in the county high school board as any other member in regard to voting power, etc.?"

The voting power of the joint board is very definitely provided for by Section 61. Under this section, the county superintendent acts as secretary for the board. She does not vote, excepting in the case where there is a tie which continues for three successive ballots, when she is authorized to cast the deciding vote. For the purpose of voting, each board must have the same number of members. The members who have voting power must be designated. It is not clear how this section would work out in a case where the school board was in a district of the first class, having seven trustees. The county high school board also has seven trustees, and the county superintendent is one of the seven but she is excluded from voting on the joint board, except as stated.

Answering your question No. 6 in regard to dissolving the board, there is no provision for dissolving the board and no necessity, in my opinion, for doing so since they are organized only for the purpose of employing teachers, and as there is no automatic re-employment, it requires new action to be taken at the end of each term of employment.