

April 20, 1944.

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

Dear Miss Ireland:

You have requested my opinion concerning the following questions:

1. May the board of trustees of a school district of the first class appoint as many truant officers as necessary? May a woman be appointed truant officer? May the duties be divided among several individuals on a part-time basis?
2. May a truant officer enforce school attendance on a student who has completed the eighth grade?
3. Has the truant officer jurisdiction over the working conditions of students?

In answering your questions concerning the appointment of truant officers, it is necessary to examine the provisions of Section 1137, Revised Codes of Montana, 1935. Section 1137 provides that a school district of the first class shall appoint one or more truant officers and there is no restriction as to sex or employment on a part-time basis.

The answer to your second question is also found in Section 1137 which authorizes the truant officer "to take into custody the person of any youth between eight and sixteen years of age who is not attending school or who is not regularly employed and the holder of an age and schooling, or other lawful certificate permitting such employment or who has not a proper certificate excusing such attendance."

The certificate excusing school attendance is provided for in Section 1136 which permits the employment of a child over fourteen years of age who has completed the eighth grade or of a child over fourteen who has not completed the eighth grade, but whose wages are necessary for the support of the family.

Your third question is also answered by Section 1137, which sets out in general terms the duties of truant officers. The principal duty of a truant officer is to secure attendance and to preserve the morals and secure the good conduct of school children. A truant officer has no authority over children legally

#### Opinion No. 204.

#### \* Schools and School Districts—Truant Officers, jurisdiction of.

Held: 1. The board of trustees of a school district of the first class may appoint as many truant officers, of either sex, on a full or part time basis as are necessary.

2. A truant officer may enforce school attendance on children who have completed the eighth grade if such children are not over the age of sixteen years and not holders of certificates provided in Section 1136, Revised Codes of Montana, 1935, excusing attendance.

3. A truant officer does not have jurisdiction over the working conditions of children except in connection with their morals and good conduct, and as regards their attendance as provided in No. 2 hereof.

employed and who do not attend school. If the child attends school, or should attend school, then the truant officer has jurisdiction, if the child is within the above-noted age group. The working conditions of school children legally employed are not within the jurisdiction of the truant officer, except in connection with their morals and good conduct as directed by the superintendent of schools or the board of trustees. (See also: Volume 11, page 51, Report and Official Opinions of Attorney General.)

It is therefore my opinion:

1. The board of trustees of a school district of the first class may appoint as many truant officers, of either sex, on a full or part-time basis as are necessary.
2. A truant officer may enforce school attendance on children who have completed the eighth grade if such grade children are not over the age of sixteen years and not holders of certificates provided in Section 1136, Revised Codes of Montana, 1935, excusing attendance.
3. A truant officer does not have jurisdiction over the working conditions of children except in connection with their morals and good conduct, as directed by the superintendent of schools or the board of trustees, and as regards their attendance as provided in Number 2 hereof.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General