

**To: Susan Plimpton Segal
Executive Director, Legal Services
Deer Valley Unified School District No. 97**

July 24, 2001

**Re: School District Discretion Regarding
Teacher Base Salary Increases from
Classroom Site Fund
I01-017 (R01-029)**

Pursuant to Arizona Revised Statutes ("A.R.S.") § 15-253(B), you submitted for review an opinion you prepared for the Superintendent of Deer Valley Unified School District No. 97 regarding teacher base salary increases from the Classroom Site Fund ("CSF") established by A.R.S. § 15-977. This Office concurs with your conclusion and issues this Opinion to provide guidance to other school districts and charter schools on this issue.

Questions Presented

You have asked (1) whether the portion of money in the CSF to be used for teacher base salary increases must be distributed to all eligible teachers and, if so, (2) whether that money must be distributed in equal amounts.

Summary Answer

Under A.R.S. § 15-977(A), school districts and charter schools must use twenty percent of the monies in the CSF for "teacher base salary increases and employment related expenses." Districts and charter schools have discretion with respect to which teachers receive a base salary increase and in what amount.

Background

In June of 2000, the Legislature approved S.B. 1007 which created the CSF and made other changes intended to improve public schools in Arizona. See 2000 Ariz. Sess Laws, 5th Spec. Sess. ch. 1. The measure became effective after the voters approved Proposition 301 at the 2000 general election.

The Department of Education administers and allocates CSF funds to school districts and charter schools. A.R.S. § 15-977(A). Districts and charter schools receiving CSF funds must then spend the money at school sites according to the following statutory requirements:

.40% of the funds must be used "for teacher compensation increases based on performance";

.40% of the funds must be used "for maintenance and operations purposes" which are defined in A.R.S. § 15-977(C) to include: class size reduction, teacher compensation increases, AIMS intervention programs, teacher development, dropout prevention programs, and teacher liability insurance premiums; and

.20% of the funds must be used "for teacher base salary increases and employment related expenses." *Id.*

This Office has previously addressed the discretion of school districts and charter schools with

regard to the teacher compensation increases based on performance and the expenditures for maintenance and operations purposes. See Ariz. Att'y Gen. Op. I01-007. This Office also determined that the term "teacher" in the CSF includes not only traditional classroom teachers, but also other school employees who "provide instruction to students on matters related to the school's educational mission." Ariz. Att'y Gen. Op. I01-014.

Analysis

The pertinent statute states: "Each school district or charter school shall allocate . . . twenty percent of the monies [in the CSF] for teacher base salary increases and employment related expenses." A.R.S. § 15-977(A). The issue is whether this provision requires school districts and charter schools to give salary increases to all teachers in the same amounts, or if school districts and charter schools have discretion in determining base salary increases.

The central principle in statutory interpretation is to ascertain the intent of the Legislature by following the plain meaning of the statute's language. *Peck v. Bd. of Educ. of Yuma Union High Sch. Dist.*, 126 Ariz. 113, 115, 612 P.2d 1076, 1078 (App. 1980). The plain language of A.R.S. § 15-977 limits the base salary increase to "teachers" but does not expressly require that *all* teachers receive an increase or that all teachers receive the same increase. Consequently, although 20% of the CSF must be spent for "teacher base salary increases and employment related expenses," the allocation of such monies among teachers is left to the discretion of governing boards of school districts and charter schools. A.R.S. § 15-977(A).

The discretion local governing boards have when allocating base salary increases from the CSF is consistent with the discretion boards generally have to determine salaries and benefits of employees. See A.R.S. § 15-502(A) (governing boards establish employee salaries and fringe benefits). It is also consistent with the discretion governing boards have under A.R.S. § 15-977 to allocate the increases to teachers based on performance and the monies dedicated to other maintenance and operations purposes. See Ariz. Att'y Gen. Op. I01-007.

A comparison of the language in A.R.S. § 15-977(A) with language in recent legislation allocating State employee pay increases supports the conclusion that schools have discretion with regard to the base salary increases for teachers under A.R.S. § 15-977. The legislation for State employees specifically directed that "[t]he department of administration shall allocate to each agency or department an amount sufficient to increase the annual salary level of *each* employee by the greater of \$1,500 or five per cent . . ." 2001 Ariz. Sess. Laws, ch. 236 § 109 (emphasis added). In contrast, A.R.S. § 15-977 does not require that the base salary increase be given to *each* teacher. Similarly, §15-977 does not require that the base salary increase be given in equal amounts across the board.

Conclusion

School governing boards and charter schools have discretion under A.R.S. § 15-977(A) in deciding to whom and in what proportion to distribute base salary increases.

Janet Napolitano
Attorney General

1. This Opinion analyzes the impact of SB 1525 on school districts. It does not analyze the legislation's impact on other types of schools, such as private schools, that may be subject to different legal requirements.
2. All statutes cited herein include the amendments in 2001 Ariz. Sess. Laws ch. 23 (SB 1525).

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