C O P Y

May 24, 1924

Miss Ada York,
Co. Supt. of Schools
San Diego, California.

My dear Miss York:

Enclosed is a copy of the opinion received from the Attorney General in re Aliso School District.

You will note on page 4 in the last paragraph that the attorney general has used section 1334c. This is evidently an error, and I have inserted in parenthesis 1734c. I am writing the attorney general and if I find that I am wrong, I shall write you concerning it.

Very truly yours,
(Signed) Sam H. Cohn
Deputy Superintendent.

C O P Y

State of California
OFFICE OF ATTORNEY GENERAL
San Francisco
May 22 1924

Hon. Will C. Wood,
Superintendent of Public Instruction
Sacramento, California

Dear Sir:--Your favor of the 16th instant, duly received with several other communications from various officers connected with or interested in the Escondido-Oceanside-Carlsbad Union High School Districts. The facts as set forth by the Superintendent of Schools of San Diego County are as follows:

"By action of the Board of Supervisors of San Diego County, the boundaries of the Aliso School District were changed recently to include territory from the San Dieguito and the Olivenhain School

Districts. The Alisc School District belongs to the Escondido Union High School District. San Dieguito and Olivenhain belonged before the change of boundaries to the Oceanside-Carlsbad Union High School District. The change as prayed for and granted was made in accordance with the provisions of Section 1577, subdivision 2nd".

The question presented is:

"Is it possible to change the boundaries of a school district as provided in the Code, Section 1577, subdivision 2nd, entailing thereby a change of high school district boundaries, without submitting the question to an election of the people?"

There was also transmitted with your communications a copy of the opinion rendered by the District Attorney of San Diego County, in which that officer holds that if the elementary districts involved were not in separate high school districts proceedings taken in accordance with section 1577 of the Political Code would be legal, but that as the territory lies in two different high school districts the new district (as he terms it) cannot be legally formed except by complying with section 1733 of the Political Code, and that there are several reasons why it would be necessary for the taxpayers and electors of this district to determine the question as to what high school district they would forma part of, but that the bonded indebtedness of the districts affected would be sufficient reason for requiring the vote of the electors of the district to determine the obligations to be assumed by the added territory.

The Superintendent of Schools of San Diego County states that the specific point involved is whether section 1734c of the Political Code affects the provisions of said section 1577, subdivision 2, of said code.

Subdivision 2 of said section 1577 provides that the boundaries of school districts shall be changed betweencertain dates only therein specified, and then only when at least ten heads of families,

American citizens or eligible to citizenship residing in the district affected by the proposed change of boundaries, shall present to the superintendent of schools a petition setting forth the changes of boundaries desired and the reasons therefor. It is stated by the Superintendent of Schools that the changes of boundaries was granted in accordance with the provisions of said subdivision 2 of said section 1577, and that what was done in this instance was to add a portion only of two elementary school districts, namely San Dieguito and Olivenhain, lying in one union high school district, to-wit: Oceanside-Carlsbad Union High School District, to an elementary district, namely Aliso School District situated in another union high school district, to-wit, the Escondido Union High School District.

This being true, it was in effect merely a change of boundaries of an elementary school district lying in a union high school district and was not the formation of a new elementary school district. The boundaries of an elementary school can only be changed by adding to or subtracting from the territory of the original district.

Sections 1578 and 1579 of the Political Code provide what action is to be taken by the Board of Supervisors, and if the petition is approved that body must order the change of boundaries, and there is no provision in said procedure outlined in said last two named sections for submitting the question to the vote of the electors of the district, and if the provisions of these sections were complied with the boundaries under the facts stated were established without the necessity of an election.

Section 1733 of the Political Code, referred to in the communication of the District Attorney of San Diego County, provides that a school district cannot lie partly within a high school district and partly without and that in all cases where the boundaries of a school district comprised within any high school district shall for any cause be changed to include territory not previously in such district, the territory added to such school district shall become and constitute a part of the high school district.

This would apply to the case we have under consideration and by operation of law makes the Aliso Elementary School District with its changed boundary line a part of the Escondido Union High School District.

Section 1334c*(1734c) of the Political Code and the preceding sections to which it is a proviso, relates to the exclusion or inclusion of entire elementary school districts. Said last mentioned section relates to the exclusion of an entire elementary school district from one high school district and its inclusion as an entirety in another high school district, in cases where the nearest part of said elementary school district is more than six miles from the high school building of said high school district, while the fact here at least is not the inclusion of an elementary school district as a whole. Therefore, said section has no application under the facts presented here.

*Evidently 1334c is a typographical error (this note under asterisk made by Sam H. Cohn).

The manner in which the bonded indebtedness of the territory taken from one school district and annexed to another is to be proportioned by the board of supervisors is provided for by section 1888a of the Political Code, subdivision 2.

We are, therefore, of the opinion that under the facts stated by the Superintendent of Schools as set forth herein, provided the provisions of subdivision 2 of section 1577 have been followed in all its requirements, the Aliso Elementary School District with its changed boundaries becomes a part of the Escondido Union High School District without submitting the question to the electors of the district.

Yours very truly

U. S. Webb, Attorney General

(Signed by) E. B. Power, Assistant.

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Endorsed: Filed May 28 1924
J. B. McLees, County Clerk,
By B. Allen, Deputy