

VOLUME NO. 34

Opinion No. 56

**SCHOOLS AND SCHOOL DISTRICTS - Attendance; Pupil instruction days. Sections 75-7401, 75-7402, and 75-7403, R.C.M. 1947.**

**HELD:** A school district which holds teachers' meetings while the pupils are excused for one-half day may not count that day as a pupil instruction day unless the requisite number of hours of pupil instruction denominated by section 75-7403, R.C.M. 1947, are provided.

November 16, 1972

Mr. Edward D. Yelsa  
Deer Lodge County Attorney  
Office of the County Attorney  
Anaconda, Montana 59711

Dear Mr. Yelsa:

You have requested my opinion as to whether it is permissible to count one-half day of school as a pupil instruction day when the school district holds teachers' meetings and the children are excused.

Section 75-7403, Revised Codes of Montana, 1947, provides:

“A school day of pupil instruction shall be at least two (2) hours for kindergartens and all other preschool programs, at least four (4) hours for grades one (1) through three (3), and at least six (6) hours for grades four (4) through twelve (12). The number of hours in a school day may be reduced, in an emergency, with the approval of the board of education.”

The term “pupil instruction” is defined in section 75-7401, R.C.M. 1947, which provides:

“As used in this Title, unless the context clearly indicates otherwise:

“ ‘Pupil instruction’ means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.”

Section 75-7402, R.C.M. 1947, makes it mandatory that school districts provide at least 180 school days of pupil instruction during each school fiscal year.

From a literal reading of sections 75-7403 and 75-7401, *supra*, the meaning of the sections appears clear. In order for a school district to count a day as a pupil instruction day, it must provide organized instruction under the supervision of a teacher to pupils in the public schools for at least the length of time specified in section 75-7403 unless the school day is reduced in an emergency with the approval of the board of education. It would appear to be beyond question that a teachers' meeting is not an emergency within the meaning of section 75-7403, *supra*.

The statutes in this instance do not permit a construction which would allow a school district to count as a pupil instruction day a day when the district holds teachers' meetings and students are excused. In constructing the meanings of statutes, the Supreme Court of Montana has often stated that the plain meaning of a statute must be recognized. In **Sheridan County Electric Co-op, Inc. v. Montana-Dakota Utilities Co.**, 128 Mont. 84, the court said at page 87:

“It is also a well-known rule of construction that so long as the language of a statute or ordinance is plain and unambiguous, it is not subject to interpretation or open to construction, but must be accepted and enforced as written.”

It would thus appear that there is no need to go beyond the language set forth in section 75-7403, supra, read in light of the definition in section 75-7401, supra.

**THEREFORE, IT IS MY OPINION** that a school district which holds teachers' meetings while the children are excused for one-half day may not count that day as a pupil instruction day unless the requisite number of hours of pupil instruction denominated in section 75-7403, supra, are provided.

Very truly yours,

**ROBERT L. WOODAHL**  
Attorney General