

Opinion No 36**Schools and School Districts—Lease
of School Buildings for Limited
Term.**

Held: The board of trustees of a school district may lease a grade school building which is not needed for present school purposes to the United States Government for a period of one year, or for a term that will not interfere with the use of the building in the future for school purposes.

August 27, 1951.

Mr. J. J. McIntosh
County Attorney
Rosebud County
Forsyth, Montana

Dear Mr. McIntosh:

You have requested my opinion concerning the power of the Board of Trustees of a school district to lease a school building to the Federal Government for a period of one year. You advise me that one of the grade school buildings in your district is not needed at present for school purposes, but the board of trustees contemplates that the building will be needed for school purposes in the future.

Section 75-1632 Revised Codes of Montana, 1947, as amended by Chapter 207, Laws of 1951, enumerates the powers of every school board and subsection 7 grants to the trustees the authority:

“To repair and insure schoolhouses and to rent, lease and let to such persons or entities as the board may deem proper, the grade school halls, gymnasium and buildings and part thereof for such time and rental as the board may designate. All rentals shall be paid to the county treasurer for the credit of the school district.”

The above quoted is a broad authorization to the board of trustees to lease school buildings that are not needed for school purposes. In the case of *Young vs Board of Trustees*, 90 Mont. 576, 4 Pac. (2d) 725, our Supreme Court approved the rental of a high school gymnasium for public dances and said:

"As evidencing the legislative intent and progressive thought on the subject, the foregoing section was amended by the next legislative assembly by eliminating all restrictions and permitting the board to "rent, lease or let" the described property to any "person or entities the board may deem proper" for any purpose and for such time and rental as the board may designate."

Another Montana case which approved the lease of a municipal building is that of *Colwell vs City of Great Falls*, 117 Mont. 126, 157 Pac. (2d) 1013, where the court said:

"Indeed a benefit would and does result to them (the taxpayers) by the interim renting of the auditorium of the Civic Center Building at such times as it is not needed for other purposes as provided in the exception clause of the lease under the interim leasing Ordinance No. 835."

There is additional statutory authority given to the Board of Trustees of each school district to receive rental for school property as Section 75-1624 R. C. M. 1947, provides in part "the trustees of the district shall have the power to lease any property belonging to the district which is not being used for school purposes."

School property is acquired by the district for the schools of the district and not as an investment. The lease of any school property should always be made subject to the use of the property for school purposes. It is to be noted that both the Supreme Court and our Legislature in approving the renting of public property restricted the use of the property by others to such times as it was not needed for public purposes. It would, therefore, be incumbent upon your trustees to limit the term of the lease of the building so that there will not be any interference with the prospective need for the building for school purposes.

It is, therefore, my opinion that the board of trustees of a school district may lease a grade school building which is not needed for present school purposes to the United States Government for a period of one year, or for a term that will not interfere with the

use of the building in the future for school purposes.

Very truly yours,
ARNOLD H. OLSEN
Attorney General