

Note from the Attorney General's Office:

1964 Op. Att'y Gen. No. 64-1296 was overruled by
1997 Op. Att'y Gen. No. 97-012.

OPINION NO. 1296**Syllabus:**

1. Under Section 2151.10, Revised Code, a juvenile judge and such officers and employees as he may designate may attend conferences at which juvenile or welfare problems are discussed without securing the approval of the board of county commissioners under Section 325.20, Revised Code.

2. Payment of the expenses of a juvenile judge, or such officers or employees as he designates, for attending conferences at which juvenile or welfare problems are discussed shall be upon the warrant of the county auditor pursuant to Section 319.16, Revised Code, upon presentation of specifically itemized vouchers certified by the juvenile judge, as provided in Section 2151.10, Revised Code, and allowed by the board of county commissioners.

3. A board of county commissioners can only pass upon the reasonableness of expenses of a juvenile judge, or such officers or employees as he may designate, in attending conferences at which juvenile or welfare problems are discussed, provided that specifically itemized vouchers certified by the judge as stipulated in Section 2151.10, Revised Code, are submitted to the board of county commissioners.

To: Stanley E. Kolb, Warren County Pros. Atty., Lebanon, Ohio
By: William B. Saxbe, Attorney General, August 14, 1964

I have before me your request for my opinion which reads as follows:

"The members of the staff of the Juvenile Court on various occasions have attended conferences pertaining to the Court and upon returning, the Juvenile Court has certified vouchers to the Board of County Commissioners in the following manner:

"Hotel bill - \$X.xx
"Outside meals - \$X.xx

"The Court has been hesitant in supplying the Board of Commissioners with any receipts to indicate their expenditures.

"The Board of Commissioners are of the opinion, as stated in 1944 OAG 7006, that the Board must find the necessity for such expenses and the Board feels that they should be aware of any receipts that may be available instead of a voucher for 'hotel bills' and 'outside meals' without any breakdown.

"Please advise as to what powers and responsibilities the Board of County Commissioners has when confronted with vouchers of this type."

Opinion No. 7006, Opinions of the Attorney General for 1944, p. 373, to which you make reference ruled as follows in the syllabus:

"Under authority of Section 1639-57 of the General Code, (Section 2151.10, Revised Code), it is the duty of the board of county commissioners to appropriate for the payment of administrative expenses of the juvenile court or the juvenile department of the probate court sufficient moneys to meet its administrative expenses, including the reasonable expenses of the judge and probation officers in attending conferences at which juvenile and welfare problems are discussed. However, before such moneys may be expended for such expenses, the board of county commissioners must find the necessity for such at-

tendance and approve the expenditure of the moneys so appropriated for such purpose."

There are two sections of the Code which are relevant to your inquiry. Section 325.20, Revised Code, provides as follows:

"Except as otherwise provided by law, no elected county officer, and no deputy or employee of the county, shall attend, at county expense, any association meeting or convention, unless authorized by the board of county commissioners. Before such allowance may be made, the head of the county office desiring it shall make application to the board in writing showing the necessity of such attendance and the probable cost to the county. If a majority of the members of the board approves the application, such expenses shall be paid from the moneys appropriated to such office for traveling expenses."

And Section 2151.10, Revised Code, states in material part:

"The board of county commissioners shall appropriate such sum of money each year as will meet all the administrative expense of the juvenile court, including reasonable expenses of the juvenile judge and such officers and employees as he may designate in attending conferences at which juvenile or welfare problems are discussed. All disbursements from such appropriations shall be upon specifically itemized vouchers, certified to by the judge."

It is not clear from a reading of the 1944 opinion whether the Attorney General ruled that prior approval is required by the board of county commissioners before an employee or the judge of a juvenile court may attend such conferences or whether the conclusion is that such approval is required before expenses for attendance may be reimbursed.

Section 325.20, Revised Code, provides that no elected officer or deputy or employee shall attend at county expense any association meeting or convention except as otherwise provided by law. In my opinion, Section 2151.10, Revised Code, provides such an exception, permitting a juvenile judge and officers and employees of the court to attend conferences at which juvenile or welfare problems are discussed without prior approval by the board of county commissioners. Section 2151.10, Revised Code, appears clearly to have been intended as a partial exception to Section 325.20, Revised Code, and a conclusion contrary to that expressed herein would render Section 2151.10, Revised Code, largely meaningless.

The question raised here, however, must be resolved from a consideration of Section 319.16, Revised Code, which was not considered in the 1944 opinion. This section provides as follows:

"Except as to moneys due the state which

shall be paid out upon the warrant of the auditor of state, the county auditor shall issue warrants on the county treasurer for all moneys payable from the county treasury, upon presentation of the proper order or voucher for the moneys, and keep a record of all such warrants showing the number, date of issue, amount for which drawn, in whose favor, for what purpose, and on what fund. The auditor shall not issue a warrant for the payment of any claim against the county, unless it is allowed by the board of county commissioners, except where the amount due is fixed by law or is allowed by an officer or tribunal so authorized by law."

It must now be determined whether the judges' certification as required in Section 2151.10, Revised Code, is an amount "fixed by law or is allowed by an officer or tribunal so authorized by law" as these terms are used in Section 319.16, Revised Code. It is my opinion that such certification does not fall within these exceptions to Section 319.16, Revised Code, and therefore such amount must be allowed by the board of county commissioners.

In State ex rel., Flanagan v. McConnell, 28 Ohio St., 589 (1876), the Court had before it the predecessor of Section 319.16, Revised Code, for construction and as it applied to another legislative enactment which provided as follows:

"The county commissioners shall furnish to the clerks of the courts of their respective counties all blank books, blanks, stationery, and all other things necessary to the prompt discharge of their duties; all of which articles the clerks may themselves procure, and shall be allowed and paid for upon their certificate. S. & S. 362."

In that case, the Court asked the following question at page 592 of their opinion:

"Did the legislature, by this last enactment, clearly intend to clothe the clerks of courts with unlimited power to procure whatever articles they should deem necessary to the prompt discharge of their duties, and to fix the prices of all such articles according to their sole discretion; and was it intended that the certificate of such clerk should be conclusive evidence as against the county, not only that the articles were in fact procured for the use of the clerk, but that they were necessary for the prompt discharge of his duties, and that the prices stated in the account or claim are just and reasonable?"

In answering the question in the negative the Court used

the following language:

"* * *we think it clear that the statutory provision, directing that the clerk shall be allowed and paid for all articles so by him procured and certified to, does not authorize the clerk to determine conclusively, as against the county, how much he shall be allowed and paid for such articles. In fixing the prices proper to be allowed and paid, the county commissioners would be entitled to a voice."

The Court further stated that the certificate of the clerk was not intended to be evidence of anything more than the fact that the articles were procured by him for the purpose of being used in the discharge of his official duties.

In holding that the county commissioners were to fix the amount to be paid, the Court said that the certification by the clerk of courts precedes the allowance which is based on the certification, and it would be absurd to suppose that the intention of the General Assembly was to authorize the clerk of courts to allow a claim and fix its amount upon his own certification addressed to himself.

I am of the opinion, by analogy, that the certification of the specifically itemized vouchers by a juvenile judge under Section 2151.10, Revised Code, does not constitute an allowance of a claim "by an officer or tribunal" within the meaning of Section 319.16, Revised Code, but is merely an attestation of the authenticity or validity of the claim, and that the voucher must be allowed by the board of county commissioners before the county auditor may issue his warrant in payment of the voucher. I am of the further opinion, however, that if a voucher meets the requirements of Section 2151.10, Revised Code, being specifically itemized and certified to by the judge, a board of county commissioners acting under Section 319.16, Revised Code, is limited to determining whether the amount of the claim is reasonable.

My conclusions are based on the conviction that in this instance the legislature has distinguished between the approval of the purpose for which a juvenile judge or a designated officer or employee may expend county funds (by specifically giving legislative approval to attendance at juvenile or welfare conferences) and the approval (allowance) of the reasonableness of the expenditures for approved purposes.

In conclusion and in answer to your request it is my opinion that:

1. Under Section 2151.10, Revised Code, a juvenile judge and such officers and employees as he may designate may attend conferences at which juvenile or welfare problems are discussed without securing the approval of the board of county commissioners under Section 325.20, Revised Code.
2. Payment of the expenses of a juvenile judge, or such officers or employees as he designates, for at-

tending conferences at which juvenile or welfare problems are discussed shall be upon the warrant of the county auditor pursuant to Section 319.16, Revised Code, upon presentation of specifically itemized vouchers certified by the juvenile judge, as provided in Section 2151.10, Revised Code, and allowed by the board of county commissioners.

3. A board of county commissioners can only pass upon the reasonableness of expenses of a juvenile judge, or such officers or employees as he may designate, in attending conferences at which juvenile or welfare problems are discussed, provided that specifically itemized vouchers certified by the judge as stipulated in Section 2151.10, Revised Code, are submitted to the board of county commissioners.