

yes
Jow
5/26/51

✓
LAW LIBRARY
ARIZONA ATTORNEY GENERAL

May 23, 1951
Op. No. 51-139

Mr. Myron R. Holbert
Assistant Superintendent of
Public Instruction
Capitol Building
Phoenix, Arizona

Dear Mr. Holbert:

We have your letter of April 18 wherein you request an opinion from this office upon the following question:

Can the various school districts in Arizona which receive maintenance and operation money from the Federal government under public law 874 put this money into a separate fund and spend it on the basis of need, or deficiency within the district during the year in which it was intended without regard to the school budget for the year?

We are not going to answer the first part of your question as to whether or not the money can be put in a special fund inasmuch as we believe our answer relating to the budget will sufficiently satisfy your inquiry.

The duties of the County Treasurer relative to school funds are set forth in Section 54-606 ACA 1939, as amended. The pertinent parts of this section state:

"Duties of county treasurer relative to school funds.--The county treasurer shall: (a) Receive and hold as special funds all public school money for common school and high school education, and keep separate accounts thereof, and when it is apportioned among the school

districts, he shall keep a separate account for each district and for the special county school reserve fund;

* * * * *

(c) Pay over, on the warrants of the county school superintendent, duly indorsed by the person entitled to receive the same, any or all money; provided that the county treasurer shall not pay any warrant for an expenditure which is in excess of the total amount budgeted for the school district against which such warrant is drawn, unless such expenditure has been authorized by the board of supervisors in accordance with section 54-608." (Emphasis supplied)

In our opinion this would preclude the County Treasurer from paying out any warrants for expenditures for purposes not included in the budget or in excess of the school district's budget regardless of whether or not the money is in a special fund. In other words, as long as the money is in the County Treasury we believe it can only be spent in accordance with the school district's budget. In our opinion all funds to be expended in the operation and maintenance of public schools must be kept by the County Treasurer, and the method of withdrawal of school funds is provided in Section 54-301 ACA 1939, as amended.

Section 54-603 of the Code prescribes the details connected with school districts' budgets and therein states:

" * * * Thereafter, the governing board shall adopt the budget * * * and no expenditures shall be made for a purpose not included in such budget and no debt, obligation or liability shall be incurred or created in any year in excess of the total amount of such budget as finally adopted except such as may be authorized by the board of supervisors in accordance with subsection (b) of section 54-608."

Mr. Myron R. Holbert
Department of Public
Instruction

Page Three
May 23, 1951

The qualifications, powers and duties of the County School Superintendent are set forth in Section 54-301 ACA 1939, as amended, and in this section the County School Superintendent is prohibited from drawing a warrant for any expenditure for a purpose not included in the budget of each school district or for any expenditure in excess of the amount budgeted.

It is our opinion that these statutes preclude the expenditure of any money which was not contemplated in the school budget unless of course the school district presents a petition in accordance with Section 64-603, subsection (b) requesting authority to incur liability in excess of the district budget for the reasons therein permitted.

Very truly yours,

FRED O. WILSON
Attorney General

KENT A. BLAKE
Assistant Attorney General

KAB:ec