

Dear Mr. Hyde:

You have requested my opinion concerning the consolidation of a joint school district with two school districts. You advise me that two school districts in Missoula County are adjacent to a joint school district and that you would like to know what procedure to follow.

Section 1034, Revised Codes of Montana, 1935, as amended by Chapter 201, Laws of 1943, provides for the consolidation of school districts. The section provides in part:

“Two or more adjacent school districts lying in one county may be consolidated . . .”

The above quoted precludes the possibility of proceeding under Section 1034, as amended, as the joint school district of necessity lies in two counties.

Section 1035, Revised Codes of Montana, 1935, provides for the creation of joint school districts, but is not complete in itself insofar as it does not set out the procedure to be followed. However, it declares joint districts “may be formed in the same manner as other new districts.”

The case of *State v. Lensman*, 108 Mont. 118, 88 Pac. (2d) 63, considered the method of creating a joint school district and held that Sections 1024 and 1035, Revised Codes of Montana, 1935, were the applicable statutes. It should be noted that the above case involved the creation of a new joint district from a portion of an old joint district and is therefore an analogous situation to the one presented here.

Section 1024, Revised Codes of Montana, 1935, as amended by Chapter 61, Laws of 1943, defines the procedure to be followed as does Opinion No. 396, Volume 19, Report and Official Opinions of the Attorney General. Reference is made to Opinion No. 396 for the discussion of the problem which should be helpful. As you will note, Section 1023, Revised Codes of Montana, 1935, precludes the creation of a new district between March 1 and July 1 of any calendar year.

It is therefore my opinion that school districts may be consolidated with an existing joint school district only by the creation of a new joint school district in compliance with the provisions

Opinion No. 130.

Schools and School Districts—Joint School Districts—Consolidation of School Districts.

Held: School district may be consolidated with an existing joint school district only by the creation of a new joint school district in compliance with the provisions of Sections 1024 and 1035, Revised Codes of Montana, 1935, as amended.

February 26, 1946.

Mr. W. L. Hyde
County Attorney
Mineral County
Superior, Montana

of Sections 1024 and 1035, Revised
Codes of Montana, 1935, as amended.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General