

Schools—Teachers—Certificate—Funds—Witness Fees—Revocation.

The teachers' certificate fund is a trust fund to be expended in the manner and for the purposes provided by law, and witness fees are a proper charge against said fund.

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

August 3, 1927.

My dear Miss Trumper:

You have requested my opinion on the following question:

"On a hearing for the revocation of a teacher's certificate held under the provisions of section 1097 R. C. M. 1921, as amended by chapter 131 laws of 1923, can witness fees on said hearing be paid out of the state teachers' certificate fund."

Section 193 R. C. M. 1921 provides as follows:

"No moneys received by the state treasurer shall be paid out by him except upon state warrant issued by the state auditor, and the state auditor shall not issue his warrant upon the state treasurer save by virtue of unexhausted appropriation therefor made by the legislative assembly, and after the presentation to him of a claim duly approved by the state board of examiners, save and except for salaries and compensation of officers fixed by law; provided, however, that nothing in this act contained shall require an appropriation by the legislature for the administering of any specific trust funds administered by any state board, commission or department."

The state teachers certificate fund, provided for by section 1095 R. C. M. 1921, as amended by chapter 131 laws of 1923, paragraph 2, provides as follows:

"All fees collected for certificates by the county superintendents, superintendent of public instruction and the state board of educational examiners shall be deposited with the state treasurer and kept in a fund to be known as the state teachers certificate fund, and no claim shall be paid from this fund except upon warrants drawn by the state auditor upon claims approved by the state board of examiners and the superintendent of public instruction."

That this fund is in the nature of a trust fund cannot be questioned, and while no specific mention is made by the statute as to the purposes for which said fund shall be expended, the title of the fund itself would indicate clearly that the intention of the legislature was that said fund should be used to bear the expense in connection with the regulation of teachers' certificates.

Witness fees paid in connection with the hearing on the revocation of a certificate being an expense necessary to the regulation of the law

in connection with the granting of teachers' certificates clearly come within the intent of the legislature as to purposes for which said fund shall be expended.

It is therefore my opinion that the teachers' certificate fund is a trust fund to be expended in the manner therein provided for the purposes above stated and that witness fees are a proper charge against said fund.

Very truly yours,

L. A. FOOT,
Attorney General.