

SCHOOLS: School districts can pay out of school funds for apparatus and labor to furnish lunches to children attending school.

January 15, 1943

Hon. J. R. Eiser
Prosecuting Attorney
Oregon, Missouri



Dear Mr. Eiser:

We have your letter of recent date in which you submit the following request for an opinion:

"Mr. G. Frank Smith, County Superintendent of Schools in and for Holt County, Missouri, has requested that I secure an Opinion from your office as to whether or not a public school in Holt County, Missouri, can pay from school funds the cost of necessary labor used for preparing and serving lunches in said school."

Section 10339, R. S. Missouri, 1939, reads in part as follows:

"The board of directors, or board of education, shall have the power, in its discretion, to install in the school buildings under its care the necessary apparatus and appliances, and to purchase the necessary food to enable it to provide and sell lunches to children attending the schools: Provided, however, that such lunches shall not be so sold for a less price than the cost of the food, exclusive of the cost of the necessary apparatus and appliances and exclusive of costs necessary and incidental to the purchase of the food and the preparing and serving of the lunches: * * * * *"

It will be seen from the foregoing statute that the school districts are given authority to provide necessary apparatus and appliances and to purchase necessary food to provide and sell lunches to children attending the schools. Nothing definite is said as to how such equipment and food

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shall be paid for. However, it is a well established principle of law that where an officer or a board is given express authority to do a specific thing, such grant of authority carries with it such authority as is necessary to accomplish the thing which is authorized to be done. The rule has been stated in the following language:

"The rule respecting such powers is that in addition to the powers expressly given by statute to an officer or a board of officers, he or it has, by implication, such additional powers, as are necessary for the due and efficient exercise of the powers expressly granted, or as may be fairly implied from the statute granting the express powers." Throop's Public Officers, Sec. 542, p. 515." (State ex inf. v. Wymore, 132 S. W. (2d) 979, 987; 345 Mo. 169)

Therefore, it seems the school districts are given express authority to provide lunches for children attending school, and it must follow that they have the implied authority to do whatever is necessary to provide such lunches. Of course, it would be necessary to purchase some equipment and to furnish certain labor in order to provide the lunches for the children. The directors, therefore, must have the authority to furnish the equipment and the labor necessary, or else the authority to furnish lunches would mean nothing.

The proviso quoted above clearly indicates that the Legislature intended that the directors should pay for the apparatus and for the labor necessary to provide and serve the lunches. The proviso clearly contemplates that the cost of the apparatus and of the labor necessarily involved in the furnishing of lunches is to be provided by the school district.

CONCLUSION

It is, therefore, the opinion of this office that a public school can pay from school funds the cost of necessary labor used in preparing and serving lunches to the children attending school.

Respectfully submitted,

HARRY H. KAY
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General