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Robert R. Corbin

September 28, 1979

The Honorable John T. Mawhinney  
Arizona State Senator  
Senate Wing, State Capitol  
Phoenix, AZ 85007

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**ARIZONA ATTORNEY GENERAL**  
(R79-200)

RE: I79-242

Dear Senator Mawhinney:

Your letter of July 3, 1979 requested our opinion on the following questions:

1. Does the language in A.R.S. § 41-1279.21, wherein the Auditor General is charged with "conducting or causing to conduct annual post audits for all school districts", authorize the use of outside commercial auditors for school district audits?
2. If so, can the Auditor General's office require the school district to pay for such audits?
3. Does the failure of the Auditor General's office to conduct, or cause to be conducted, such required annual audits constitute an offense as stipulated in A.R.S. § 41-1279.22.D?

A.R.S. § 41-1279.21.1 provides that, in addition to other powers and duties prescribed by law, the Auditor General shall:

1. Conduct or cause to be conducted annual post audits of all financial transactions and accounts kept by or for all counties, school districts, precinct officers and all funds provided for the purpose of education in the state.  
(Emphasis added.)

The phrase "conduct or cause to be conducted" gives the Auditor General a choice between actually conducting the audit and setting in motion the means by which the audit can be conducted. Choosing the latter course of action would require outside assistance. Thus, the phrase "cause to be conducted" does authorize the Auditor General to use assistance, including outside commercial auditors, in conducting annual school district audits. 1

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1. Moreover, the general powers and duties of the Auditor General are set forth in Article 10, wherein A.R.S. § 41-1279.02 grants him the additional authority to hire additional personnel.

Your second question asks whether the Auditor General may require each audited school district to pay for the audit if it is performed by an outside commercial auditor. A.R.S. § 41-1279.21.1 imposes the statutory duty to conduct annual post audits of school districts upon the Auditor General. If he contracts with outside auditors to perform his duties under A.R.S. § 41-1279.21.1, it is his responsibility to compensate the assisting individuals, firms, etc. Therefore, he may not require a school district to pay for the audit.<sup>2/</sup>

Your third question asks whether the failure of the Auditor General's office to "conduct or cause to be conducted" the required annual school district audits constitutes an offense under A.R.S. § 41-1279.22.D. A.R.S. § 41-1279.22 addresses, inter alia, the duties of local officers to make county, school district and precinct records available to the Auditor General and the consequences of their failure to do so. It does not address the failure of the Auditor General to perform his statutory duties.<sup>3/</sup>

Sincerely,



BOB CORBIN  
Attorney General

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2. The Auditor General can contract for auditing services only if sufficient funds are available in his budget. When using outside professional services, the provision of A.R.S. § 41-1051 et seq. must be followed. If additional employees are desired, approval of the Joint Legislative Budget Committee is required pursuant to A.R.S. § 41-1279.02.

3. We note that the Auditor General serves at the pleasure of the Joint Legislative Budget Committee, which would be the body responsible for assessing his performance.