

**OPINION
67-196**

June 19, 1967 (OPINION)

Mr. A. R. Nestoss

Deputy Superintendent

Public Instruction

RE: Schools - School District Minutes - Publication of Salaries

This is in reply to your letter of June 14, 1967, relative to the publication of school board minutes. You state the following facts and questions:

The question has been asked concerning the necessity of publishing the individual salaries of teachers employed in those school districts which approved the Initiated Measure No. 5 at the annual school elections. There is a question in the minds of several of these districts as to whether or not the salaries of all teachers employed in the district should be designated under a single heading of 'Teachers' Salaries', or if the name of each teacher with the teacher's salary be itemized in the publication.

We will appreciate your opinion on the manner in which this item should be designated in the published proceedings of the school boards concerned."

Initiated Measure No. 5 was approved at the November, 1966, General Election and provides as follows:

PUBLICATION OF SCHOOL BOARD PROCEEDINGS - (ELECTORATE TO DECIDE BIENNIALY.) Biennially, commencing in the year 1967 at the annual election of school board members held in each school district, the question of whether a record of the proceedings of the school board shall be published in a newspaper of general circulation in such district shall be submitted to the electors of such district. If the publication of such proceedings is approved by a majority of the electors voting thereon, the records of such school board including an itemized list of obligations approved for payment, shall be published in a newspaper of general circulation in such school district as soon as available after each school board meeting for the succeeding two years, or until disapproved at a succeeding school board election." (Emphasis supplied)

In an opinion issued to Mr. M. F. Peterson on April 11, 1967, we discussed the term "itemized" as used in the above statute. In that opinion we noted it was defined by Webster's New Twentieth Century Dictionary (Second Edition) as follows: "To state in terms; to set down or describe by particulars; as, I will itemize the bill." We further noted section 1-02-02 of the North Dakota Century Code provides that words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears. We

concluded that an "itemized list of obligations", regardless of amount, approved for payment by the school board must be published in the newspaper if approved by the electorate.

On July 25, 1946, this office issued an opinion to Mr. Wm. Jones of the Ransom County Gazette, Lisbon, North Dakota, which construed the provisions of section 11-11-37 of the North Dakota Revised Code of 1943 requiring publication of a "full and complete report" of the proceedings of the meetings of the county commissioners. The question raised was whether the expenses of holding an election could be reported as one item. In that opinion this office stated: "You will note that the section above quoted requires the county commissioners to cause to be published a full and complete report of its proceedings. I cannot conceive that lumping all of the expenses of the primary election as one item constitutes a full and complete report of the payment of the items involving the expenses of the primary election." We would note that the term "itemized" as used in Initiated Measure No. 5 would appear to be even more explicit than the terms "full and complete report" as used in section 11-11-37.

It is therefore our opinion that in those districts approving the publication of school board minutes, as provided by law, the teachers' salaries cannot be designated under a single heading of "teachers' salaries" in the publication but rather the name of each teacher with that teacher's salary must be itemized in the publication.

We do not, however, believe that the teacher's salary must be published each time a check is issued. The school district and the teacher enter into a contract by which the school district agrees to pay the teacher the sum stipulated therein. This becomes a binding obligation upon the school district. Therefore, it is our opinion that if the school district publishes the yearly salary of the teacher at the time contract is signed or at the time the teacher begins his duties, this is sufficient and the monthly salary need not be published each time a check is issued. Thus this office on March 2, 1936, issued an opinion construing what is now section 11-11-37 of the North Dakota Century Code. This opinion is found on page 62 of the Report of the Attorney General to the Governor for the period July 1, 1934 to June 30, 1936. It reads in part as follows: "With regard to salary warrants, the law requires that the salaries of deputies and clerks be fixed by the county commissioners and thereafter those salaries are paid by auditor's warrants without approval and allowance by the commissioners for each warrant. The same is true of salary warrants of elective officers of the county which are fixed by statute and paid an auditor's warrants without any action on the part of the commissioners. The resolution fixing the salaries of deputies and clerks should be made a part of the published proceedings of the commissioners when it is adopted, and thereafter when the salaries allowed pursuant to such resolution are paid they need not be mentioned in the commissioners proceedings, as they are not required to be allowed by the commissioners after they have been once fixed by them."

If the salary of any given teacher is altered from that published previously, such fact should be noted in the proceedings of the school board.

In summary, we believe the teachers' salaries must be published individually at least once during the year. They need not then be published on a monthly basis. If, of course, the school board determines to publish the monthly salary of each teacher each month rather than the yearly salary once a year they may do so.

HELGI JOHANNESON

Attorney General