

**OPINION NO. 83-076****Syllabus:**

A board of education may contract for consultant services for any purpose related to the duties imposed upon the school district by R.C. Chapter 4123.

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**To: Anthony G. Pizza, Lucas County Prosecuting Attorney, Toledo, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 2, 1983**

I have before me your opinion request in which you ask whether a board of education has the authority to enter into a contract with a private organization for an audit of the cost of workers' compensation claims and workers' compensation insurance charged to the district. You also ask about the source of funds to pay such consultant. It is my understanding, however, that the source of funds is no longer part of your concern.

It is well settled that a board of education, as a creature of statute, has only those powers expressly granted by statute or necessarily implied therefrom. See Schwing v. McClure, 120 Ohio St. 335, 166 N.E. 230 (1929); State ex rel. Clarke v. Cook, 103 Ohio St. 465, 134 N.E. 655 (1921).

In 1962 Op. Att'y Gen. No. 2837, p. 130, one of my predecessors considered the question you ask and concluded that R.C. 3313.17, 3313.37, and 3313.47 did not authorize a board of education to employ a private consulting organization to audit workers' compensation insurance costs charged to the school district. Since issuance of that opinion, however, R.C. 3313.171 was enacted. Concerning the expenditure of funds for consultant services, R.C. 3313.171 states:

A board of education may expend funds for consultant services for any purpose related to the business administration of the school district, and this authority is in addition to any power, expressed or implied, granted to a board of education by statute or otherwise prior to September 24, 1963.

Thus, a board of education may expend funds for consultant services, so long as the expenditure is for a purpose related to the business administration of the school district. Whether a school board may expend funds for a consultant to audit the cost of workers' compensation claims and insurance for the school district, therefore, depends upon whether such function is part of the business administration of the district.

R.C. Chapter 4123 imposes upon entities defined as employers, including school districts, R.C. 4123.01(B)(1), certain duties with respect to the provision of workers' compensation. See, e.g., R.C. 4123.24 (employer to keep payroll records); R.C. 4123.26 (employer to supply information to Industrial Commission); R.C. 4123.28 (employer to keep record of injuries and occupational diseases); R.C. 4123.38 (employer contribution to public insurance fund). Since boards of education are required by statute to provide certain information and make payments to the public insurance fund for purposes of workers' compensation, I believe that it is reasonable to conclude that services related to the maintenance and provision of such information and payments may be classified as part of the business administration of the school district. Your letter states that the consultant would audit the cost of workers' compensation claims and insurance charged to the district. So long as such service is related to the school district's duties with

regard to workers' compensation, I believe that R.C. 3313.171 authorizes the school board to expend funds to hire a consultant to perform such service.

Part of your question is whether a school board may contract with a consultant to perform the services about which you ask. R.C. 3313.17 states that: "The board of education of each school district shall be a body politic and corporate, and, as such, capable of suing and being sued, [and] contracting and being contracted with. . . ." As stated in 1962 Op. No. 2837, at 133, pursuant to R.C. 3313.17, "the power to contract is limited to those instances where the board has specific or implied authority to participate in the activity which is the subject of the contract." Since R.C. 3313.171 authorizes the board to expend funds for the services of a consultant, R.C. 3313.17 authorizes the board to obtain such services pursuant to contract.

Based on the foregoing, it is my opinion, and you are advised, that a board of education may contract for consultant services for any purpose related to the duties imposed upon the school district by R.C. Chapter 4123.