

Opinion No. 49**Schools and School Districts—Group Insurance**

Held: The Board of Trustees of school districts and the trustees of county high schools have the authority and power to expend school funds for group insurance for teachers and employees as part of the salaries and compensation of the teachers and employees.

February 20, 1958

Mr. M. F. Hennessey
County Attorney
Silver Bow County
Butte, Montana

Dear Mr. Hennessey:

You requested my opinion concerning the power and authority of the trustees of a school district to expend school district funds for group insurance for the teachers of the school district.

Under the provisions of Chapter 174, Laws of 1957, "all counties, cities and towns are hereby authorized * * * * to enter into group hospitalization, medical, health, accident and/or group life insurance contracts for the benefit of their officers, employees and their dependents * * * *." In the above quoted statute the legislature enumerated counties, cities and towns and failed to grant the power to school districts to furnish group insurance. The failure to designate school districts would seemingly preclude such insurance contracts. However, it is to be noted that Section 75-1632, RCM, 1947, grants the power to trustees to employ teachers, mechanics and laborers and to

fix and order paid their wages. Also the trustees of a county high school or a district maintaining a high school under Section 75-4231, RCM, 1947, as amended, have the power "to fix the salaries and compensation to be paid to the principal or district superintendent and assistants and teachers employed." The problem you present was considered in the case of *Nohl vs. Board of Education*, 27 N. M. 232, 199 Pac. 373, where it was held that the authority granted to the Board of Education of a School District to defray "all other expenses connected with the proper conduct of the public schools in their respective districts" authorized the expenditure of school funds for the purpose of carrying group insurance for teachers and employees. The court said:

"It is admitted that the securing of group insurance for the teachers enables the board of education to procure a better class of teachers, and prevents frequent changes in the teaching force. This is certainly desirable and conducive to the 'proper conduct of the public schools.' School funds are now being spent in all the school districts of the state, and in many, if not all of the other states, for purposes and objects unquestionably proper, gauged by our advancing civilization, which a quarter of a century ago would have been considered highly improper. * * * * it is clear that the courts should not interfere with the discretion intrusted to boards of education under the statute, unless it plainly appears that there has been a gross abuse of such discretion, and that the funds are being spent for purposes and objects which have no relation to the public schools. This cannot be said in this case. . . ."

In *State ex rel. Thomas vs. Memphis.....Tenn.....*, 251 S. W. 46, the Tennessee court held that a city having power to increase the wages of its employees may take out group insurance for their benefit without violating the constitutional provision forbidding the appropriation of public funds for private purposes.

See also, *People ex rel. Terbush and Powell vs. Dibble* 189 N. Y. Supp. 29 and *People vs. S. A. I. Co.* 42 Cal. App. (2d) 409, 108 Pac. (2d) 923. If the school district furnishes group insurance for the teachers of a school district it is in effect giving such protection as an additional compensation and part of the teachers' salary. Such a plan would be in accord with the modern policy of giving full protection to teachers and making such employment more attractive.

It is therefore my opinion that the board of trustees of school districts and the trustees of county high schools have the authority and power to expend school funds for group insurance for teachers and employees as part of the salaries and compensation of the teachers and employees.

Yours very truly,
FORREST H. ANDERSON
Attorney General