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STATE CAPITOL
PHOENIX, ARIZONA

June 27, 1966

DEPARTMENT OF LAW LETTER OPINION NO. 66-23-L (R-91)

REQUESTED BY: HONORABLE ROBERT K. CORBIN
Maricopa County Attorney

QUESTIONS: [1] May a school district pay consultant services in connection with screening and selection of a district superintendent?

[2] May a school district pay travel and subsistence expenses for the prospective candidates for the job of district superintendent?

ANSWERS: [1] Yes.
[2] No.

The Board of Trustees is authorized to employ professional personnel deemed necessary for making surveys and recommendations relating to the curricula, physical plant and other requirements of the District. A.R.S. § 15-438. This would allow a school district to employ professional persons to act as consultants in the screening and selection of a district superintendent. However, the fees to be paid the consultants must be reasonable and must, therefore, be based on the reasonable value of the services of the professional person employed. Any payment in excess of the reasonable value of the services would constitute an illegal expenditure of public funds.

Section 15-442(B)(5), A.R.S., limits the authority of the Board of Trustees as to the persons who may be paid travel and subsistence expenses. The particular provision of the statute is set forth below:

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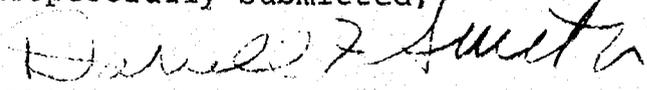
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"The board may: (5) permit a superintendent, principal or their representatives to travel for a school purpose, as determined by a majority vote of the board. By unanimous vote the board may permit members of the board to travel for a school purpose. Any expenditure for travel and subsistence shall be as provided under the terms of Title 38, chapter 4, article 2, and shall be a charge against the budgeted school district funds."

It is the opinion of the Attorney General that the above cited statute and Title 38, chapter 4, article 2, requires a person to be an employee of the school district or a member of the Board in order to be allowed expenditures for travel and subsistence. The only exception is where a person is contracted to perform a service for the district, in which case the district can contract to pay the person's necessary travel expenses.

Any expenditure for travel and subsistence for persons other than school district employees, contract personnel or members of the Board, would constitute an illegal expenditure of public funds and the person allowing or approving such claims could be held personally liable for such expenditures. Further, any attempt to circumvent the above statutory provisions by designating the payment for some other purpose would likewise constitute an illegal expenditure of public funds since the Board cannot do indirectly what it is prohibited from doing directly.

Respectfully submitted,


DARRELL F. SMITH
The Attorney General

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