



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert E. Corbin

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October 19, 1984

Barry L. Griffing, Ed. D.
Superintendent
Arizona State School for the Deaf and the Blind
P.O. Box 5545
Tucson, Arizona 85703-0545

I84- 150 (R84-135)

Dear Dr. Griffing:

You have asked whether the Board of Directors of the Arizona State School for the Deaf and the Blind (Board) is authorized to borrow money for capital outlay building needs of the school.

A basic principle^{LG} of administrative law is that the powers and duties of an administrative agency are to be measured by the statutes creating it. Fund Manager, Public Safety Personnel Retirement System v. Tucson Police Public Safety Personnel Retirement System Board, 137 Ariz. 536, 540, 672 P.2d 201 (1983). See also Board of Regents v. City of Tempe, 88 Ariz. 299, 305-06, 356 P.2d 399 (1960). Nowhere among the express powers granted by the legislature to the Board do we find any authorization to borrow, mortgage, pledge or otherwise obligate any property. By contrast, we note that such authority is granted to the Arizona Board of Regents by A.R.S. § 15-1682.4 which allows that entity to borrow monies and issue bonds and to provide for their security and payment.

There are not any statutes relating generally to state

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agencies or public corporations^{1/} which expressly authorize such entities to borrow money. Moreover, the fact that the Board functions as "trustee of all donations of lands, monies or other things of value for the benefit of the school," does not in and of itself authorize the Board as trustees to borrow money or to mortgage or pledge trust property in the absence of any authority conferred by the trust instrument or by statute. See A.R.S. § 15-1323.B and Home Federal Savings and Loan Assn. of Hollywood v. Emile, 216 So.2d 443, 445 (Fla. 1968).

Any contention that authority to borrow monies to meet the needs of the school may be inferred from the Board's express powers to govern the school and to provide for its needs fails because alternative means have been provided to obtain funds necessary to satisfy those needs. A.R.S. § 15-1324 in part provides:

The Board shall prepare and file:

* * *

2. An estimate for the use of the legislature of appropriations necessary for the support of and for needed improvements to the school

We therefore conclude that the Board has no power to borrow ^{MONIES} monies to meet the needs of the school.

Sincerely,



BOB CORBIN
Attorney General

BC:WJW:mch

1. The fact that the school is a public corporation is immaterial since there are no statutes which authorize a public corporation to borrow, mortgage, pledge or otherwise obligate any property merely by virtue of being a "public corporation."