

**School Trustees, Powers Of. School Funds, Use Of. Funds,
School, Use Of. Playgrounds, Power of Trustees to Construct.
Scoutmaster, Power of Trustees to Employ.**

The board of trustees of a school district has no authority to expend any funds of said district for the purpose of paying the salary or expenses of a scoutmaster of the boy scouts in the district.

The trustees of a school district may, under certain circumstances use the school funds of the district for the purpose of creating and maintaining a playground for the children of the district.

May 31, 1911.

Hon. H. S. Greene,
County Attorney,
Great Falls, Mont.

Dear Sir:

I am in receipt of your letter of the 24th inst., in which you ask my opinion upon the authority of a school board to expend the funds of

the district, which for the purpose of convenience in answering I divide into two questions, as follows:

1. "Whether or not the board of school district No. 1, your county, might expend school funds of the district for the purpose of paying the way and salary and the other expenses of the Scout Master of the boy scouts in your district, and

2. "Whether or not they might use the school funds of the district for the purpose of creating and maintaining a play ground for the children of the district."

In your letter you state that you have advised the board that they cannot use the funds of said school district for either of said purposes, and you base your opinion upon the provisions of the constitution and Sec. 997 of the Political Code, and the case of *Butte vs. School District*, 29 Mont. 336. So far as your opinion with reference to the first question is concerned, I concur with you. The provisions of Sec. 997 and Sec. 898, Revised Codes of 1907 are mandatory and define the only purpose for which funds of school districts may be expended by the trustees or the county superintendent, so that it is my opinion it would not be within the authority of a board of school trustees to expend any of the funds of the district for the purpose of paying the salary or expenses of a Scout Master, the duties of whom would in nowise pertain to the maintenance or conduct of the public school. However, with reference to your second question it is my opinion that the funds of the district might under certain circumstances be properly used in furnishing a suitable play ground in connection with one or the other of the school houses of your district for the use of the school children. The provisions of Sec. 898 and 997, Revised Codes, provides:

"The surplus in the general school fund to the credit of said district after providing for the expenses of not less than eight months school, may, on a vote of the qualified electors of said district, be used for the purpose of building and improvement."

It seems to me that a suitable play ground for the use of the children of the district in connection with the school property is an "improvement" within the meaning of this section and in the language of the Supreme Court of this state, in the case of *City of Butte vs. School District*, 29 Mont. 336, it is, "a purpose of such a character as to enhance materially the value and effectiveness of the school property for the purpose for which it is held, "and it is therefore my opinion that while the funds of the district may not be expended in the manner suggested by your first inquiry, that the trustees of your district might lawfully, if authorized by vote of electors of the district so to do, use the school funds for the purpose of creating and maintaining a play ground for the school children of the district in connection with some one or other of the schools of the district.

Yours very truly,

ALBERT J. GALEN

Attorney General.