

COUNTY SUPERINTENDENT OF SCHOOLS - Blanks and records to be
supplied by whom; Budget of County Supt - how it can be spent.
TEACHERS' EXAMINATION FEES - For what fees are to be used.

April 20, 1936

4-22



Honorable Raymond H. Patterson
Superintendent of Schools
Galena, Missouri

Dear Sir:

Your request for an opinion dated April 11,
1936 reads as follows:

"If at all possible I would like your ruling on the following: The county court says that they are only to pay my salary, postage, stationery, and mileage and that this comes from section 9461. They say that this section says that all necessary blanks shall be furnished from the State Supt. of Schools. Perhaps that is so as to blanks but not as to records for my office.

"I am enclosing three records that I claim to be necessary to run my office. The county court says that they should not be paid for by the county court, but by the state or funds that I have from teachers' examinations, of which I am sure you cannot use for records for the office.

"My budget was approved by the county court and by the state. I have a budget of \$50.00 for printing. These records are the first that I have used of my budget and their cost is only \$12.00. Of what value is a budget to a county officer, are they entitled to go ahead and carry out their budget according to their plan when it was made?

"For what is the examination fee to be used for?"

Your request contains three questions, which may be stated as follows:

- (1) Who shall supply office records for the use of the county superintendent of schools? Should the county court or the state superintendent of schools supply them, or should they be paid out of receipts from teachers' examinations?
- (2) Who has the right to say how and for what the printing budget approved by the county court shall be spent, providing the expenditure is for something within the categorical class approved?
- (3) For what is the fee obtained by the county superintendent from teachers' examinations to be used?

Section 9456, R. S. Mo. 1929 reads as follows:

" * said county court shall supply the superintendent with all necessary record books, stationery and postage stamps for properly conducting the business of his office, and shall allow all necessary printing of notices and circulars of information, the same to be paid for by warrant drawn upon the county treasurer."

The statute explicitly states that all necessary record books shall be supplied by the county court. It is a logical implication and reasonable deduction that the Legislature contemplated under the clause "shall supply record books for properly conducting the business of his office", that the term "record books" meant such a system of statistical records as would be necessary to carry on an efficient office. The term, therefore, encompasses and includes books, cards and other papers that go to make up the necessary records of the office.

The narrow and strictly literal interpretation of the statute is not to be taken, the courts of Missouri having shown a liberal attitude in a case involving similar statutes.

Section 9461, R. S. Mo. 1929 provides for the furnishing of blanks to school officers:

"All necessary blanks required by school officers shall be furnished by the state superintendent to the county superintendent, who shall immediately, upon the receipt of the same, supply the clerk of each district in their respective counties with the same, the form of such blanks to be determined and indicated by the state superintendent as provided by law; and all necessary expenses incurred by the superintendent for postage and stationery in supplying the districts of his county with blanks, laws, reports and circulars of information shall be paid for annually out of the county treasury, upon an order from the county court, based upon an itemized statement of the superintendent, accompanied by corresponding vouchers."

This section refers to school officers only. A "school officer" is "one whose office pertains solely to the management of schools". 33 Minn. 530. Missouri cases have held this to apply to district clerks, school directors, and county superintendents, among others. Any blank required for reports by any of the above are to be supplied by the state superintendent. Other reports, not of this nature, but necessary to properly conducting the county superintendent's office, must be paid for by the county.

It must be remembered, that it is wholly a matter of fact in determining under which statute the blanks used by the county superintendent of schools falls. If they are records for the use of the superintendent's office solely or

are from the teachers, the county pays for them. If they are records to be filled in by the school officers, then the state pays for them.

The County Budget Law, Laws Of Missouri, 1933, page 340, repealed only those laws in conflict with it and changed in no way those statutes under which the county court was made liable for expenses and salaries of county officials. The restraining feature of the Budget Law is that the officials cannot exceed their budget. As to the expenditure of the budget, the officer may spend the budget as he sees fit as long as it is a lawful expenditure, and if the county court refuses to approve it, he may force them.

In Ewing vs. Vernon County, 216 Mo. 681, it is said:

"The county is bound to provide janitor service for the office of recorder of deeds and when the county court does not do so, the recorder may pay it himself and enforce reimbursement."

It must be noted that the county officer should be sure that the expenditure is lawful under the statute to avoid making himself personally liable.

Section 9475, R. S. Mo. 1929 provides for what the examination fee is to be used:

"The fees so collected shall be used for the payment of the expenses of teachers associations and teachers' meetings authorized by this chapter - at least thirty per cent. being set apart and used for this purpose - and for the expenses incident to the grading of papers and issuing certificates of applicants for license to teach. The county superintendent of public schools shall remit to the state superintendent five cents for each subject written by each applicant, whose papers are sent to the state superintendent of schools."

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CONCLUSION.

It is, therefore, the opinion of this department that the county must pay for all necessary office records for properly conducting the office of the county superintendent of schools. The state is to provide all blanks for a report from school officers. The county superintendent can spend the budget for anything that is lawful under those statutes, providing for what the county must pay as expenses.

The examination fees must be used for the payment of the expenses of teachers' associations and teachers' meetings authorized by statute - at least thirty per cent being set apart for this and used for this purpose. They are also used for expenses incident to grading of papers and issuing certificates. The county superintendent shall pay five cents for each subject sent to the state superintendent.

Respectfully submitted,

J. E. TAYLOR
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

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