

VOLUME NO. 37

OPINION NO. 154

SCHOOLS AND SCHOOL DISTRICTS - Budgeting for seventh and eighth grade students; REVISED CODES OF MONTANA, 1947 - Sections 75-6901 and 75-6905.1.

HELD: The amount of general fund budget per ANB for the seventh and eighth grade students in your elementary school should be the same as that computed for your high school district within which the elementary school is located.

31 July 1978

Roy C. Rodeghiero, Esq.
Golden Valley County Attorney
Golden Valley County Courthouse
Roundup, Montana 59072

Dear Mr. Rodeghiero:

You have requested my opinion concerning the correct procedure for determining the budget of middle schools through the Foundation Program. You have alleged a discrepancy between the statutory authority and the formula provided by the Office of Public Instruction.

The purpose of the Foundation Program is to aid and support the free public schools throughout the State of Montana. State aid to the several school districts is granted on the basis of their financial need as measured by the Foundation Program and in the manner established in section 75-6901, R.C.M. 1947, et seq. The state support is calculated according to the "average number belonging" or "ANB," this meaning the average number of regularly enrolled, full-time pupils attending the public schools of a district.

The amount of the general fund budget per ANB for seventh and eighth grade students in your elementary school is governed by section 75-6905.1, R.C.M. 1947, which provides:

The ANB calculated for grades seven (7) and eight (8) shall be at the high school ANB rate provided that the school meets the standards of an accredited middle school. When such pupils are actually enrolled in an elementary school, the amount of the general fund budget per ANB shall be the same as that of the high school district within which the elementary school is located. To determine the total enrollment of such an elementary school for ANB purposes the seventh and eighth grade pupils shall be included in such total. (Emphasis added.)

When construing a statute, the intent of the Legislature is controlling. Such intent must be first determined from the plain meaning of the words used and if interpretation of the statute can be so determined, no other means of interpretation can be applied. If the language is plain, unambiguous, direct and certain, the statute speaks for itself and there is nothing left to construe. Security Bank and Trust Company v. Connors, Mont. _____, 550 P.2d 1313 (1976); Dunphy v. Anaconda Company, 151 Mont. 76, 438 P.2d 660 (1968).

Section 75-6905.1 clearly states that the amount of the general fund budget per ANB for grades seven and eight shall be the same as that of the high school district within which

the elementary school is located. Therefore, the amount of the general fund budget per ANB for your seventh and eighth grade students should be the same as the general fund budget per ANB for your high school district.

The formula provided by the Office of the Public Instruction to compute funding under section 75-6905.1 does not base the seventh and eighth grade funding on the same rate per ANB as the high school district. A letter from this office has been sent to the Office of Public Instruction notifying them of this discrepancy and advising them to correct their formula and notify all schools affected thereby.

THEREFORE, IT IS MY OPINION:

The amount of general fund budget per ANB for the seventh and eighth grade students in your elementary school should be the same as that computed for your high school district within which the elementary school is located.

Very truly yours,

MIKE GREELY
Attorney General