

School Districts—Warrants.

It is not necessary for a school district warrant to be under seal.

March 13, 1917.

Mr. Fred C. Gabriel,
County Attorney,
Malta, Montana.

Dear Sir:

You have submitted to me the question of whether or not warrants of school districts are required to be under seal.

To be valid a school warrant must be properly authorized and must be issued in payment of a valid authorized indebtedness or for a proper consideration and without fraud on the part of the Board or officers issuing it. There must also be a compliance with the requirements of the statute under which the warrant is issued, and it must be drawn in the form prescribed by statute and signed and countersigned as required.

35 Cyc. 982.

Section 2010 of the School Law, Chapter 76, 1913 Session Laws, provides that it shall be the duty of the County Treasurer to pay all warrants drawn on district school moneys in accordance with the provisions of this Chapter, whenever such warrants are countersigned by the district Clerk and also by the County Superintendent, as provided in Section 513 of this Act. Section 513 simply prohibits the Board of Trustees of a District of the third class from issuing warrants for maps, charts, and other apparatus unless the same is authorized by the County Superintendent. Section 2986 (8) of the Revised Codes of 1907, makes it the duty of the County Treasurer to pay all warrants drawn on district school moneys, in accordance with the provisions of law, whenever such warrants are countersigned by the District Clerk and properly indorsed by the holders.

There is no direct provisions of law as to the manner in which warrants upon the funds of a school district must be drawn. The

allowance of a claim against a school district is made by a majority of the Board of Trustees acting in lawful session. But there is no provision of the statute requiring school districts to have a seal or requiring that school warrants shall be under seal.

In the case of *State vs. Dickerman*, 16 Mont. 278, a school district warrant was signed simply by the Chairman of the Board of Trustees and countersigned by the Clerk and not by all or a majority of the Trustees. The Court, on page 287, in passing upon the contention that the warrant was not in legal form used the following language:

"It is not disputed that the trustees properly audited the claim for which this warrant was issued. For the purpose of raising funds, and for the issuing and sale of bonds to raise funds for the building of school houses, etc., each school district is declared by the law of this state to be a body corporate. (Comp. St. div. 5, Sec. 1953.) Throughout the school law the trustees are designated the 'Board of School Trustees.' Section 1951 provides that, when bonds are issued by a school district, 'they shall bear the signature of the chairman of the board of trustees, and shall be countersigned by the clerk.' From a consideration of the school law of the state, we are of the opinion that the warrant is in such form as is contemplated in such cases."

In view of the foregoing I am of the opinion that it is not necessary that the warrant of a school district be under seal.

Respectfully,

S. C. FORD,

Attorney General.