

No. 382

SCHOOLS—TRUSTEES—BOARD OF SCHOOL TRUSTEES—PRINCIPAL OF SCHOOLS—CLERK OF BOARD OF SCHOOL TRUSTEES—NOTICE OF RE-ELECTION OR DISMISSAL

Held: Where the board of school trustees has acted as a board in conformity to law, the chairman of the board of school trustees may give the notice required by Section 1075, Revised Codes of Montana, 1935.

March 21, 1942.

Miss Elizabeth Ireland
State Superintendent of
Public Instruction
Capitol Building
Helena, Montana

Dear Miss Ireland:

You have submitted for my opinion the following:

Where the principal of the school is also the clerk of the board of trustees and where the board of trustees passes a resolution by a majority vote not to rehire the said principal as such principal, may the chairman of the board give the written notice of the action of the board to the principal?

Section 1005, Revised Codes of Montana, 1935, provides for the organization of the board of school trustees as follows:

"The school trustees shall meet annually the third Saturday in April and organize by choosing one of their number chairman, and a competent person, not a member of the board, as clerk. The chairman shall preside at all the meetings of the board, and shall perform such duties as usually pertain to such officer, and in accordance with the customary rules of order."

Section 1008, Revised Codes of Montana, 1935, as amended by Chapter 206, Laws of 1939, among other powers conferred on the board of trustees, provides:

“ . . . said board, in the name of the district, shall have power to transact all business necessary for maintaining schools and protecting the rights of the district. . . .”

Section 1075, Revised Codes of Montana, 1935, provides as follows:

“After the election of any teacher or principal for the third consecutive year in any school district in the state, such teacher or principal so elected shall be deemed re-elected from year to year thereafter at the same salary unless the board of trustees shall by majority vote of its members on or before the first day of May give notice in writing to said teacher or principal that he has been re-elected or that his services will not be required for the ensuing year; provided that nothing in this act shall be construed to prevent re-election of such teacher or principal by such board at an earlier date, and also provided that in case of re-election of such teacher or principal, he shall notify the board of trustees in writing within twenty days after the notice of such re-election of his acceptance of the position tendered him for another year and failure to so notify the board of trustees shall be regarded as conclusive evidence of his non-acceptance of the position.”

There is no question the board has the power and authority at a meeting of the board, by a majority vote of the board members, on or before the first day of May to pass a resolution the services of the principal will not be required for the ensuing year, and notify the said principal in writing of the action of the board on or before the first day of May as in said section provided. The chairman of the board of school trustees is the principal executive officer of the board and as such may give the written notice required by Section 1075, Revised Codes of Montana, 1935.

The clerk of the board is chosen for a definite period, that, annually on the third Saturday in April of each year; and the board—meeting for its organization on the third Saturday of April—may choose any competent person not a member of the board as clerk, provided in Section 1005, supra. The law allows each new board to select its own clerk. To be valid, all business transacted by a board of school trustees must be transacted at a regular or special meeting (Section 1006, Revised Codes of Montana, 1935) and the trustees must then act as a board.

Williams v. Board of Commissioners, 28 Mont. 360, 72 Pac. 755.

It is therefore my opinion that, where the board of school trustees has acted as a board in conformity to law, the chairman of the board of school trustees may give the notice required by Section 1075, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER
Attorney General