

**County Superintendent of Schools—Expenses for Visiting Schools Without Permission of County Commissioners—Method of Conveyance Provided by Whom.**

The County Superintendent is the sole judge of the time when he will visit a school, and also whether it is necessary to visit it more than once during a school year, providing, however, that such Superintendent will be limited to a reasonable number of visits to each school.

The Board of County Commissioners must allow the traveling expenses of the County Superintendent in visiting the schools.

The County Commissioners are not required to furnish the conveyance, but to pay the necessary expenses therefor.

T. P. McGrath, Esq.,  
Chairman Board of County Commissioners,  
Anaconda, Montana.

My dear Mr. McGrath:

You have submitted to this office the following questions:

1. Whether the County Superintendent of Schools can visit outlying schools at any time she sees fit without permission of the Board of County Commissioners, when by so doing she contracts bills for conveyances against the county.
2. If the Board of County Commissioners are willing to furnish suitable conveyances to the County Superintendent, can she ignore the Board and engage other conveyances?
3. Is the County Superintendent the sole judge as to when it is necessary to visit outlying school districts, and as to who is to furnish the conveyance?

Section 955, Revised Codes of 1921, provides that the County Superintendent shall have general supervision of the public schools in his county, while Section 957 of the Revised Codes of 1921 (which is Section 302 of Chapter 76 of the Laws of 1913) provides, in part, as follows:

"He shall visit every public school under his supervision at least once each official year, and oftener if he shall deem it necessary to increase its usefulness. He shall at such visits carefully observe the conditions of the school, the mental and moral instruction given, methods employed by the teacher in teaching, training and drill, the teachers' ability, and progress of the pupils. \* \* \* During his visits to the schools of his county, the county superintendent shall consult with the trustees and clerks of all school districts upon all matters relating to the good and welfare of their schools, and shall instruct them, whenever necessary in their duties relating to the reports to be made out by them and forwarded to him annually as the law requires."

He is also required to hold Trustees' meetings from time to time in convenient places.

Section 4948 of the Revised Codes of 1921 provides:

"Each county superintendent of schools shall be paid all necessary traveling expenses actually incurred in the discharge of his or her duties."

Section 4949, Revised Codes of 1921, provides:

"The boards of county commissioners of the several counties of the state are hereby authorized and directed to audit and allow such traveling expenses of the superintendent of schools of the respective counties, quarterly, and the same shall be paid out of the general fund of such county."

In the performance of such duties enjoined upon him by the statute, the County Superintendent may exercise his own discretion. He is the sole judge of the time when he will visit a school, and also whether it is necessary to visit it more than once during a school year. This discretion is, however, a legal one and not absolute or personal, and may not be abused at the expense of the county, and must be exercised "in the discharge of his or her duties," which would confine the County Superintendent to a reasonable number of visits to each school.

The Board of County Commissioners are required to allow his traveling expenses. This, of course, means reasonable and necessary expenses incurred in making visits, not amounting to an abuse of discretion.

The statute does not require the County Commissioners to furnish suitable conveyances, but directs them to pay necessary expenses, which might, of course, include other expenses than mere conveyance.

The conclusion is that the County Superintendent of Schools may exercise his own discretion as to when he will perform his duty of visiting the schools and whether any school should be visited more than once during the school year; that he may make more than one visit when in his judgment and in the absence of abuse of discretion he deems it necessary; and that he is entitled to have allowed his reasonable and necessary expense while so doing, including money paid for conveyance by the usual mode of travel.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General. ,