

**Clinics—County Commissioners—Funds—School Trustees—
Children—Expenditures.**

County commissioners and school trustees are authorized to spend county and school district funds to provide medical or surgical treatment for indigent children only.

Miss Amanda O. Swift,
Superintendent of Schools,
Winnett, Montana.

May 10, 1926.

My dear Miss Swift:

You state that Petroleum county plans to hold a "clinic" at which corrective work may be done for school children. You further state that most of the parents are able to pay the fees for such corrective work but that a few cannot do so. You have submitted the three following questions:

"1. Can the commissioners legally extend aid paying the \$10.00 fee required for such cases in order that all our school children may be physically fit in September without having the parents declare themselves paupers?"

"2. Also let us know if trustees of school districts can be compelled to pay for the children of their respective districts whose parents cannot pay at the time of the clinic.

"3. Is it legal for the commissioners to guarantee the surgeon's fee if the amounts paid by the parents are not sufficient to meet his charges?"

It is an elemental principle of law, and one which has been frequently announced by our supreme court, that public officers such as boards of county commissioners and school trustees can exercise only such powers as are expressly granted them by statute or such as necessarily follow from those expressly granted. Particularly is this true in matters involving the expenditure of public moneys. Unless authority to spend public money for a specific purpose has been given by the law-making body no public officer has any authority to make such an expenditure no matter how necessary or advantageous it might be for him to do so.

The legislature of this state has not conferred upon either county or school district officers the authority to make an expenditure of public funds for the purposes indicated in your letter.

There is no question that both county commissioners and school trustees can spend county and school district funds to provide medical aid for *indigent* children. That authority is given to school boards by subdivision 11 of section 1015 of the code as amended by chapter 122, session laws of 1923.

Similar authority is given to boards of county commissioners by subdivision 5 of section 4465 of the code as amended by chapter 95 of the session laws of 1923. Except in the case of indigent children, it is my opinion that neither boards of county commissioners nor school boards have authority to defray the expenses of corrective medical or surgical treatment performed at a county clinic of the character described in your letter.

All three of your inquiries are, therefore, answered in the negative.

Very truly yours,

L. A. FOOT,

Attorney General.