

SCHOOLS: County Treasurer should not honor teacher's warrant
SCHOOL DISTRICTS:—where reports required by Section 9316, R. S. Mo.
1929, has not been made and filed with the Clerk.

FILED

1-22
January 17, 1934.

Mr. W. H. Holmes,
Prosecuting Attorney of Maries County,
Vienna, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in
which you inquire as follows:

"I would like your opinion on Section
9316 Revised Statutes of Missouri, 1929,
for our County Treasurer, under the
following state of facts: A local school
district employed two teachers for an
eight months term and they taught until
recently, both for four months. At the
end of four months they ceased teaching,
and there is a difference of opinion be-
tween the teachers and the board as to
whether they quit of their own accord or
whether at the request of the Board due
to small tax receipts. The board employed
two other teachers to finish out the term
and they are now so doing.

The two teachers who stopped filed all
their monthly reports and received and
cashed warrants for their first three
months services. The Board of Directors
also issued them their warrants for their
fourth month's services, but no term report
was filed as required in the Section above
referred to and our County Treasurer hesi-
tates to pay these last two warrants with-
out a term report being filed, and the pur-
pose of this letter is to get your opinion
whether or not the County Treasurer would
be protected in paying them under the above
state of facts."

You inquire whether the County Treasurer should pay
a teacher's warrant where the teacher has neglected or refused
to file the monthly report, as required under Section 9316,
R. S. Mo. 1929. Section 9316, R. S. Mo. 1929, provides as
follows:

"It shall be the duty of every teacher to make out and file with the district clerk, at the expiration of each month, a report of the number of pupils in attendance during the month, distinguishing between male and female, the average attendance, and such other statistics as the board of directors, by order, may require, and no warrants shall be ordered by the board or drawn by the clerk for such month's salary until such monthly report has been made and filed with the district clerk; and at the close of the term a report, embracing a summary of the above, together with the length of term taught, wages paid, teachers employed, and such other information as the board, by its official acts, may require; a duplicate of same shall be filed with the county superintendent, and no warrant shall be issued by said clerk in favor of such teacher for the last month's salary of such term until he shall have filed with said clerk and county superintendent such term report."

Under the above section every teacher is required to make out and file with the district clerk, at the expiration of each month, a monthly report. The statute expressly directs that no warrants shall be ordered by the board or drawn by the clerk for such monthly salary until such report has been made and filed. It is apparent under the above section that the board shall not issue the warrants until the report is filed.

In *Hall v. School District*, 24 M. A. 213, the Court held that the teacher could not recover a judgment upon the warrant unless the report had been filed. The Court says at page 223:

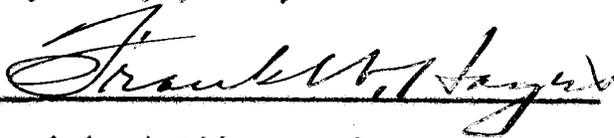
"At the end of the month, for one-half of which he had taught, the plaintiff should have made out and filed with the clerk of the school district the monthly report required by section 7079. Until this had been done, the board of directors of the school district had no power, under section 7071, to order the payment of the plaintiff's salary or wages for such half month. The plaintiff could not lawfully recover judgment against the defendant on account of a claim which the statute prohibited the defendant from paying. Until the plaintiff had made and filed said monthly report he could not recover in this action for the one-half of a month taught by him."

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Under the foregoing section of the statute, the warrant issued where no report has been filed was wrongfully issued. Under the foregoing decision, the teacher could not recover a judgment against the district upon such warrant. It is apparent from the foregoing that the warrant is not a legal warrant and that the County Treasurer would have no right to pay these warrants until the report required by the statute had been filed by the teacher.

It is therefore the opinion of this Department that the County Treasurer would not be protected in paying a teacher's warrant where there had been no report made and filed, as required under Section 9316, R. S. No. 1929.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S