

Opinion No. 91.

**Schools and School Districts—County
Special Levy for High Schools—
Non-Accredited High
Schools.**

HELD: That a non-accredited high school is not entitled to receive an apportionment of the county ten mill special tax for high schools.

August 21, 1954.

Mr. Edward J. Ober, Jr.
County Attorney
Hill County
Havre, Montana

Dear Mr. Ober:

You have requested my opinion concerning the eligibility of a non-accredited high school to receive an apportionment of the county ten mill special tax for high schools.

In Opinion No. 130, Volume 24, Report and Official Opinions of the Attorney General, this office held that a non-accredited high school is not entitled to state aid under the foundation financial program as defined in Chapter 36 of Title 75, Revised Codes of Montana, 1947. In arriving at the opinion reliance was placed on that portion of Section 75-3611, R. C. M., 1947, which reads as follows:

“ . . . The average number belonging of secondary pupils of a school district or of elementary pupils of a school district does not include the pupils of any high school or of any elementary school which has not been accredited by the state board of education . . . ”

Under Section 75-3610, R. C. M., 1947, the state's contribution to the various schools is determined on the basis of financial need which is computed upon the basis of the average number belonging. In other words, the measuring device for allocating money to school districts under the foundation program is “the average number belonging” of the school. The above-quoted portion of Section 75-3611, R. C. M., 1947, removes pupils of a school which has not been accredited from consideration under the foundation program. Similar reasoning prevents a non-accredited high school from receiving an apportionment of the special county high school tax as Section 75-3618, R. C. M., 1947, provides in part as follows:

“After the deduction of transportation reimbursements provided by law, the proceeds of the county ten (10) mill common school levy and the proceeds of the county ten (10) mill special tax for high schools, shall each be separately distributed by the county superintendent to the respective districts in the county, and the county high school if there be one, in proportion to their needs under the foundation financial program. . . .”

By the terms of this section, the county high school funds are distributed to each high school in proportion to their needs under the foundation financial program. As the foundation

financial program is based on “the average number belonging” of each school and a non-accredited high school is precluded from receiving county apportionment of the special county high school tax. The ten mill levy is provided for in Section 75-4516.1, R. C. M., 1947.

It is, therefore, my opinion that a non-accredited high school is not entitled to receive an apportionment of the county ten mill special tax for high schools.