

Opinion No. 108**Schools and School Districts—High School Districts—Joint School Districts as High School Districts.**

Held: A high school district cannot be established in that area of a joint district in which the high school is not located.

August 13th, 1952.

Miss Mary M. Condon
Superintendent of Public Instruction
Capitol Building
Helena Montana

Dear Miss Condon:

You have requested my opinion concerning the creation of a high school district consisting of the area of a joint school district within one county where the high school of the joint district is located in the area of the joint district within the adjoining county.

Under the provisions of Section 75-1814, Revised Codes of Montana, 1947, a joint district is defined as being a school district which lies partly in one county and partly in another. High school districts are established under the provisions of Chapter 46, Title 75, Revised Codes of Montana, 1947. Section 75-4602, Revised Codes of Montana, 1947, as amended by Chapter 188, Laws of 1951, provides that the commission shall divide the entire county into high school districts, "providing, that each high school district so formed must have one (1) or more operating, accredited high schools within its boundaries." This section also provides that if a high school district shall cease to have within its borders an operating high school then it shall be annexed to one or more high school districts.

The commission which divides a county into high school districts is limited in its authority and jurisdiction to the area of the country. Specific directions are given in regard to joint districts as in Section 75-4602, as amended, it is stated, "the entire portion of a joint school district within the county shall be included within a high school district." This provision coupled with the provision that there must be an operating high school in

each high school district precludes the commission from considering a high school which is not within the exterior boundaries of the county.

I realize that an additional tax burden will be placed on the taxpayers within the joint districts as they must contribute to the support of two high schools. Yet, the legislature in enacting the high school district law confined the authority of the commission to each county without regard to joint school districts operating high schools.

It is, therefore, my opinion that a high school district cannot be established in that area of joint district in which the high school is not located.

Very truly yours,
ARNOLD H. OLSEN
Attorney General