

The Act makes ample provision, it seems to me, to take care of emergencies which would require the employment of additional assistants from time to time. Section 100 (b) of The Welfare Act of 1936 expressly provides that,

“If the appropriations for any or all of the welfare services of the county as contemplated in this Act shall be exhausted prior to the close of the fiscal year for which such appropriations have been made, then and in that event an emergency shall be deemed to exist as contemplated in chapter 150 of the Acts of the General Assembly of 1935, and the county council shall, in the manner prescribed by chapter 150 of the Acts of the General Assembly of 1935, make such additional appropriations as may be necessary to provide for the maintenance of the respective welfare activities of such county welfare board, * * *.”

Acts of 1936, p. 66.

Returning now to the specific language of your first question, I think that section 24 of chapter 3 of the Acts of 1936 authorizes the county director, with the approval of the county board, to appoint assistants and fix salaries necessary to administer the welfare activities within the county prior to appropriation for same only in cases where the same can be justified upon the basis of necessity; that the question of necessity cannot be determined with finality by either the county director or the county board and for that reason, at least the better procedure is to secure the appropriation prior to the making of appointments and the fixing of salaries.

Your second question is answered in the negative.

PUBLIC INSTRUCTION, SUPERINTENDENT OF: Special schools of instruction for physically handicapped children; whether State may reimburse local corporations for anything other than tuition, lunches and transportation.

July 27, 1937.

Hon. Grover Van Duyn,
Assistant State Superintendent,
Department of Education,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter calling attention to chapter 211 of the Acts of the General Assembly of 1927 and requesting an official opinion concerning the same in response to the following questions:

“Question 1. May the State Superintendent of Public Instruction reimburse school corporations for the expenditure of money as provided for in this Act for any purpose other than tuition, lunches and transportation?”

“Question 2. May such reimbursement be granted a school corporation in which such classes are taught by individuals not properly and legally licensed by the State Board of Education?”

“Question 3. Should your reply to the first question warrant the expenditure of funds beyond tuition purposes, would medical supplies be considered instructional supplies?”

The Act referred to constitutes sections 28-3501 to 28-3509, inclusive, of Burns Indiana Statutes, Annotated (1933). Section 1 of said Act, which is section 28-3501 of Burns Indiana Statutes, Annotated (1933), provides for and authorizes the organization of special classes for children who, on account of physical disability cannot be taught advantageously in the regular classes of the school corporation. Whenever ten or more of any special type are found within any school corporation who will profit by a type of instruction different from that given in or afforded by the regular classes of the school corporation. Section 4 of the Act (Burns Indiana Statutes, Annotated (1933), section 28-3504) authorizes the transportation of such children in certain cases; and section 5 of the Act (Burns Indiana Statutes, Annotated (1933), section 28-3505) authorizes the providing of lunches without charge to children who are enrolled in such special classes. Section 6 of the Act (Burns Indiana Statutes, Annotated (1933), section 28-3506) provides for the reimbursement by the state of the school corporation maintaining such classes in an amount equal to three fourths “of the cost of instruction in such special classes in excess of the cost of instruction of the same number of children in the regular classes of the schools of such corporation, based upon the average daily attendance.”

For the purpose of determining what particular children are suitable candidates for the type of instruction provided for in the special classes, the superintendent of schools is authorized to have any of the children under his jurisdiction examined by a regularly licensed and practicing physician. However, no additional service is expressly provided for other than the transportation of the children and the provision of lunches. The reimbursement by the state is based upon the cost of *instruction* in excess of the cost in the regular classes of the schools of the unit providing such special instruction.

Your first question is,

“May the State Superintendent of Public Instruction reimburse school corporations for the expenditure of money as provided for in this Act for any purpose other than tuition, lunches and transportation?”

I think it is obvious from what has already been said that the answer to your first question is in the negative.

In answering your second question the statute makes no mention of the subject concerning which you inquire. I think the general school law would apply, however, and would require that the teachers be licensed by the State Board of Education. The answer to your second question in my opinion, therefore, is in the negative.

Your third question is predicated upon an affirmative answer to the first question. A negative answer having been given to the first question, no answer to your third question is required. However, I desire to say that I do not think that medical supplies could be considered as an instructional cost.