

Piano, Purchase of for Use of School. Board of School Trustees, Authority of to Purchase Piano for Use of School. School Trustees, Authorized by Law to Purchase Piano.

Music being one of the branches in the course of study prescribed by the state superintendent of public instruction, a board of school trustees is authorized to purchase a piano for use in the public schools; the matter resting in the sound discretion of the board of trustees.

May 27th, 1913.

Hon. H. A. Davee,
State Superintendent of Schools,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication under date the 26th instant, to the following effect:

"Please let me know if there is provision in the law which will authorize a board of school trustees to purchase a piano for the use of the school."

In reply thereto I call your attention to the provision of the statute making it the duty of every school board:

"To provide for school furniture and for everything needed in the school house or for the use of the school board,"

And

"To determine what branches, if any, in addition to those required by law, shall be taught in any school in the district, subject to the approval of the county superintendent, in districts of the third class."

Sec. 508, Subdivs. 6 and 17, pp. 232-233, Laws of 1913.

The statute further provides that the state superintendent:

"Shall prepare or cause to be prepared with the co-operation and approval of such educators as may be named by the state board of education, a course of study for all the public and elementary high schools of the state, and shall prescribe to what extent the same is to be used."

Sec. 202, Subdiv. 8, p. 209, Laws of 1913.

I am advised that, acting under the above provision of the statute, the state superintendent has prescribed a course of study, and has included therein music as one of the branches which is to be taught. It is a matter of common knowledge that music has been taught in our public schools, and that many of our public schools have purchased pianos for the purpose of aiding in this branch of instruction. There is no provision in the statute forbidding school trustees from making this expenditure, and while there is no provision directly authorizing the trustees to purchase a piano, I am of the opinion that they have implied authority to do so, where the board deems a piano necessary for the proper equipment of the school and the proper instruction of the pupils.

The Supreme Court of Michigan considered a similar question in the case entitled *Knabe v. Board of Education*, which is reported in 67 Mich. 262; 34 Northwestern, 568. In the course of the opinion the court used this language:

"The only question in this case is whether the board of trustees of a graded school have authority to purchase a piano for the purposes of a high school. We think the board of trustees have that authority, because the statute authorizes them to classify and grade the pupils attending school in such district, and cause them to be taught in such schools or

departments as they may deem expedient, and to audit and order the payment of all accounts of the director for incidental or other expenses incurred by him in the discharge of his duties. They are also authorized to prescribe the course of studies to be pursued, and employ the teachers thereof. It is just as competent for them to cause music to be taught as it is in any of the higher branches. They may order music to be taught if they deem it expedient and they may employ a music teacher for that purpose. Likewise they may purchase musical instruments whereon the pupils may be instructed. And it makes no difference whether they employ the music teacher first, and purchase the musical instrument afterwards, or buy the instrument first, and employ the teacher later. Music has long since become a branch of refined education, and is recognized as one of the ordinary accomplishments of cultivated minds. It is taught to a greater or less extent in our high schools, and the practice should be encouraged as having an elevating influence upon the minds of the young. When the law gives the board of trustees power to prescribe the course of studies, it gives them authority to provide means to carry the power given into effect."

You are, therefore, advised that the board of school trustees is authorized to purchase a piano for use in the public schools. Whether or not they should make such a purchase in any particular case, is a matter resting in the sound discretion of the board of school trustees.

Very truly yours,

D. M. KELLY,

Attorney General.

May 28th, 1913.