



THE TEXAS HOUSE OF REPRESENTATIVES

FRED HILL

CHAIRMAN, COMMITTEE ON URBAN AFFAIRS

RO-735

Ms. Sarah Shirley
Chair, Opinion Committee
Office of the Attorney General
PO Box 12548
Austin, Texas 78711-2548

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August 24, 1994

Opinion Committee

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Dear Ms. Shirley,

In my capacity as chair of the House Committee on Urban Affairs, the Board of Trustees for the Mesquite Independent School District has asked me to request an opinion from your committee.

The Mesquite Education Association (MEA) is a professional organization composed of the employees of the Mesquite Independent School District (MISD), and is affiliated with and is a local unit of the Association of Texas Professional Educators. Pursuant to §13.901 of the Texas Education Code, MISD has entered into a Professional Consultation Agreement with the MEA that allows the MEA and MISD to work together in developing education policies and communication procedures for the district. As stated in the Professional Consultation Agreement, the areas for consultation between MEA and MISD include: curriculum, personnel policies, inservice education, salaries, contracts, dismissal procedures, leaves of absence, and other matters mutually agreed upon by the MEA and MISD.

Under the consultation agreement, MISD has delegated certain duties to the MEA which, if not performed by the MEA, would be performed by MISD. These duties are performed by the president of the MEA, who is an employee of MISD. To facilitate and provide for the performance of these duties, MISD:

1. Provides an office located in MISD buildings for the MEA president to use in performance of his duties;
2. Permits the MEA president to spend one-half of each work day performing the duties required under the consultation agreement; and
3. Provides a secretary one-half of each work day to assist the MEA president in accomplishing these duties.

MISD also provides office machines and equipment, and office supplies for the MEA president's

use in performing his MISD-related duties.

The MEA president and his secretary are paid full salaries by MISD and are subject to MISD supervision with regard to absences, sick leave and travel from their assigned office while performing their duties for MISD.

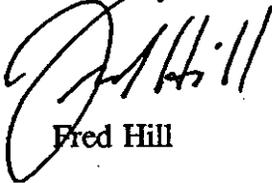
While the MEA maintains a political action committee as one of its standing committees, the functions of this committee, as well as all other MEA business not referred to in this request, are required to be performed after school hours and away from school property. Violations of this requirement coming to the knowledge of MISD administrative personnel have been isolated, and have been dealt with and terminated immediately.

An MISD resident has written the Board of Trustees complaining of the practices described in this letter, stating that he believes these practices are unconstitutional. Consequently, the Board is seeking an Attorney General's opinion regarding the following:

1. Is it a violation of the Texas Constitution for an Independent School District to allow paid time off for an officer of an employee organization to perform the duties of that organization? Presently, MISD allows the MEA president one-half of each working day with pay to perform the duties of the president of the employee organization (MEA).
2. Is it a violation of the Texas Constitution for an ISD to hire and pay the salary for the secretary of an employee organization? Presently, MISD employs a secretary for the MEA. The secretary works one-half day performing the duties of an MISD secretary, and the other half day performing the duties of the MEA secretary.
3. Is it a violation of the Texas Constitution for an ISD to supply an employee organization with: an office, office supplies, furnishings, technology and printing at no cost to the employee organization? Presently, MISD provides all of these items at no charge to the MEA.

Please feel free to contact my office should you need more information or have any questions. As always, thank you for your prompt attention to this matter.

Sincerely,



Fred Hill

FH/mm