

Opinion No. 27

SCHOOLS AND SCHOOL DISTRICTS; Expenditures, approval by trustees; STATE EXAMINER; Powers, School district claims, prescribed forms—SECTIONS 75-1901, 75-1902 and 82-1002, Revised Codes of Montana, 1947.

HELD: The clerk of a school district is without authority to issue warrants in payment of claims without first being directed to make payment by an order of the board of trustees, which order must be preserved in writing as a part of the records of the school district.

January 6, 1964

Mr. Albert Leuthold
State Examiner
State Capitol
Helena, Montana

Dear Mr. Leuthold:

You have requested my opinion as to whether claims for payment of school district monies must be submitted before warrants can be drawn to pay the same. You ask if the board of trustees must approve the claim before the warrant is drawn, or can such authority be delegated to the school district clerk?

In answering your questions it is important to observe that under Sections 75-1901 and 75-1902 R.C.M., 1947, the duties of the

clerk are prescribed and the principal duties are to keep copies of reports, books, documents, and especially accurate and detailed accounts of all receipts and expenditures of school monies. There is no authority granted to pay claims.

A school district is governed by its board of trustees, and only this board may exercise authority conferred by law (Finley v. School District No. 1, 51 Mont., 411, 153 Pac., 1010) and it is the board in a formal meeting which exercises the powers granted. (Day v. School District No. 21, 98 Mont., 207, 38 Pac. 2nd, 595.)

Our Supreme Court, in the case of Kenyon-Noble Company v. School District No. 47, 40 Mont., 123, 105 Pac., 551, held that only the board of trustees of a school district has the authority to order a claim or bill paid. The Court specifically held that a school district clerk had no authority to pay a claim or to represent that any claim would be paid. This case negatives any authority by a clerk to pay claims without a prior order having been made for the board of trustees to do so.

This office, in an opinion appearing in Volume 12, at page 108, in Report and Official Opinions of the Attorney General, held that all claims must be acted upon by the board of trustees and no distinction is to be made between salaries and other claims.

While our statutes do not specifically set forth the exact form of a claim, the imposition on the clerk of the duty to keep accurate and detailed accounts of all receipts and expenditures makes it desirable to have a uniform formal claim. Subsection 2 of Section 82-1002, R.C.M., 1947, makes it the duty of the state examiner "to prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts . . . and to establish in all such offices such general methods and details of accounting as are required by law or are prescribed by the state examiner . . ." From this, it must be concluded that the state examiner has the authority to fix the form of claims for school districts and require their use, and thereby avoid confusion and error.

It is obvious that teachers and employees who have written contracts may be paid without any claim being filed as the contract

is sufficient evidence of the obligation of the district. Such is not true of isolated services rendered or goods sold, and it is these two groups which require claims. The service must be rendered or the supplies actually sold before a claim may be filed. Such a procedure would result in an orderly way of doing business.

It is therefore my opinion that the clerk of a school district is without authority to issue warrants in payment of claims without first being directed to make payment by an order of the board of trustees, which order must be preserved in writing as a part of the records of the school district.

Very truly yours,

FORREST H. ANDERSON
Attorney General