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DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

BRUCE E. BABBITT
ATTORNEY GENERAL

April 29, 1977

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ARIZONA ATTORNEY GENERAL

Re: 77-93 (R77-161)

Mr. John George
Associate Superintendent
Arizona Department of Education
1535 West Jefferson
Phoenix, Arizona 85007

Dear Mr. George:

I have received your April 13, 1977 letter concerning Attorney General Opinion No. 77-76 (R77-97), asking whether Johnson-O'Malley funds are required to be supplemental, based upon an additionally disclosed fact that the Johnson-O'Malley funds available from the Papago Tribe are basic support funds, rather than supplemental. As a general proposition, Johnson-O'Malley funds must be used for supplemental purposes, as detailed in Attorney General Opinion No. 77-76. Also, see 25 C.F.R. §§ 273.13 and 273.31, generally requiring Johnson-O'Malley funds to be supplemental. There is one exception which may prove beneficial to you:

(C) The commissioner may make exceptions to the provisions . . . [requiring Johnson-O'Malley funds to be supplemental] of this section based upon a special cultural, linguistic, social or educational need of the communities involved, including the actual cost of education in the community.

25 C.F.R. § 273.31.

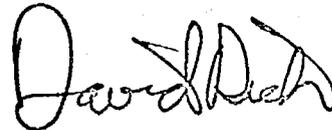
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If the Commissioner of the Bureau of Indian Affairs or the Commissioner's designee approves a contract allowing the use of Johnson-O'Malley funds for operational support purposes, they may be used for basic school purposes, as opposed to supplemental purposes.

If you have any further questions, please call me.

Sincerely,

BRUCE E. BABBITT
Attorney General



DAVID RICH
Assistant Attorney General

DR:jrs

cc: The Honorable Burton Barr
Mr. Curtis Geogamah
Mr. Ray Ramirez