



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin
August 9, 1979

The Honorable Jay V. Flake
Navajo County Attorney
Navajo County Governmental Center
Holbrook, AZ 86025

LAW LIBRARY ARIZONA ATTORNEY GENERAL

Re: I79-210 (R79-212)

Dear Mr. Flake:

We have reviewed your opinion dated July 16, 1979, to Mr. B. G. Bennett, Superintendent of Joseph City Unified Schools, and concur with your conclusion that, under certain circumstances, school district employees may be paid prior to their regular payday at the commencement of a holiday period where the employees have completed all necessary labor entitling them to payment.

With respect to that portion of your opinion dealing with the authority of the county school superintendent to refuse to draw warrants on the vouchers of school districts for payment of salaries prior to a regular payday, we find that the Superintendent has a statutory duty to draw warrants pursuant to A.R.S. § 11-514 provided there are sufficient funds available, the expenditure is provided for in the district budget, and the district has complied with A.R.S. § 11-515. See also Ariz. Atty.Gen.Op. No. 57-113 and No. I79-191. A.R.S. § 11-514 does not set a time period within which a warrant must be drawn following receipt of a school district voucher; therefore, we must read the statute to require a reasonable period of time. See, e.g., City of Phoenix v. Superior Court, 101 Ariz. 265, 419 P.2d 49 (1966). We are without sufficient information to determine whether changing the regular date for issuance of payroll vouchers would enable a county school superintendent to draw warrants in time to meet an earlier date. We therefore decline to express an opinion on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

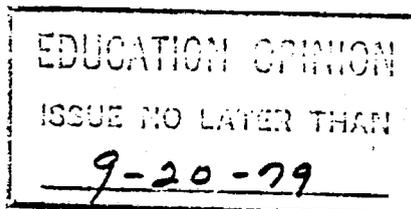
BOB CORBIN
Attorney General

NAVAJO COUNTY ATTORNEY

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WARNER G. LEPPIN
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July 16, 1979

THOMAS L. WING
DEPUTY
MICHAEL G. PROST
DEPUTY



Mr. B. G. Bennett, Superintendent
Joseph City Unified School District
P.O. Box 8
Joseph City, Arizona 86032

R79- 212

Dear Mr. Bennett:

In reply to your letter of June 14, 1979, I would make the following observations:

1. One of the obvious purposes of A.R.S. §23-351 is to assure public employees of regular set dates on which they can be assured of receiving compensation for their labors.
2. Compensation cannot be paid prior to labor being preformed. Under no circumstances could advance payment of wages be made.
3. I can see nothing illegal about the payment of teachers at the commencement of a holiday period for wages which will become due during the holiday. This would be wages for which the teacher had completed all necessary labor and for which they have no further obligation to the school district. In other words, it is not unlawful for a teacher to be paid at the commencement of the Christmas vacation for a pay day which will come due later during the vacation period. This does make the paydays more than 16 days apart as mentioned in A.R.S. §23-251, but I feel that the intent of the statute is to assure the employee of regular paydays, and in this case the teacher would be paid ahead of schedule which would alleviate any problem of the 16 day period.
4. Even though it is permissible for the teacher to be paid at the commencement of a vacation period, the county school superintendent could not be forced or required to make such payment. The school superintendent may have a legitimate reason for not making the early payment, such as not having the funds available. Therefore, it becomes a discretionary matter with the county school superintendent.

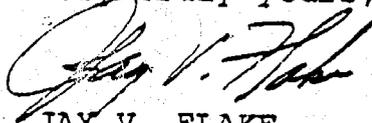
I hope this satisfactorily answers your questions. I am for-

Mr. B. G. Bennett
July 16, 1979

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warding a copy of this letter of opinion to the Attorney General's
Office for review and if they so desire their concurrence or revision.

Very truly yours,



JAY V. FLAKE
NAVAJO COUNTY ATTORNEY

R79- 212

cc: Attorney Generals Office
Stewart Mineke

JVFmw

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