

Opinion No. 202.

Schools—Pupils—Eligibility.

HELD: Married persons between the ages of six and twenty-one years are entitled to attend public schools.

February 15, 1940.

Mr. Claude A. Johnson
County Attorney
Red Lodge, Montana

My dear Mr. Johnson:

You have submitted to this office the question as to whether or not the school board may exclude married women from attending high school.

Our Constitution (Sec. 7, Article XI) and statutes (Sections 1056 and 1262.79, R. C. M., 1935), guarantee the right of every child between the ages of six and twenty-one years to attend the public schools of the State of Montana. A high school, as well as an elementary school, constitutes a public school (Sec. 1053). The qualifications enumerated relate to age and not to marital status of the person. Under the familiar rule of *expressio unius est exclusio alterius* such qualifications are exclusive (Spring Canyon Coal Company v. Industrial Commission, 227 Pac. 206 (Utah), and the school board cannot prohibit married or divorced persons between the ages of six and twenty-one years from attending school.