

March 7, 1949

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Senator Joseph Mansfield
Capitol Building
Phoenix, Arizona

Dear Senator Mansfield:

We have your oral request for an opinion on the following question:

"Will the adoption of Senate Bill 113 conflict with House Bill 11 which has previously been adopted by both the Senate and the House?"

We are of the opinion that there will be a conflict between Section 5 of Senate Bill 113 and Section 54-616 of House Bill 11 as adopted. House Bill 11 provides in effect that the superintendent of one district may send a pupil to an outside district under a certificate of convenience, but that in doing so the A.D.A. allowance will remain in the district of the student's residence. Under the existing Section 5 of 54-416, which is to be readopted by Senate Bill 113, and therefore later in time, the trustees of a district may accept a pupil from another district under a written permit; however, if they accept the pupil without such a permit the A.D.A. allowance remains in the district of residence.

Under the general rule of statutory construction, *expressio unius est exclusio alterius* - "the mention of one thing implies the exclusion of another" - this section has been interpreted to mean that if a pupil is sent and accepted under a permit the A.D.A. goes with such pupil to the receiving district. This is, of course, in conflict with Section 54-616 as adopted by both the Senate and the House, since the sending district, under 54-616, at all times retains the A.D.A. payment, subject, of course, to a transfer of funds between districts if nonresident tuition is charged.

In summary, therefore, it appears that your readoption of the entire section 54-616 might give authority to the trustees of the receiving district to keep the A.D.A. payments of any student coming to such district under a certificate of educational convenience, which is contrary to the section in House Bill 11 as previously adopted.

Trusting the above fully answers your inquiry, we remain,

Yours very truly,

FRED O. WILSON
Attorney General

JOSEPH PYLE RALSTON
Assistant Attorney General

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