

11 January 1947

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**ARIZONA ATTORNEY GENERAL**

Mr. Nolan D. Pulliam,  
Superintendent of Public Instruction,  
State Capitol Building,  
Phoenix, Arizona.

Re: Compensation of Junior College  
Administrator during leave of absence

Dear Mr. Pulliam:

Receipt is acknowledged of your letter of 13 December 1946, requesting our opinion on the legality of paying full compensation to the administrator of a junior college during a leave of absence which has been granted in order to enable him to complete his studies for a doctor's degree, such studies to be pursued at a university in another state.

In Nielsen v. Richards, 232 P. 480 (Cal.), it was said that a teacher may recover under a contract for services only upon the performance of such services.

Section 54-416, A. C. A. 1939, authorizes the board of trustees of a school district to fix the salaries of administrators and teachers. It has been held under a similar statute that the power to fix salaries is comprehensive and the trustees have a wide discretion. However:

" \* \* \* . They are charged with the expenditure of moneys raised by taxation. They can vote it only for public uses. They have no right to devote it to private purposes. However meritorious the project may appear to be either in its practical or ethical or sentimental aspects, if it is in essence a gift to an individual rather than a furthering of the public interest, money raised by taxation cannot be appropriated for it. \* \* \* ." Whittaker v. Salem, 216 Mass. 483; 104 N. E. 359; and Annotated Cases 1915-3, 794.

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The foregoing case held that a principal of a city school was not entitled to one-half pay during a leave of absence granted because of illness contracted by reason of overwork for the school during vacation.

In California there is a statute which permits the granting of leaves of absence, not to exceed one year, for the purpose of permitting study or travel by an employee which will benefit the schools and pupils of the district. The statute further provides that a certain compensation may be paid. However, it has been held that under that statute there must be a positive showing that the leave of absence was for the specified purposes, rather than for the convenience of the teacher, before any compensation could be paid. Standard Elementary School District v. Healy, 26 Cal. App. (2d) 172; 79 P. (2d) 123.

Although the studies pursued by the administrator in question may better fit him for the performance of his duties as the head of a junior college and thereby benefit the pupils therein, it is the opinion of this office that in the absence of a specific statutory provision there is no authority for the junior college district to pay him his salary during the period of his leave of absence.

Yours very truly,

JOHN L. SULLIVAN  
Attorney General

BURR SUTHER  
Assistant Attorney General

ES:prb

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