

My dear Mr. Brown:

You have submitted to this office for my opinion the question as to the legality of disbursements of county funds to defray expenses of county school superintendents in attending out of state educational conventions.

Section 443 prohibits the county school superintendent, as well as other officers, from expending public funds, for traveling expenses or other purposes, except expenses incurred in attending a convention as said officer may by virtue of his office be required by law to attend. Section 943 authorizes the superintendent of public instruction to call an annual meeting of the county superintendents. Chapter 92, Volume 1, R. C. M., 1935, expressly enumerates many of the duties of the county superintendent. The law has not expressly authorized the county superintendent to attend an educational convention out of the state. The only authority to attend a convention out of the county is found in Section 443. The statute having expressly circumscribed her authority no additional authority can be exercised. The exercise of the county superintendent's general powers of supervision over the public schools in the county (Section 955) does not create or establish a necessity for the superintendent to attend an out of state educational convention. The legislature has decreed the necessity of attendance at an annual state convention, if the state department deems such convention advisable.

The rule of "*expressio unius est exclusio alterius*" is applicable in this instance (25 C. J. 221).

The county superintendent's attendance at an out of state educational convention is not expressly authorized by statute, nor necessitated by the performance of her powers of general supervision over the schools of the county. Expenses incurred therefor are not expenses incurred for services rendered in office or by virtue thereof. (State ex rel King v. Smith, 98 Mont. 171.) It follows that claims for such expenses are illegal and unauthorized.

Opinion No. 74.

Offices and Officers—Counties—Superintendent of Schools—Expenses.

HELD: The county superintendent of schools is not entitled to expenses incurred in attendance at educational convention held outside the state.

June 7, 1939.

Honorable W. A. Brown
State Examiner
State Capitol Building
Helena, Montana