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ATTORNEY GENERAL

May 14, 1975

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**ARIZONA ATTORNEY GENERAL**

The Honorable Anne Lindeman  
Representative  
House of Representatives  
Phoenix, Arizona 85007

Dear Representative Lindeman:

You have inquired whether the State Board of Education has the authority to certify the qualifications of professional non-teaching personnel. I believe that the Board has such authority. The rationale for my conclusion follows:

In 1956 Attorney General Morrison was asked whether A.R.S. § 15-102 authorized the Board to certify school nurses, business managers, psychologists and employees other than teachers. Attorney General Morrison responded that the Board did not have such authority. 1956 Op. Atty Gen 80 (No. 56-90). He noted particularly that the statute "says nothing regarding the certification of school nurses, business managers, psychologists and employees".

In 1974, however, the Legislature added a new subsection to § 15-102. It stated that the Board shall:

"supervise and control the qualifications of professional non-teaching school personnel and prescribe standards relating to qualifications".  
(A.R.S. § 15-102(21))

It is my view that this legislative enactment was designed to change the statutory pattern discerned by Attorney General Morrison in 1956.

As it now stands § 15-102 requires the Board to oversee the qualifications of all professional persons employed by schools, whether or not they are teachers. The

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statute expressly requires that the Board adopt a certification system for teachers. The statute does not expressly require the Board to certify professional non-teaching personnel but it certainly allows the Board to do so. Section 15-102 places upon the Board the heavy and significant burden to "supervise and control the qualifications of professional non-teaching school personnel". The power to control implies the power to certify or to license. This proposition has been settled for many years. See In Re WAN YIN, 22 F. 701, 702-03 (D. Ore 1885). If the Board concludes that certification is a reasonable method by which it can fulfill its duties to supervise and control qualifications, then it is free to adopt a certification procedure. The courts will ordinarily give broad reading to the powers of administrative agencies whose purpose is to protect the health and safety of children. See 3 Sutherland, Statutory Interpretation 163-64 (Section 650.03).

In conclusion, A.R.S. § 15-102 authorizes the State Board of Education to adopt a system of certification of professional non-teaching personnel. The Board may adopt such a system for any or all classes of such personnel if the Board reasonably concludes that such a system is a reasonable method by which it can "supervise and control" their qualifications.

Sincerely,

/s/ Bruce E. Babbitt

BRUCE E. BABBITT  
Attorney General

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