



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

April 25, 1962

Mr. W. W. Jackson  
Chairman  
State Board of Education  
Austin, Texas

Opinion No. WW-1321

Re: Whether the State Board of Education has the authority to establish and pay salary supplementations from certain special funds to personnel in positions not classified under the provisions of H. B. 189, Acts of the 57th Legislature.

Dear Mr. Jackson:

You have requested an opinion from this office upon the question of:

" . . . does the State Board of Education have the authority to establish and pay a supplementation to the salaries of the Commissioner of Education, Deputy Commissioner of Education and certain of the Assistant Commissioners of Education from Federal Funds received by the State Board of Education under the Vocational Education Act of 1946, Public Law 586, 79th Congress, and the National Defense Education Act, Public Law 85-864, Titles III, V, and X when the contract under which each of these funds are paid to the State Board of Education specifically provide for the supplementation of salaries?"

House Bill 468, Acts of the 57th Legislature, Regular Session, 1961, Chapter 468, page 1052, codified as Article 2654-3b, Vernon's Civil Statutes, provides in Section 5 thereof that:

"The State Board of Education shall be responsible for maintaining State programs and activities designed to bring about improvement in the public schools. In discharging this responsibility, the Board is authorized to enter into contracts for grants from both public and private organizations and to expend such funds for the specific purposes and in accordance with the terms of the contract with the contracting agency." (Emphasis added)

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Senate Bill 1, Acts of the 57th Legislature, First Called Session, 1961, the General Appropriations Bill, provides in Article IV in the departmental appropriation to the Central Education Agency that:

"The proper officer or officers of the Central Education Agency are hereby authorized to make application for and accept any other gifts, grants or allotments from the United States Government or other sources to be used on cooperative and other projects and programs in Texas. Any such Federal and other funds as may be deposited in the State Treasury are hereby appropriated to the specific purposes authorized by the Federal Government and other contracting organizations, and the State Board of Education is authorized to expend these funds in accordance with the terms of the contract with the contracting agent." (Emphasis added)

Your letter states that contracts with the Federal Government which govern the expenditure of Federal funds in such areas as Vocational Education, Guidance and Testing, Improving Instruction in Mathematics, Science and Modern Languages and for the Improvement of Statistical Services contain specific provisions for the payment of supplementations to salaries in such amounts as are authorized by the State Board of Education. Illustrative of this point is the provision in the contract between the United States Government and the Texas Central Education Agency pertaining to the State Plan for the Strengthening of Instruction in Science, Mathematics and Foreign Languages pursuant to the National Defense Education Act, Public Law 85-804, Sections 301-304, Title III, 85th Congress, which provides that:

"2.4 Identifying and Prorating Expenses

Salary payments and the supplementation of salaries will be in such amounts as are determined by the State Board of Education. . . ." (Emphasis added)

In view of the provisions of Section 5 of Article 2654-3b and Senate Bill 1, we are of the opinion that the Legislature intended for the funds received by the Central Education Agency, from such sources as public or private organizations, to be expended in the manner and for the reasons set forth in the contracts entered into between the Central Education Agency and the public or private organization granting such funds. When such contracts have provisions allowing the funds to be used

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for the supplementation of salaries, such as in the previous illustration, we are of the opinion that the State Board of Education is authorized to use the granted funds for the supplementation of salaries.

Supplementation of salaries under similar conditions has been upheld by this office in Attorney General Opinion No. 0-3879 (1941), pertaining to the Department of Public Welfare, and Attorney General Opinion No. 0-6735 (1945), pertaining to the State Commission for the Blind.

S U M M A R Y

Pursuant to Article 2654-3b and Senate Bill 1, supplementation of salaries from funds granted to the Central Education Agency from public and private organizations is authorized when the contracts between the Central Education Agency and the public or private organizations granting such funds provide that such funds may be used for supplementation of salaries.

Yours very truly,

WILL WILSON  
Attorney General of Texas

*Pat Bailey*

By: Pat Bailey  
Assistant

PB:wb:mkh

APPROVED:  
OPINION COMMITTEE

J. C. Davis, Chairman  
Jay Howell  
W. O. Shultz  
Charles Lind  
John Hofmann

REVIEWED FOR THE ATTORNEY GENERAL  
BY: Houghton Brownlee, Jr.