

Schools, Examining Boards in Eighth Grade. Examining Boards, for Pupils in Eighth Grade. Pauper Children, Confined in Industrial Schools. Industrial Schools, Pauper Children Confined in. Medical Attendance, to Pauper Children Confined in Industrial Schools.

The County Commissioners fix the compensation of, and the county is responsible for, the payment of members of the examining board provided for in section 955, revised codes.

The expense of medical attention required by pauper children confined in industrial schools is a proper charge against the county and not a charge against the school district.

Helena, Montana, September 8, 1909.

Hon. Thomas J. Walker,
County Attorney,
Butte, Montana.

Dear Sir:

I am in receipt of your letter of August 28, wherein you ask my opinion as to whether or not the compensation of the examining board for pupils in the eighth grade in public schools should be paid by the county from the school fund, and as to whose duty it is to furnish medical attention and medicines to pauper children confined in the industrial school.

It is my opinion that the expenses and compensation of the examining board for pupils in the eighth grade is a county charge and is not to be paid out of the school funds of the various districts.

Section 954 provides for the appointment of two persons by the board of county commissioners, who, in conjunction with the county superintendent of schools, shall constitute an examination board, and section 955 provides that their compensation shall be

"Their actual traveling expenses from their residences to and from the county seat, or other point, where examinations are held, and such further compensation and per diem as the board of county commissioners may deem just and sufficient."

The duties of this board of examiners are laid down in section 957, and among other things it is made their duty to conduct all eighth grade examinations in their respective counties. This, of course, may include examinations held in various districts of the same county, or at the county seat where pupils from various districts might come to take the examinations, and it would be almost impossible to apportion the costs

to the various districts justly and equitably, and, especially, as section 955, revised codes, provides that the county commissioners shall fix the compensation as they deem just and sufficient. That section seems to carry with it the implication that the county funds are liable for the payment of the compensation fixed. The trustees of the various school districts are not given any authority to fix the compensation of this board of examiners, nor to pay them any sum. Section 997 provides that school moneys may be used "by the county superintendent and trustees for the various purposes authorized and provided in this title." But, as the county superintendent and trustees do not fix the compensation of the county examining board, the expenses of this board is not properly a charge to be paid from the school funds.

In reply to your second question, I advise you that sections 974 to 988, revised codes, which provide for the establishment, maintenance and conduct of industrial schools, make no provisions for the care of pauper children who require medicine and medical attendance while confined in such industrial schools, and there being no provision authorizing the payment of school funds for the care of pauper children that duty devolves upon the county; and, under section 2050 the board of county commissioners is vested with entire and exclusive superintendence of the poor.

You are therefore advised that under the authority of section 2050, et seq., the county commissioners must provide for the medical attendance necessary for pauper children in the industrial school.

Yours very truly,

ALBERT J. GALEN,

Attorney General.