

June 26, 1940. ✓

Mr. J. Mercer Johnson,  
County Attorney,  
Tucson, Arizona.

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Dear Mr. Johnson:

## ARIZONA ATTORNEY GENERAL

We have your letter of June 18th relative to the newly formed Amphitheater High School District, wherein you state:

"The Superintendent of Schools and the Superintendent of the Amphitheater school have, under the advice of Mr. Dodd of this office, computed the probable attendance at 250 under Section 1095 of the School Law, R.C.A. 1928, due to the fact that this is a new formed district and no past attendance records are available."

You further state:

"Mr. Hendrix, State Superintendent of Public Instruction has intimated that he will not allow the attendance figure of 250."

It is the opinion of this office that the provisions of Section 1095, Revised Code of Arizona, 1928, do not place any duty upon the State Superintendent of Public Instruction to make an apportionment of State School Funds based upon an estimate filed under the provisions of said section, and that the pro rata apportionment called for in said section after a probable estimate has been filed refers only to the apportionment made by the County School Superintendent of the County School Fund after that fund has been made up by the apportionment of State and County School moneys based upon the average daily attendance for the preceding year.

The Superintendent of Public Instruction is limited by the school laws to the figures of the average daily attendance in the different counties for the preceding year, as shown by the records in his office, and is nowhere authorized to make an apportionment of State School Funds based upon an estimate of the probable attendance filed with the County School Superintendent under the provisions of Section 1095, Revised Code of Arizona, 1928.

Mr. Nash called at this office yesterday and the matter was gone over entirely with him and Mr. Riggins from the State Department of Public Instruction. He was at that time informed of the view this office took of the matter as above set forth.

Very truly yours,

JOE CONWAY,  
Attorney General.

EARL ANDERSON,  
Special Assistant  
Attorney General.

E. P. CLINE,  
Assistant Attorney General