

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

April 5, 1955
Opinion No. 55-34

REQUESTED BY: C. L. Harkins, Superintendent of
Public Instruction
Capitol Building, Phoenix, Arizona

OPINION BY: ROBERT MORRISON, The Attorney General
Gordon Aldrich, Special Assistant
Attorney General

QUESTION: Can the Board of Trustees of school
districts employ the services of a
private certified public accountant
to make an official audit of the school
districts' budgets and related finan-
cial activities and pay for these ser-
vices from budgets school funds,
raised by taxation?

CONCLUSION: Yes.

The later expression of the powers and duties of the Board of Trustees of school districts is contained in the 1954 supplement, to the Arizona Code Annotated, 1939, Section 54-416, Chapter 117, Section 2, Laws of 1954. Subdivision 3 of this section states:

"The Board shall manage and control the school property within their districts; * * *")

Insofar as an audit is concerned, there is no manner, means, or mode prescribed by the statutes, and therefore, there is no measure of the power in this particular regard. In order to give a common, sensible, businesslike interpretation to the power to manage and control the ordinary every-day meaning and sense of such power and control should be employed. Control cannot be properly exercised without knowledge of the thing to be controlled, and, of course, an audit is a means of obtaining such knowledge.

Courts will not interfere with the exercise of discretion of school trustees in matters confined by law to their judgment, unless there is a clear abuse of discretion or violation of law. The presumption is in favor of the proper exercise of power, when its object is reasonably germane to the act. In such cases, objectors have no remedy but injunction or otherwise, whether or not the results are good or bad. 42 Am Jur, Section 44.

Mr. C. L. Harkins
Superintendent of Public Instruction

April 5, 1955
Page Two

Unquestionably, a school district has the power to employ bookkeepers, and certainly, good business practice requires that the bookkeeping be subjected periodically to an audit. This is wisdom in the affairs of business, and certainly, no less so in the matter of handling public money. The power to employ is the power to compensate. 29 SW 2d 268, citing RCL and 26 P2d 588.

The discretion of school trustees has been exercised to a greater or lesser degree under statutes similar to ours, and where no specific grant was given in the following cases:

- 120 P2d 665;
- 26 So 2d 180 (Teachers' home, athletic fields, bus sheds);
- 175 Atl 219 (A census, convention attendance of school officers, outside office rent for school superintendent);
- 265 NW 54 (truant officers and director of recreation allowed to attend convention; an attorney was hired and compensated);
- 201 SW 2d 930 (boiler inspection);
- 47 P2d 624, 100 ALR 581, "Care and manage" held to include the power to insure buildings;
- See 86 ALR for discussion.

It has been pointed out to this office that the State Examiner recently audited the books of the Pima County school districts for the first time in some fifteen years. The office of the State Examiner is created by the Arizona Constitution, Article 22, Section 18, which provides that the Examiner shall examine the books of such public officers as may be prescribed by law, and that apparently, in pursuance of such constitutional authorization, the statutes, Section 6-101 and related provisions, provide for a uniform system of bookkeeping and for an annual audit. The specific powers given the State Examiner in ACA, 1939, Section 6-102, refer to "county officers", and, under the provision for the duties of the officers in this concern, ACA, 1939, Section 6-103, refers to "all county and precinct officers".

The question, therefore, arises as to whether or not the State Examiner is given the express duty of auditing the books, accounts, and related financial activities of school districts. It has been held that a common school district is not a precinct. 33 Words and Phrases, Page 225.

Under the Constitution and the statutes of the State of Arizona, the State Examiner is not given any express authority to audit the accounts of school districts, and such authority need not neces-

Mr. C. L. Harkins
Superintendent of Public Instruction

April 5, 1955
Page Three

sarily be implied. The books and accounts of school districts are subject to review by the State Examiner, in that the State Examiner is given express authority to examine the books and accounts of the County School Superintendent.

It is, therefore, our conclusion that the Board of Trustees of school districts may employ the services of private public accountants to make official audits of school district budgets and related financial activities, and that these services may be paid for from school funds raised by taxation.

Very truly yours

ROBERT MORRISON
The Attorney General

Gordon Aldrich
GORDON ALDRICH
Special Assistant
Attorney General

GA:llm

55-34