

**School Trustees, Authority to Construct Building. Trustees of School District, Must Act Under Contract in Construction of Building. School House, Must be Constructed by Contract when.**

The Board of School Trustees does not have authority, under their own supervision, to construct a school house, but must let the same by contract.

May 19, 1915.

Hon. H. A. Davee,  
State Supt. of Public Instruction,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 17th instant, submitting the question:

“Can a board of trustees employ a superintendent and hire day laborers for the purpose of erecting a building, or must said board let a contract for the construction of said school building?”

Section 509, Chapter 76, Laws of 1913, prohibits school trustees from having any pecuniary interest either directly or indirectly in the erection of any school house. The erection of a school house by the trustees in the manner indicated in the question, would in effect be making the school board the contractor, and of course, as such contractor the trustees would be furnishing the supplies, material and hiring the labor, etc., without any restriction on themselves, and without security to the district, and then would later sit in judgment on the result of their own work. The employment of a superintendent for the work would not change the status, for this superintendent would then be the hired agent of the board or else, if an independent contractor, then the contract would be awarded to him on competitive bidding, as indicated in the same section. In such matters the board appears to be limited to the contract system. See also Section 368, Rev. Codes.

Yours very truly,

D. M. KELLY,

Attorney General.