

Opinion No. 147.

School Trustees—Schools and School Districts—Consolidated School District—Trustees, School.

Held: When two or more school districts are consolidated, and a new district is formed, the county superintendent of schools must appoint three trustees to serve until the first Saturday in April succeeding. In the case of consolidation by annexation, the officers of the first or second class school district shall continue to hold office until the end of the term for which they were elected.

April 26, 1946.

Mr. M. L. Parcels
County Attorney
Stillwater County
Columbus, Montana

Dear Mr. Parcels:

You have requested my opinion concerning the appointment of school trustees for a consolidated school district.

Section 1034, Revised Codes of Montana, 1935, as amended by Chapter 201, Laws of 1943, provides in part:

"Two or more adjacent school districts lying in one county may be consolidated either by the formation of a new district, or by the annexation of one or more districts to an existing district . . ."

It is apparent from the above quoted that the consolidation results in a new district; annexation results in the extinguishment of one district by its incorporation into another, which district continues to function as an enlarged district.

If the proper steps are followed for consolidation of two districts, and the vote of the trustees and of the electors, if an election is held, is favorable, the county superintendent "shall effect the consolidation of such districts" by an order and "shall appoint three (3) trustees to serve until the first Saturday in April succeeding." At the next annual school election trustees are regularly elected. The trustees of the discontinued districts relinquish their offices, together with the records, funds, and effects of the old districts to the officers of the new district.

Annexation occurs when a third class district is merged into an adjacent second or first class district. The officers of the annexed districts turn over to the officers of the district to which they are annexed all records, funds, and effects. The act then provides:

"The officers of the first or second class district involved shall continue to hold office under the consolidated district until the end of the terms for which they were duly elected and their successors shall be regularly elected as provided by law."

The provision for annexation has application only when a third class district becomes merged with a first or second class district. Consolidation occurs in all other situations when two or more districts are combined.

It is therefore my opinion:

1. When two or more school districts are consolidated, and a new district is formed, the county superintendent of schools must appoint three trustees to serve until the first Saturday in April succeeding.

2. In the case of consolidation by annexation, the officers of the first or second class school district shall continue to hold office until the end of the term for which they were elected.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General