

Opinion No. 50**SCHOOLS AND SCHOOL DISTRICTS; Districts; Abandonment; transportation of pupils prevents abandonment, when—Section 75-1522, RCM, 1947—Chapter 121, Laws of 1959**

Held: A school district which has furnished transportation in conformity with the requirements of Section 75-1522, RCM, 1947, prior to its amendment by Chapter 121, Laws of 1959, cannot be declared abandoned until after non-operation of school for three consecutive years after July 1, 1959.

January 5, 1960

Mr. H. L. McChesney
County Attorney
Granite County
Philipsburg, Montana

Dear Mr. McChesney:

You requested my opinion concerning the method of computing the three year period after which a non-operating school district must be declared abandoned.

Under Section 75-1522, RCM, 1947, as last amended by Chapter 121, Laws of 1959, it is made the duty of the county superintendent of schools to "declare a school district abandoned when a school has not been operated in the district for three (3) consecutive years." Prior to the last amendment, a school district could not be declared abandoned "if any such school district has provided transportation either by bus or by the payment to individuals . . . during a period of three (3) consecutive years . . . such transportation shall be deemed equivalent to the actual holding of school in such district . . . and such district shall

not be ordered abandoned." This proviso which permitted the substitution of transportation in place of operating a school so as to prevent abandonment was deleted from Section 75-1522 by the 1959 amendment. However, the 1959 legislature inserted the following:

"except that the period of abandonment for these districts which have during the school years 1958-59 provided transportation or in lieu of transportation, payments, shall not commence until July 1, 1959."

This addition to the statute is clear and does not need interpretation. It specifically states that if transportation were furnished in the school 1958-59, such year shall not be considered as a part of any period of non-operation. The rule expressed in *Cruse v. Fischl*, 55 Mont. 258, 175 Pac. 878, applies here. The court said:

"It is a rule which has been in force in this jurisdiction for more than thirty-five years, that, whenever the language of a statute is plain, simple, direct and unambiguous, it does not require construction, but it construes itself."

It is, therefore, my opinion that a school district which has furnished transportation in conformity with the requirements of Section 75-1522, RCM, 1947, prior to its amendment by Chapter 121, Laws of 1959, cannot be declared abandoned until after non-operation of school for three consecutive years after July 1, 1959.

Very truly yours,
FORREST H. ANDERSON
Attorney General