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OPINION COMMITTEE

William Daugherty, Superintendent

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T S B V I

A center for educational services for all blind and visually impaired students in Texas

July 18, 2012

Office of the Attorney General
Opinion Committee
209 W. 14th Street
Austin, Texas 78711

FILE # ML-47103-12
I.D. # 47103

RQ-1074-GA

Re: Request for Opinion

As Board President of Texas School for the Blind and Visually Impaired (TSBVI), a state agency located in Austin, I formally request an opinion from the Texas State Office of the Attorney General regarding the authority for determining the salary level for the Superintendent of the School.

The presenting issue is that there are two sites that describe how the salary rate may be determined that appear to be in contradiction. The first is stated in Texas Education Code 30.023(d) in the enabling legislation for Texas School for the Blind and Visually Impaired:

“The board shall annually establish the superintendent’s salary. The annual salary may not exceed 120 percent of the annual salary of the highest paid instructional administrator at the school”.

The second more recent language is found in the General Appropriations Act for the 2012-13 biennium, Eighty-second Texas Legislature, Regular Session 2011. During the last legislative session, TSBVI’s board requested and was granted the authority to set the superintendent’s salary beyond the maximum set under the “Schedule of Exempt Positions” but within the full range of salary Group 4 with the approval of the Governor and the Legislative Budget Board. This authority is found in the General Appropriations Act, Article IX, Section 3.05(c)(1) and (c)(6):

“Notwithstanding the rate listed in an agency’s “Schedule of Exempt Positions”, an agency whose exempt position listed following the agency’s appropriations in the “Schedule of Exempt Positions” is listed in Subsection (c)(6) may request to set the rate of compensation provided for the agency’s respective exempt position at an amount not to exceed the “Maximum Salary” but not less than the “Minimum Salary” for the appropriate group as listed in Subsection (b)(2).

BOARD OF TRUSTEES:

Parents of Persons with Visual Impairments:
Mary K. Alexander, Valley View
Caroline Daley, Kingwood
Michelle Goodwin, Fort Worth

Consumers with Visual Impairments:
Cynthia Finley, Lubbock
Michael Garrett, Missouri City
Joseph Muniz, President, Harlingen

Persons Working with the Visually Impaired:
Gene Brooks, Austin
Anne Corn, Austin
Bobby Druessedow, Jr., Aledo

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Superintendent (512)206-9453
Admissions (512)206-9148

Agency

(J) School for the Blind and Visually Impaired Superintendent Group 4"

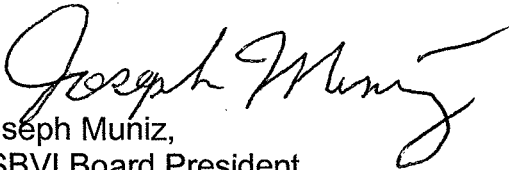
The request to set the rate of compensation must be sent by the governing board to the Legislative Budget Board and the Governor's Office for approval.

The contradiction lies in the fact that the Texas Education Code language limits the salary rate to well below the full range of salary Group 4 as stated in the appropriations bill.

The TSBVI Board of Trustees, as one of its annual duties, sets the salary rate for the Superintendent. I respectfully ask for your interpretation of whether the language found in the more recent Appropriations Act supercedes the language in Texas Education Code.

I look forward to your answer and am available for any questions you might have. I want to waive the section 402.042(c) requirements for the submission of this request by certified mail, return receipt requested.

Sincerely,



Joseph Muniz,
TSBVI Board President
(956) 490-8530