

Opinion No. 200.

Outstanding Warrants—Schools and School Districts—Budgets, School.

Held: Outstanding warrants of a school district at the end of a fiscal year which have not been presented for payment, although there are sufficient funds, are paid from the funds of the budget of the prior year and not included in the subsequent budget as an item of expense.

August 28, 1946.

Mr. Edison W. Kent
County Attorney
Granite County
Philipsburg, Montana

Dear Mr. Kent:

You have requested my opinion concerning the inclusion in a current elementary school budget of the amount of outstanding warrants issued prior to the end of the last fiscal year. You advise me that there were ample funds to pay the warrants, but the warrants were not paid because they were not presented prior to the end of the fiscal year.

Section 1019.22, Revised Codes of Montana, 1935, provides the clerk of the district must issue warrants in triplicate and the warrants must show on their faces the appropriation against which they are drawn. One copy is delivered to the county treasurer and the treasurer, on receiving the copy of the warrant, under Section 1019.23, Revised Codes of Montana, 1935, must

enter the amount of such warrant under the proper item of the appropriation so the unexpended balance will show at all times. Such procedure results in a partial assignment of the funds as the treasurer who holds the funds has notice the warrant has been issued prior to the presentment of the warrant and allocates the money for the payment of the warrant by his bookkeeping entries.

Under Section 1019.10, Revised Codes of Montana, 1935, the treasurer shows the cash on hand at the end of the fiscal year, and such information is taken from his records. The surplus or cash on hand would be the unexpended balance from the prior year and would not include outstanding warrants for which money for their payment had been allocated.

Our Supreme Court in *State v. State Board of Examiners*, 74 Mont. 1, 238 Pac. 316, gave the following definition:

“However, a warrant is merely ‘an order by which one of competent authority authorizes another to pay a particular sum.’”

In 14 Am. Jr. 295, the text states:

“Under the prevailing rule in equity, an order drawn on a part of a particular fund then due or to become due from the drawee to the drawer will operate as an assignment of the fund pro tanto and will make the drawer equitably answerable to the payee for a failure to comply with the order after notice thereof, irrespective of acceptance.”

Applying the above rules, it is apparent the outstanding warrants of which the treasurer has notice and for which deduction has been made, constitute an assignment of the funds, which funds are those of the budget of the prior year.

It is therefore my opinion outstanding warrants of a school district at the end of a fiscal year which have not been presented for payment, although there are sufficient funds, are paid from the funds of the budget of the prior year and not included in the subsequent budget as an item of expense.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General