

OPINION
51-150

January 17, 1951 (OPINION)

SCHOOLS

RE: School District is Political Subdivision

We have your letter of January 17, 1951, in which you ask whether or not a school district is a political subdivision.

Your question may be of some importance as its construction may affect the provisions of section 37-0125 as amended. The last quoted section provides, "All officers and employees of this state or of a political subdivision thereof," who enter the military service after they have been in the employment of the state or political subdivision for a period of ninety days shall be entitled to pay from their political subdivision or the state for the first thirty days after entering such service.

We call your attention to the case of Campbell v. Red Bud Consol. School District, Ga., 198 SE 225, where it is held: "A consolidated school district is a 'political division' of the state within constitutional limitation on indebtedness of 'any county, municipal corporation or political division of this state'."

We further call your attention to the case of People v. Peltier, 107 N.E. 200, 265 Ill. 630, which holds in part "and, though a school district is a 'political division,' it is not one before organization."

In the case of Allison v. Corcker, 52 A. 362, 67 N.J.L. 596, 60 L.R.A. 564, a formula is laid down setting out the distinctive marks of political divisions: "That they embrace a certain territory and its inhabitants, organized for the public advantage, and not in the interest of particular individuals or classes; that their chief design is the exercise of governmental functions; and that to the electors residing within each is, to some extent, committed the power of local government, to be wielded either mediately or immediately within their territory for the pecuniary benefit of the people there residing."

American Jurisprudence, Volume 47, page 306, states in effect that school districts are political subdivisions, and in support of that, they cite cases from Montana, Illinois, Nebraska and New York.

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