

School Trustees—School Districts—Schools.

Where a district is relieved of the necessity of supporting a school by reason of availing itself of the school facilities of another district the school board is not authorized to make a greater contribution than is provided by section 1010, as amended by chapter 76, laws of 1925.

Miss May Trumper,
Superintendent of Public Instruction,
Helena, Montana.

July 6, 1925.

My dear Miss Trumper:

You have submitted to this office for an opinion the question whether the paragraph added to section 1010 by chapter 76, laws of 1925, (relative to the duties of trustees in districts which hold no school in assisting in the support of the school attended by the children of their district) limits the trustees to the amount specified therein, or whether they may make a larger contribution to the district furnishing the schooling.

The portion of section 1010 referred to is as follows:

“When a district is relieved of the necessity of supporting any school by the fact that all or a part of the children residing in the district are being provided with schooling in another district, it shall be the duty of the trustees in the district holding no school to assist in the support of the school which the children of their district are attending, in proportion to the relation the number of children from their district attending school in another district bears to the total number of children enrolled in the school in the other district.”

This is an emergency measure intended to aid districts where the number of pupils or the financial condition make it more advantageous to go in with another district as to all or a part of the school facilities to be furnished.

The section fixes a definite proportion of the cost that is to be borne by the district that avails itself of the school facilities of another district. There is nothing in the act indicating any discretion on the part of the school board as to the amount it is required to pay the district furnishing the schooling. A definite obligation is imposed by the statute to pay a sum that can be definitely determined.

The purpose of school districts is to provide schools for the census children of the district, but, except as otherwise provided, it is the duty of the board to provide school facilities in its own district—not to have them provided for it by another district. In providing its own school the board is not limited in amount of expenditures, except as to the amount that it is authorized to raise by taxation. However, I do not believe that the legislature intended a school board should go beyond the amount required under the amendment to section 1010. Any excess payment would be a donation of school funds and would require a correspondingly less amount to be furnished by the other district.

School boards are boards of limited powers and can exercise only such powers as are expressly given them or such as are necessarily implied in exercising those expressly given.

It is, therefore, my opinion that the school board is limited to the amount fixed in the statute and that it has no authority to make a larger donation to the other district.

Very truly yours,

L. A. FOOT,
Attorney General.