

September 15, 2000

To: The Honorable Jane Dee Hull , Governor
The Honorable Betsey Bayless, Secretary of State
The Honorable Brenda Burns, President of the Senate
The Honorable Jeff Groscost, Speaker of the House of Representatives
The Honorable Lisa Graham Keegan, Superintendent of Public Instruction
The Honorable Jack Brown, Minority Leader, State Senate
The Honorable Bob McLendon, Minority Leader House of Representatives
Charmion Billington, Senate Secretary
Norm Moore, House Chief Clerk
The Honorable Jean Hough McGrath, Arizona State Representative

Re: School District Expenditures for Membership Duties
I00-022
(R00-021)

Questions Presented

You have asked: (1) whether school boards have statutory authority to use public funds to pay for district administrators or board members to join private civic organizations; and (2) whether Article IX, § 7 of the Arizona Constitution ("the Gift Clause") permits such payments.

Summary Answers

The Legislature has not authorized school districts to pay dues for district employees and board members to join private civic organizations. Because of the lack of statutory authority for these expenditures, this Opinion does not address your second question concerning the constitutionality of such expenditures.

Background

School districts have "only such powers as are granted to them by the [L]egislature." *Tucson Unified Sch. Dist. No. 1 v. Tucson Educ. Ass'n*, 155 Ariz. 441, 442, 747 P.2d 602, 603 (App. 1987). A school board "can exercise only those powers which are expressly or impliedly granted." *Id.* at 443, 747 P.2d at 604. The Legislature has set out the responsibilities of school boards including, for example, constructing, improving and furnishing school buildings, insuring school property, prescribing curriculum, acquiring "school furniture, apparatus, equipment, library books and supplies," and hiring and supervising necessary personnel. See A.R.S. § 15-341. The Legislature has provided that school boards "shall . . . [u]se school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district." A.R.S. § 15-341. Another statute describes what the school board "may" do, such as, for example, expel students for misconduct, provide transportation, provide housing for teachers in rural areas, and "annually budget and expend monies for membership in an association of school districts in this State." A.R.S. § 15-342. These statutes describe and limit school districts' expenditures of public funds. In addition to the requirements set forth by statute, all expenditures of public funds must comply with the Gift

Clause of the Arizona Constitution. See Ariz. Const. art. IX, § 7.

You have asked about the authority of school districts to pay membership dues for non-school-related civic organizations, which your opinion request defined as groups such as the Chamber of Commerce, Kiwanis, or Rotary Club.

Analysis

School boards may expend funds for a particular purpose if they have express or implied legislative authority to do so. See *Tucson Unified Sch. Dist.*, 155 Ariz. at 443, 747 P.2d at 604.

The only mention of membership dues in the statutes governing schools is the authorization for districts to pay dues "for membership in an association of school districts within this state." A.R.S. § 15-342(8). Thus, the Legislature has not expressly authorized districts to pay membership fees in private civic organizations, such as those mentioned in your opinion request.

There is also no implied authority. "Contingent expenses of the district" under A.R.S. § 15-341(A)(18) must relate to action "expressly authorized in the statute." *Campbell v. Harris*, 131 Ariz. 109, 112, 638 P.2d 1355, 1358 (App. 1981) (school board lacked authority to pay for private counsel to defend person's right to serve on school board). The statutes concerning the authority of school district governing boards focus on the districts' responsibility to educate children. See generally A.R.S. §§15-341, -342. As the Arizona Supreme Court has noted:

School districts are created by the state for the sole purpose of promoting the education of the youth of the state. All their powers are given them and all the property which they own is held by them in trust for the same purpose, and any contract of any nature they may enter into, which shows on its face that it is not meant for the educational advancement of the youth of the district but for some other purpose, no matter how worthy in its nature is *ultra vires* and void.

Prescott Community Hosp. Comm'n v. Prescott Sch. Dist. No. 1, 57 Ariz. 492, 494, 115 P.2d 160, 161 (1941). Although not expressly authorized by statute, dues for organizations that directly concern education or aspects of managing a public school district may be justified to the extent they enhance the district's ability to fulfill its statutory responsibilities. However, the connection between membership dues for private civic organizations with a more general purpose (such as the Chamber of Commerce, Kiwanis, and Rotary Clubs you identified in your opinion request) and a district's statutory responsibilities for educating children is too attenuated to conclude the Legislature impliedly authorized those expenditures.

Thus, there is no express or implied statutory authority for school districts to pay for dues to private civic organizations.⁽¹⁾

Conclusion

School boards generally lack the statutory authority to expend funds for the membership fees in private organizations for employees and board members.

Janet Napolitano
Attorney General

1. This Opinion does not address whether membership dues in local civic organizations could be considered a fringe benefit

that may be included in a district employee's contract. *See* A.R.S. § 15-502(A).

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