

Wright



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

BRUCE E. BABBITT  
ATTORNEY GENERAL

July 5, 1977

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**ARIZONA ATTORNEY GENERAL**

Mrs. Carolyn Warner, Superintendent  
Arizona Department of Education  
1535 West Jefferson  
Phoenix, Arizona 85007

Re: 77-140 (R77-147)

Dear Mrs. Warner:

I have reviewed your April 11, 1977 letter asking whether four categories of payments can be made by the Department of Education to private residential special education facilities.

The Department of Education has the authority, in limited circumstances, to pay a private special education facility for the education of a child who was discharged prior to the submission of a voucher, but after an evaluation had determined that the child was appropriately placed. A.R.S. § 15-1020.03.A states:

An application for a voucher pursuant to this article shall not be approved unless the person has been educationally evaluated and recommended for placement in accordance, as nearly as practicable, with the conditions and standards prescribed by the director of the division of special education.

Where a child was placed prior to evaluation, but in accordance with procedures in existence prior to the effective date of A.R.S. § 15-1019, et seq., it would not be "practicable" to require an evaluation prior to placement, since it would be impossible. Therefore, where the placement was found to be proper after evaluation, the division of special education can approve the voucher application, even if the child had been discharged on the date the voucher application was received by the division of special education.

Where a child is found, after evaluation, to have been inappropriately placed, the Department of Education cannot approve a voucher application because the recommendation for placement was improper, and therefore contrary to the requirements of A.R.S. § 15-1020.3.A.

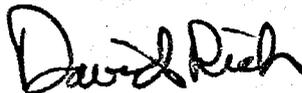
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The education of those children who were discharged prior to evaluation cannot be paid for by the Department of Education:

An application for a voucher pursuant to this article shall not be approved unless the person has been educationally evaluated and recommended for placement. . . . (Emphasis supplied.) A.R.S. § 15-1020.03.A.

If you have any questions, please call me.

Sincerely,  
BRUCE E. BABBITT  
Attorney General



David Rich  
Assistant Attorney General

DR:jrs