

SCHOOL DISTRICTS CONSOLIDATED--SCHOOL FUND--FUND ACCOUNTING--
ANNUAL FINANCIAL STATEMENT:

Certain requisites in form and substance on annual financial statement and certain requisites in fund accounting.

6-10
May 31, 1935.



Mr. Lindell F. Bagley
Parma, Missouri

Dear Sir:

We are in receipt of your request for an opinion, dated March 6, 1935, which reads as follows:

"I would greatly appreciate from your office an opinion on the following questions:

"(1). Is it necessary that each and every consolidated school district of this state, through its clerk, to report each year the amount of money in the teachers' fund or in any other fund, when making application for state aid for the ensuing year?

"(2). What is the legal status of a practice of so 'juggling' figures as to not report such remaining monies in one or more of such definite funds?

"(3). Is it a legal practice to build up a reserve in any fund, teachers', sinking, or incidental, and then fail to report in annual statement the fact? Does such practice in any manner affect the amount or conditions of the state aid of the ensuing year?

"(4). Is it legal to use teachers' funds for any other purpose whatever?

"(5). Is it legal to use text-book funds for any other purpose whatever, even for educational supplies in general?

"(6). Is it a legal practice to include janitor work as a part of the regular teachers work, be made a part

of the contract, and then be paid out of the teachers' fund marked as such?

"(7). In case a teacher teaches an entire year without a contract, who is legally at fault, the teacher, the board, or both?

"(8). Do all of the above questions pertain to rural consolidations (wherein there are no high schools) and to high school consolidations in exactly the same manner?"

Section 9360 R.S. Mo. 1929, provides for publication and distribution of a financial statement by all school boards in this State. Said Section reads as follows:

"No member of any public school board of any city, town or village in this state having less than twenty-five thousand inhabitants shall hold any office or employment of profit from said board while a member thereof except the secretary and treasurer, who may receive reasonable compensation for their services: Provided, the compensation of the secretary shall not exceed one hundred and fifty dollars, and that the treasurer shall not exceed fifty dollars for any one year; and provided further, that it shall be the duty of each of said boards, and of the boards of directors in other school districts in this state having graded schools, to make and publish, annually, on or before the 15th day of July in each year, in some newspaper published in such school district, and if there be no newspaper published therein, then by written statements posted in five public places in such district, a detailed statement of all receipts of school moneys, when and from what source derived, and of all expendi-

tures, and on what account; also, the present indebtedness of the district and its nature, and the rate of taxation for all school purposes for the year; which said statement, so required to be made and published, shall be duly attested by the president and secretary of the board, and the secretary shall forward a copy of said report to the state superintendent of public schools at Jefferson City. And any board of education or board of directors who shall fail, refuse or neglect to order such statement to be made, and any officer of said board who shall fail, refuse or neglect to prepare such statement and publish and forward the same, as required by the foregoing provisions of this section, when ordered by such board, shall be guilty of a misdemeanor and punished by a fine not to exceed one hundred dollars.

Section 9358 R. S. Mo. 1929, provides for State aid in consolidated school districts, and how it is to be computed for distribution. Said Section reads as follows:

"Whenever any consolidated school district votes one hundred cents on the one hundred dollars assessed valuation for teachers' and incidental purposes and the proceeds of said tax together with the estimated amount from county, township, and state funds and cash on hand amount to less than fifty dollars per pupil in average daily attendance during the preceding year for teachers and incidental expenses, the state superintendent of schools shall each year before apportioning the public school fund set aside and apportion to each such district a sum sufficient to enable said district to expend fifty dollars per year per child in average daily attendance. Provided, that

when any consolidated school district votes sixty-five cents on the one hundred dollars assessed valuation for teachers and incidental purposes and the proceeds of said tax together with the estimated income from county, township and state fund and cash on hand amounts to less than forty dollars per pupil in average daily attendance during the preceding year for teachers and incidental expenses, the state superintendent of schools shall each year before apportioning the public school fund set aside and apportion to each such district a sum sufficient to enable said district to expend forty dollars per year per child in average daily attendance: Provided, the district maintains an approved high school of at least the third class and gives an approved course of at least one year in agriculture. The form of requisition for such state aid to be determined by the state superintendent of public schools. Said aid granted under this section shall be in lieu of all and any other form of state aid except aid for teachers-training and vocational education. The incidental expenses referred to in this section shall include only the general incidental expenses of the district. Aid will not be granted for extensive repair work or for the remodeling of buildings. State aid granted to consolidated districts during the year 1925 will be based upon the provisions of this section. The average daily attendance for the first apportionment of school funds to any consolidated district receiving state aid under the provisions of this section shall be computed in the following manner: As soon as said consolidated district is formed the enumeration shall be taken and the average daily attendance for the preceding year shall

be found by multiplying the enumeration of said district by the ratio obtained by dividing the average daily attendance for the entire average daily attendance for the entire state by the total enumeration of the state. Said ratio to be determined by the state superintendent of public schools."

Laws of 1931, page 340, Section 13, provides:

"The board of directors of each and every school district in this state is hereby empowered and required to maintain the public school or schools of such district for a period of at least eight months in each school year. In order that each and every district may have the funds necessary to enable the board of directors to maintain the school or schools thereof for such minimum term and to comply with the other requirements of this act, it is hereby provided that when any district has legally levied for school purposes (teachers' wages and incidental expenses) a tax of not less than twenty cents on each one hundred dollars of the assessed valuation of property therein, such district shall be allotted out of the public school fund of the state an equalization quota to be determined by adding seven hundred and fifty dollars for each elementary teaching unit to which the district is entitled according to the provisions of section 14 of this act, one thousand dollars for each high school teaching unit to which the district is entitled according to the provisions of section 14 of this act, and the amount approved for tuition and transportation according to the provisions of section 16 of this act, and then subtracting from the total, which total shall be known

as the minimum guarantee of such district, the sum of the following items: The computed yield of a tax of twenty cents on each one hundred dollars (\$100) of the assessed valuation of the property of the district, the sum received the preceding year from the county and township school funds, and the sum estimated to be received for the current year from railroad, telegraph, utility and all other taxes based on assessments distributed by the state board of equalization, plus the county foreign insurance fund for the school year 1932-1933 only. The state superintendent of schools is hereby empowered, and it shall be his duty, on or before the 15th day of August, 1932, and on or before the 15th day of August of each year thereafter, to apportion the public school fund of the state as follows: He shall calculate an equalization quota, as hereinbefore defined, for each and every district entitled to such quota. For each and every district not entitled to an equalization quota he shall calculate a teacher quota in accordance with the basis provided in section 9257, Revised Statutes 1929, and an attendance quota in accordance with the basis provided in section 9257, Revised Statutes 1929, at the rate of one and three-tenths (1.3) cents a day. He shall apportion to each and every district for which an equalization quota was calculated the amount as hereinbefore provided; and he shall apportion to each and every district not receiving an equalization quota the teacher and attendance quotas as above provided. On or before the 15th day of March, 1933, and on or before the 15th day of March of each year thereafter, he shall determine the amount of the public school fund

in the state treasury as of the last day of the preceding February, and from this amount he shall apportion to each and every district for which an equalization quota was calculated at the time of the apportionment made on or before the 15th day of August last preceding the remainder of such quota, if any remainder there be. He shall also apportion to each and every district for which teacher and attendance quotas were calculated at the time of the apportionment made on or before the 15th day of August last preceding the remainder of such quotas, if any remainder there be, or such part of such remainder as the funds available for apportionment will permit: Provided, that special state aid shall continue to be apportioned as now or hereafter provided by sections 9220, 9223 and/or 9431 Revised Statutes 1929: Provided further, that the state superintendent of schools shall at the time of making the annual apportionment, apportion to the various districts their allotments of building, transportation and/or tuition aid as provided in this act. Provided, however, in the event there should be insufficient funds to carry out the minimum guarantee of seven hundred fifty dollars (\$750) for each elementary teaching unit and one thousand dollars (\$1,000) for each high school teaching unit, and the teacher quota and the attendance quota of one and three-tenths cents (1.3) for such districts as do not participate in the minimum guarantee, all school funds to be apportioned by virtue of the provisions of this act shall be apportioned to all districts in pro rata proportions, paying such percentage of each and every one of these apportionments as the money available in the public school fund will permit: Provided, further, that after all apportionments hereinbefore provided have

been paid in full, the state superintendent of schools shall make an additional apportionment of one hundred fifty dollars (\$150) for each elementary teaching unit in which a teacher having a state certificate is employed, one hundred dollars (\$100) for each such unit in which a teacher having a first grade certificate is employed; seventy-five dollars (\$75) for each such unit in which a teacher having a second grade certificate is employed, fifty dollars (\$50) for each such unit in which a teacher having a third grade certificate is employed and two hundred dollars (\$200) per high school teaching unit to each and every district to which an equalization quota has been apportioned, and an additional attendance apportionment of one and six-tenths cents (1.6) per pupil day based on total days attendance of preceding year to each and every district to which teacher and attendance apportionments have been made. In the event the amount of money in the public school fund is not sufficient to pay these quotas in full the state superintendent of schools shall pay such percentage of both the equalization and attendance quotas as the amount in the public school fund will permit: Provided, that until such time as the above mentioned additional apportionments are paid in full, any consolidated district now in existence and operating under the provisions of section 9358 Revised Statutes 1929, may elect to receive state aid under the provisions of this act or under the provisions of said section 9358; but if said consolidated district elects to receive aid under the provisions of said section 9358, said district shall thereby waive all claim to priority of payment as provided in said section. "

These last two provisions of law give to consolidated districts the option of receiving State aid under Section 9358, supra, or receiving State aid under the equalization quota plan set out in Section 13. We are informed that the School District of Parma has not qualified itself to receive State aid by virtue of Section 13, supra.

The Parma School District is entitled to receive State aid only by virtue of the old consolidated aid plan set out in Section 9358, supra.

Since your first question is hypothetical we will broaden the scope of our conclusion so as to answer your question as to each and every consolidated school district in the State.

CONCLUSION TO QUESTION ONE.

We are of the opinion that for purposes of obtaining State aid, the detailed annual financial statement required by Section 9360, supra, must be a statement which sets out in detail all items of expense necessary to inform the State Superintendent of Schools of sufficient facts upon which to compute the State aid which the particular district is entitled, under one or the other methods of computation provided by law.

We are further of the opinion that since the consolidated district of Parma receives State aid under the method of computation set out in Section 9358, supra, said Section and Section 9360, supra, should be construed together and the school board must comply with the legislative intent of both Sections. One Section gives force to the other Section. The Legislature intended that the apportionment of State aid payable to consolidated school districts entitled to State aid by virtue of Section 9358 must be calculated by the State Superintendent of Schools upon the basis of how much money, as revealed in the annual statement, is on hand in the teachers' and incidental funds. Without knowledge of the amount on hand in these funds published in the annual statement, there is no way that the statutory method of calculation can be executed by the State Superintendent of Schools. Without this knowledge and the

calculation pursuant to this knowledge, there is no way that the consolidated school can get the State aid provided in the Statute.

By the process of computation set out in the Statute, the amount of money available in teacher and incidental funds is to be counted against the district as a deduction in calculating the State aid. In other words, the apportionment would be less to the extent of money on hand, as revealed in the statutory annual statement.

This brings us to our final conclusion. We are of the opinion that the annual statement of consolidated schools, who qualifying to receive State aid under Section 13, supra, need not report to the State Superintendent of Schools, as a condition precedent to State aid, the amount of money in the teacher, incidental or other funds, as this knowledge is not necessary in computing State aid provided under Section 13, but the annual statement of consolidated schools who qualifying under Section 9258, supra, must necessarily report to the State Superintendent of Schools, as a condition precedent to State aid, the amount of money in the teacher and incidental funds as this knowledge is absolutely necessary in computing the State aid to which they be entitled.

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QUESTION TWO.

Fund accounting by school boards is provided for in the Statutes.

Section 9233 R. S. Mo. 1929, provides:

"All moneys arising from taxation shall be paid out only for the purposes for which they were levied and collected; but the income from state, county and township funds shall be applied only to the payment of teachers' warrants, issued by order of the board to legally qualified

teachers for services rendered according to law. No county or township treasurer shall honor any warrant against any school district that is in excess of the income and revenue of such school district for the school year beginning on the first day of July and ending on the thirtieth day of June following; nor shall any portion of the funds mentioned in this section be applied in payment of any teacher's warrant issued prior to distribution of such funds in accordance with section 9257, and no school warrant shall bear interest."

Section 9312 R. S. Mo. 1929, provides:

"The warrants thus drawn shall be in the following form, and shall be signed by the president of the board and countersigned by the district clerk:

TEACHERS' FUND.

§ _____ No. _____
 Treasurer of _____ County, Missouri:
 Pay to _____, or order, for services
 as teacher in district No. _____,
 dollars, out of any funds in your hands
 for the payment of teachers' wages be-
 longing to said district.
 Done by order of the board, this
 _____ day of _____, 19____.
 _____, president. _____, clerk.

INCIDENTAL FUND.

§ _____ No. _____
 Treasurer of _____ county, Missouri:
 Pay to _____, or order, the sum of
 _____, dollars, for _____ furnished
 district No. _____, out of any funds
 in your hands for the payment of in-
 cidental expenses belonging to said
 district.
 Done by order of the board, this
 _____ day of _____, 19____.
 _____, president _____, clerk.

BUILDING FUND.

§ _____ No. _____
Treasurer of _____ county, Missouri:
Pay to _____, or order, the sum
of _____ dollars for _____ furnished in
the erection of a schoolhouse in
district No. _____, out of any money
in your hands belonging to the build-
ing fund of said district, and not
otherwise appropriated.

Done by order of the board, this
_____ day of _____, 19____.
_____, president. _____, clerk.

The treasurer shall open an account for each fund specified in this section, and all moneys received from the state, county and township funds, and all moneys derived from the taxation for teachers' wages, and all tuition fees, shall be placed to the credit of the 'teachers' fund;' the money derived from taxation for incidental expenses shall be credited to the 'incidental fund;' all money derived from taxation for building purposes, from the sale of school site, schoolhouse or school furniture, from insurance, from sale of bonds, from sinking fund and interest, shall be placed to the credit of the 'building fund;' and all moneys not herein specified that now belong to any school district, or that may hereafter be received by such school districts, shall be placed to the credit of the 'teachers' fund' of such school district. No treasurer shall honor any warrant unless it be in the proper form and upon the appropriate fund; and each and every warrant shall be paid from its appropriate fund, and no partial payment shall be made upon any school warrant, nor shall any interest be paid upon any such warrant; Provided, that the board of

directors shall have the power to transfer from the incidental to the building fund such sum as may be necessary for the ordinary repairs of school property: Provided further, that in the event of a balance remaining in the building fund after the purpose for which said fund was levied is accomplished, the said board shall have the power to transfer such unexpended balance to the incidental fund: Provided further, that by a majority vote of the school board tuition fees may be used to liquidate indebtedness accrued in the building fund."

In the case of Consolidated School District No. 6 v. Shawhan, 273 S. W. 182, the school district brought suit against the directors for diverting money in the teachers' fund to other purposes and the court held that the directors were personally liable. The Court construed the two statutes above set out and said at l. c. 184:

"Section 11223 sets forth the form of warrant to be issued by school boards, a separate form for teachers' fund, for incidental fund, and for building fund, and provides that all money derived from the state, county, and township funds, and all money derived from taxation for teachers' salaries, and all tuition fees, shall be placed to the credit of the teachers' fund; that money for incidental purposes shall be kept in the incidental fund and all money for building purposes in the building fund. Further, this section prohibits the honoring of any warrant by any county treasurer unless such warrant be in proper form and drawn upon the proper fund; and the provision is made that, in case of emergency, transfers back and forth of the incidental and building fund may be made by the board."

CONCLUSION TO QUESTION TWO.

We are of the opinion that Section 9233 and 9312 specifically require fund accounting of money in hands of school boards and these sections provide the specific funds to which money should be credited. The law requiring fund accounting is mandatory, and any juggling of school funds or falsifying of reports is such conduct which makes the members of the school board personally liable for losses to any person resulting by reason of misapplication of funds.

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QUESTION THREE.

This question is answered by the statutory citations and cases cited in questions one and two.

CONCLUSION TO QUESTION THREE.

We are of the opinion that the annual statement required in Section 9360, supra, requires that the board publish and submit to the State Superintendent of Schools a detailed financial statement of receipts and expenditures and a reserve in any statutory fund is that which is left when the expenditures be subtracted from the receipts. The annual statement, to comply with the statutory form, is attested as a true statement by the president and secretary of the board.

It is elemental law that where the board makes a false annual statement for any purpose, such conduct is an illegal practice and a crime.

We are of the opinion that where a school board has been guilty of such practice, it is within the powers of the State Superintendent of Schools to deplete the State aid to such a district in the amount

of any fraud which was perpetrated by reason of the false statement.

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QUESTION FOUR.

This question is answered by the statutory citations in question number two.

CONCLUSION TO QUESTION FOUR.

It is our opinion that it is illegal to use teachers' funds for any other purpose

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QUESTION FIVE.

Laws 1931, page 345, Section 18a. provides for free text books and the concluding sentence is as follows:

"Provided, that if free textbooks have not been authorized by a vote of the district or if there remain a balance in said fund after said free textbooks have been provided, the funds received from the county foreign insurance tax or the remainder thereof shall be transferred to the teachers fund."

CONCLUSION TO QUESTION FIVE.

It is our opinion that Section 18a., supra, permits the school board to transfer any balance in free textbook fund to the teachers' fund.

It is our opinion that it would be illegal to use textbook funds for other than textbooks, supplemental textbooks, library or reference books within the needs of the district. There is nothing in the free textbook law that would authorize this fund to be used for educational supplies in general.

QUESTION SIX.

It is a customary procedure with many rural boards in Missouri to require the teachers to do the janitorial work as a part of the consideration of their teachers' contract. Apparently rural boards desire, in many instances, to shift the janitorial responsibility to the teachers.

CONCLUSION TO QUESTION SIX.

There is nothing illegal in including the janitor's work as a part of the regular teacher's work in contracting with teachers, and when to pay the teacher out of the teachers' fund on such a contract.

QUESTION SEVEN.

Your question is as follows: "In case a teacher teaches an entire year without a contract, who is legally at fault, the teacher, the board, or both?" This question assumes a hypothetical state of facts and then assumes a conclusion that either the teacher, the board, or both are at legal fault.

In the case of Wilson v. Board of Education 63 Mo., 137, the plaintiff, a teacher, brought action against the School Board for salary, alleging a breach of contract.

The plaintiff had proposed to work for the Board for ten months at a stipulated salary. The Board made an order on their minutes that plaintiff was to be considered duly employed upon entering into a written contract which was never entered into, but the judgment of the Trial Court allowing plaintiff his proposed salary was affirmed and the Court said at l. c. 141:

"But, under the law applicable to the defendant, the contract was valid and binding without being reduced to writing, and it does not appear to have been a part of the agreement between the plaintiff and the committee representing the board, that such agreement should not conclude the parties and become a binding contract until it was reduced to writing. The simple direction to the secretary on August 16th, to draw articles of agreement between the plaintiff and the board pre-supposes that an agreement had been entered into, the terms of which were known to the secretary, and the only agreement known to the secretary of the board, according to the plaintiff's testimony, was one for ten months. It seems to us fairly inferable from the whole testimony for the plaintiff, that he was employed for ten months, and that the board thought it formal and proper that the contract should be in writing, but did not intend its reduction to writing as a condition upon which only it was to take effect."

CONCLUSION TO QUESTION SEVEN.

Under the meager facts in your request, including conclusions, it does not follow that there is a legal fault in either teacher or the board.

Having none of the facts before us we are in no position to make an assumption that a teacher taught a year without teaching under contract. In the Wilson case, supra, such was the position taken by defendant Board, but the Supreme Court held otherwise. The fact that a teacher teaches a year pre-supposes a binding contract and we are

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in no position to assume otherwise in this opinion. We are sorry, but since you have not presented the facts which lead up to the teacher teaching for one year, we are unable to say that there be a faulty contract of employment as suggested in your request.

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QUESTION EIGHT.

CONCLUSION TO QUESTION EIGHT.

We find nothing in the answers to above questions that would apply differently to a consolidated district without a high school than to one with a high school.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

ROY McKITTRICK
Attorney General.

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