

Hearings—State Board of Educational Examiners—Expenses—Witnesses—Teachers—Certificates.

Where a hearing is held by the state board of educational examiners for the purpose of revoking a teacher's certificate the expenses of such hearing may be paid out of the state teachers' certificate fund.

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

September 4, 1926.

My dear Miss Trumper:

You have requested my opinion whether the expense of witnesses called before the state board of educational examiners may be paid out of the state teachers' certificate fund.

The purpose of calling these witnesses before the board is to support charges made by the board against a person who has obtained a teacher's certificate, and which certificate is sought to be revoked for reasons authorized by section 1097 R. C. M. 1921, as amended by chapter 131, laws of 1923.

This section authorizes the state board of educational examiners to revoke and annul a certificate (which has been issued by the board) for any cause which would require the board to refuse to grant a certificate if such cause was known at the time the certificate was granted, and for incompetency and other causes set forth therein.

Manifestly, the board, in order to support charges made against a teacher, must have before it evidence to sustain the charges made and inasmuch as evidence (whether in the form of a deposition or affidavit or the oral testimony of a witness) cannot be procured without incurring some expense it would also devolve upon the board to pay the costs of producing proof in support of the charges made, and it is my opinion that the board, by reason of its authority to hold such hearings and to revoke certificates, is also authorized to pay the costs of such a hearing, and, for that reason, is authorized to pay from the state teachers' certificate fund the expense connected with such a hearing, which would include the expense of taking a deposition, the expense of procuring affidavits, or the expense of producing before the board a witness to be used upon the hearing, or any other necessary expense incurred in holding such hearing.

It is further my opinion that in case of an appeal from the order of the state board of educational examiners revoking a teacher's certifi-

cate the expense of transcribing the testimony or of producing witnesses before the state board of education, should the state board of education desire to have witnesses appear before it, may also be borne from the state teachers' certificate fund.

Very truly yours,

L. A. FOOT,

Attorney General.