

AN INQUIRY INTO THE FINANCIAL AND
ADMINISTRATIVE RELATIONSHIP BETWEEN
SCHOOL ATTORNEYS, SCHOOL SUPERINTENDENTS,
AND BOARDS OF EDUCATION IN MICHIGAN

Thesis for the Degree of Ed. D.
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Harold Clive Wells

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This is to certify that the

thesis entitled

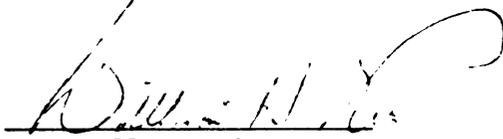
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presented by

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A THESIS

Submitted to the School of Advanced Graduate Studies of Michigan
State University of Agriculture and Applied Science
in partial fulfillment of the requirements
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Department of Administrative and Educational Services

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AN ABSTRACT

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The problem to which this study is addressed is the financial and administrative relationship between school attorneys, school superintendents, and boards of education in Michigan. The study critically analyzes the present conditions of employment of school attorneys in this state, ascertains problems deriving from the three-way relationship between counsel, superintendent and school board, and isolates criteria useful in establishing the school attorney as an integral part of the school administrative organization. The following questions have been selected as being the most important to be answered for the purposes of this study:

1. What are the elements of a successful relationship between the school attorney, board of education and superintendent?
2. What contractual or employment relationship do school boards have with school attorneys?
3. How much do school boards pay for legal services on bond issues?

A variety of methods were employed to secure data pertinent to the study. A questionnaire was sent to all school superintendents in Michigan. Case studies were made of ten randomly selected school districts in the state. The Michigan Municipal Finance Commission files were searched for data on legal fees in connection with bond issues. All of this data was secured in an effort to ascertain the present conditions of employment of both local legal counsel, who provide general legal assistance to school districts, and special bonding attorneys, who provide legal services in connection with bond issues.

A scale was needed with which to "measure" the present status of the attorney-superintendent-board of education administrative and financial relationship. This measuring scale was developed from a series of statements that were evaluated by a jury of experts. The evaluation of the statements resulted in criteria established by agreement of eleven men who have acknowledged expertness in the fields of school administration and school law.

The conclusions reached in this study in relation to the central questions and hypotheses are:

1. No accepted pattern for the establishment of the school attorney in the local school organizational plan existed in Michigan prior to this study.
2. Failure of Michigan school officials to pay careful attention to sound administrative procedures in the establishment of the attorney-superintendent-board relationship has created difficulties in that relationship in a significant number of school districts.
3. Criteria exist which can be isolated and applied to the problem of establishing an attorney in the organizational plan of local school districts on a sound basis. These criteria have been isolated in this study. Michigan school districts do not meet most of the criteria.
4. There is a tremendous disparity between Michigan school districts in the amount paid for comparable legal services in connection with school bond issues.

The most important implications of this research seem to be:

1. There is a need to impress upon school board members the necessity for qualified local legal counsel in their school districts.
2. There appears to be a great need for the adoption of administrative policies by school boards. The dearth of policies governing the relationship of the attorney to the board and superintendent is only one aspect of

this need for policies. A perhaps greater problem lies in the fundamental two-way relationship of board and superintendent. It is suggested that a third party cannot be successfully introduced into a relationship that is already inadequately defined.

3. School officials must be made aware of the tremendous disparity in fees paid to local legal counsel for bond issue services.
4. State Departments of Education should immediately give consideration to the experts' suggestion that they employ both special bonding attorneys and local legal counsel for assistance to school officials.

TABLE OF CONTENTS

	Page
LIST OF TABLES	v
LIST OF FIGURES	vii
Chapter	
I. INTRODUCTION AND STATEMENT OF THE PROBLEM	1
Statement of the Problem	3
Assumptions and Hypotheses Concerning the Study.	3
Procedural Steps and Methods	4
Limitations of the Study	6
Definition of Terms.	8
Organization of Remainder of Study	9
II. REVIEW OF THE LITERATURE	10
School Districts' Authority to Employ Counsel	10
The Importance of Special Bonding Attorneys	12
The Local Legal Counsel's Role in Bond Issue Proceedings	14
The Place of the Attorney in the School District Administrative Organization	26
Summary.	31

Chapter	Page
III. METHODOLOGY OF THE STUDY	33
The Questionnaire	33
The Development of Criteria	35
The Structured Interview Schedule	33
Municipal Finance Commission Data	44
Summary	47
IV. DEVELOPMENT OF CRITERIA	49
Special Bonding Attorneys	50
Local Legal Counsel	65
Summary	33
V. PRESENT METHODS OF SELECTION AND ADMINISTRATION OF SCHOOL ATTORNEYS	84
Analysis of Questionnaire Data	34
Analysis of Case Study Data	97
Municipal Finance Commission Data on Fees for Bond Issue Services	122
Summary	137
VI. CONCLUSIONS AND IMPLICATIONS FOR EDUCATIONAL LEADERS	141
Conclusions	142
Special Bonding Attorneys	142
Local Legal Counsel	143
Implications for Educational Leaders	159
BIBLIOGRAPHY	159

APPENDIX A: The Questionnaire	165
APPENDIX B: Verbatim Responses to Question Fifteen on the Questionnaire	170
APPENDIX C: Statements for Isolating Criteria Relative to School Attorneys	177
APPENDIX D: Jury of Experts	189
APPENDIX E: The Structured Interview Schedule	191
APPENDIX F: Tabular Data Pertaining to Case Study Districts	199

LIST OF TABLES

Table	Page
1. Number of Schools Returning Questionnaires by School Enrollment	34
2. Enrollment Groupings from which School Districts were Selected for Case Study	43
3. Summary of Background Information of Case Study School Districts and Interviewees	45
4. Analysis of Jury Rating of Statements for Isolating Criteria Relative to Special Bonding Attorneys	51
5. Analysis of Jury Rating of Statements for Isolating Criteria Relative to Local Counsel	56
6. Michigan Municipal Finance Commission Approved School Bond Issues from September, 1955 to November, 1956	124
7. Summary of Fees Paid for Legal Services on 243 School Bond Issues in Michigan by Size of Issue	130
8. Analysis of Fees Paid to Bonding Attorneys for Exclusive Services on Selected School Bond Issues in Michigan	132
9. Analysis of Fees Paid When Bonding Attorneys were Assisted by Local Legal Counsel on Selected School Bond Issues in Michigan	132
10. Analysis of Fees Paid When Local Legal Counsel were Assisted by Bonding Attorneys on Selected School Bond Issues in Michigan	134

Table	Page
11. Analysis of Fees Paid to Local Legal Counsel for Exclusive Services on Selected School Bond Issues in Michigan	134
12. Summary of Fees Paid for Legal Services on 283 School Bond Issues in Michigan by Type of Legal Service	136
13. Case Study Data Pertaining to the Financial Arrangements with Special Bonding Attorneys	200
14. Case Study Data Pertaining to Employment of Special Bonding Attorneys	201
15. Case Study Data Pertaining to the Financial Arrangements with Local Legal Counsel	203
16. Case Study Data Pertaining to Employment of Local Legal Counsel	204

Table	Page
11. Analysis of Fees Paid to Local Legal Counsel for Exclusive Services on Selected School Bond Issues in Michigan	131
12. Summary of Fees Paid for Legal Services on 243 School Bond Issues in Michigan by Type of Legal Service	136
13. Case Study Data Pertaining to the Financial Arrangements with Special Bonding Attorneys	200
14. Case Study Data Pertaining to Employment of Special Bonding Attorneys	201
15. Case Study Data Pertaining to the Financial Arrangements with Local Legal Counsel	203
16. Case Study Data Pertaining to Employment of Local Legal Counsel	204

LIST OF FIGURES

Figure		Page
1.	Line and Staff Organization.	29
2.	Organization Chart	30
3.	Organization Chart of a Large Organization	30

CHAPTER I

INTRODUCTION AND STATEMENT OF THE PROBLEM

This study deals with the financial and administrative relationship between school attorneys, school superintendents, and boards of education in Michigan. It inquires into the financial and organizational arrangements of school districts in relation to the school attorneys--both local legal counsel and bonding attorneys. It seeks to reveal the conditions of employment of legal counsel in this state. The study attempts to pin-point possible sources of friction in the three-way relationship and makes recommendations relative to all of these matters.

This study is undertaken in an age when school district organization in this state is characterized by tremendous growth, due primarily to the continuous reorganization of school districts into larger and more complex entities and to the remarkable increase in the birth rate since the war years. As school districts experience rapid growth they are confronted with a multitude of administrative and legal problems, many of which are not found in stable units.

The acquisition of new territory by an existing school district through annexation or the consolidation of several small districts into a larger, more efficient unit are, in themselves, complicated legal actions that most school officials have not faced

previously. The formation of these larger units frequently necessitates the purchase of school sites, often by condemnation, an extremely complex legal procedure that school men can not be expected to undertake.

Related to the purchase of sites and subsequent construction of new schools is the vital problem of bonding the district for funds. Again this involves a series of complex activities, the election, the sale of bonds, and the proper use and accounting of funds. These matters, too, call for specialized legal assistance.

The number of school districts in Michigan voting to place their teachers under the provisions of the Michigan Tenure Act continues to increase and with this is a significant increase in the number of questions calling for legal opinion or action. Teachers' contracts, negotiations with unions, unique fringe benefit provisions, all create the need for legal advice.

The activity programs in classrooms, the enlarged extra-curricular programs, and the generally enriched curricula have been said to contribute to increased hazards in the educational venture, and the consequent increase in litigation.

As indicated, these factors and many others seem to point directly to the introduction of a school attorney, or attorneys, into the administrative organization of school districts in Michigan. The selection of attorneys who can provide the technical-professional services needed, and the establishment of a satisfactory working relationship between the three parties most intimately involved,

the attorney, superintendent, and board of education, is a matter that requires serious attention.

STATEMENT OF THE PROBLEM

The problem to which this study is addressed is the financial and administrative relationship between school attorneys, school superintendents, and boards of education in Michigan. The study critically analyzes the present conditions of employment of school attorneys in this state; ascertains problems deriving from the three-way relationship between counsel, superintendent, and school board; and isolates criteria useful in establishing the school attorney as an integral part of the school administrative organization. The following questions have been selected as being the most important to be answered for the purposes of this study:

1. What are the elements of a successful relationship between the school attorney, superintendent and board of education?
2. What contractual or employment relationship do school boards have with school attorneys?
3. How much do school boards pay for legal services on bond issues?

ASSUMPTIONS AND HYPOTHESES CONCERNING THE STUDY

In the development of this study, the basic assumption upon which the entire project is based is:

School officials must, in this complex modern age, depend upon legal specialists for counsel

on many problems.

There are several hypotheses which impel and give meaning to this study, too. These hypotheses, unlike the assumption made above, will be tested in this dissertation.

1. Some school districts in Michigan have been paying legal fees for bond issue services far in excess of what have been paid by other school districts for comparable services.
2. Unless careful attention is paid to sound administrative procedures in the establishment of the attorney-superintendent-board relationship, difficulties in that relationship are probable.
3. There is presently no accepted pattern for the establishment of a school attorney in the local school organizational plan.
4. Criteria exist which can be isolated and applied to the problem of establishing an attorney in the organizational plan of local school districts. These will foster a more successful relationship between the attorney, superintendent and board.

PROCEDURAL STEPS AND METHODS

In order to provide the reader with a general view of the steps taken to secure the data required to meet the indicated purposes of this study, the methods used will be briefly reviewed at this time. A more detailed account of the methodology employed in this investigation will be found in Chapter III.

1. The Questionnaire. The Michigan State University College of Education, Department of Administrative and Educational Services, as a result of a grant from the institution's "All-University Research Fund," was in the process of collecting certain data relative to this study when the author conceived the idea of developing and expanding the material as a dissertation. A questionnaire had been mailed to all school superintendents in Michigan. They were returned and given to the author for analysis. This data combined with a thorough review and study of the literature pertinent to the topic led to the second step in the study. The questionnaire can be found in Appendix A.

2. The Development of Criteria. It was deemed essential to this project that present employment conditions and other factors related to the attorney-superintendent-board relationship be determined, and further, that these factors be measured against some accurate scale. The scale which seemed most satisfactory for this purpose was a set of criteria developed by experts in the field under study. The criteria were isolated from responses from a jury of experts; professors of school administration, representatives of school board associations, and authors in the school law field. Appendix C contains the instrument Statements for Isolating Criteria Relative to School Attorneys. Appendix D lists the experts used as the jury in this study.

3. The Structured Interview Schedule. The criteria finally developed through the use of the "jury technique" were converted into a structured interview schedule. Interviews were then conducted from a sampling of superintendents throughout the state. The

interview results were recorded and compared to ascertain differences, if any, between what experts maintain should be done and what is actually being done. The structured interview schedule can be found in Appendix E.

4. Analysis of Municipal Finance Commission Data. The Municipal Finance Commission is a state agency that reviews for approval all municipal bond loans. From the files of the Commission it was possible to secure data pertinent to this study. The form "Application for Approval of the Municipal Finance Commission" was studied for 243 school bond issues. The applications represented all of those submitted by school districts over a fifteen month period from September, 1955 to November, 1956. The applications call for the estimated fees for the services of both local legal counsel and bonding attorneys, as well as the total amount of the bond issue and other similar type data. It was thus possible to secure the percentage of the bond issue that was to be paid for legal services. Comparisons were made between local counsel and bonding attorney fees.

Conclusions and recommendations resulting from this study are detailed in the final chapter.

LIMITATIONS OF THE STUDY

This dissertation has certain limitations that must be forthrightly acknowledged. It is a study that is limited to the State of Michigan. It is apparent from descriptions in the literature that this study has applicability outside of Michigan. It is, nevertheless, true that the uniqueness of each state's laws in relation to some of

the factors involved in this study are such as to require further definition for each state in question.

The study is limited also by the inherent weaknesses of the normative survey method. These weaknesses have been discussed by Good and Scates,¹ and Mildred Parten,² and others. The primary difficulty with the survey method, of course, is that the investigator is unable to get "depth" information. The respondent is restricted to those limited areas covered by the instrument and even those areas can not be explored for the reasons behind the response.

The "jury technique" used in this study has certain limitations as well. Foremost among these is the fact that expert opinion does not necessarily mean "truth." It is generally acknowledged, however, that in the absence of "scientific" evidence, expert opinion is certainly valid as an indication of where "truth" will most likely be when it is disclosed by better instruments at some later date.

The reader must be aware, also, that the investigator did not participate in the development of the original questionnaire. This instrument was carefully designed and pre-tested before it was sent to the school superintendents. In spite of these precautions later developments would have influenced the design of the original questionnaire had it been possible.

¹Carter V. Good and Douglas E. Scates, Methods of Research: Educational, Psychological, Sociological (New York: Appleton-Century-Crofts, Inc., 1954), p. 240.

²Mildred Parten, Surveys, Polls, Samples (New York: Harper & Bros., 1950), p. 133.

One must not conclude that these several limitations have resulted in a poor study. They have not. Every effort has been made to minimize the weaknesses and maximize the inherent strengths possessed by the research tools used in this study.

DEFINITION OF TERMS

There are few terms used in this dissertation that are not commonly used in the vocabulary of any person who might read the study. It is important, however, to establish the interpretation that will be given certain words and phrases as they appear here.

Lawyer - "A person learned in the law; as an attorney, counsel, or solicitor; a person licensed to practice law."¹
As indicated by Black's definition, the terms "lawyer," "attorney," "counsel," or "legal counsel" may be used interchangeably. In this study "local counsel" or "local legal counsel" will be used to designate the lawyer who is retained to perform routine general legal services on behalf of the school district.

Bonding Attorney - A lawyer who specializes in municipal bond law. These men do not ordinarily serve as general legal advisors, but are employed specifically for services in connection with bond issues.

Attorney-Superintendent-Board Relationship - This phrase will be used frequently throughout the study to describe those professional activities concerning legal aspects of education

¹Henry Campbell Black, Black's Law Dictionary (St. Paul, Minn.: West Publishing Co., 1933), p. 1079.

in which the school attorney, school superintendent, and the board of education participate.

Criterion - Webster defines criterion as, "A standard of judging; a rule or test by which anything is tried in forming a correct judgment respecting it."¹

ORGANIZATION OF REMAINDER OF STUDY

This study has been divided into six chapters: Chapter I includes a statement of the problem and a general orientation to the study; Chapter II contains a review of the existing literature on the topic under study; Chapter III consists of a detailed review of the methodology involved in constructing and validating the instruments; Chapter IV reports on the development of criteria for selecting school attorneys and organizing the attorney-superintendent-board of education relationship; Chapter V discusses the present methods of selecting and administering school attorneys in relation to the criteria; Chapter VI is the final chapter and includes the conclusions and implications for educational leaders.

¹Webster's Collegiate Dictionary, Fifth Edition (Springfield, Massachusetts: G. & C. Merriam Co., 1947), p. 241.

CHAPTER II

REVIEW OF THE LITERATURE

This second chapter is devoted to a careful review of the literature of both the educational and business administration fields. It begins with a brief summary of school districts' legal authority to employ counsel. The educational administration literature is then screened for information on the special bonding attorney. A section is included on the role of the local legal counsel in bond issue proceedings. Expert opinion as found in the literature is then discussed in relation to the place of the attorney in the administrative organization.

SCHOOL DISTRICTS' AUTHORITY TO EMPLOY COUNSEL

It is abundantly clear that school districts may legally employ a special bonding attorney for bond issues as well as legal counsel for general legal advice. Dr. Lee O. Garber, Professor of Education, University of Pennsylvania, has said:

Many states now have statutes that permit boards to employ legal counsel. In the absence of such statutes, however, the courts are rather well agreed that a board may employ legal counsel to represent it when its rights are involved. This rule, however, is not a simple one and is subject to some rather special exceptions. It is a fundamental principle of law that a school board is possessed of only that authority which is specifically granted to it, that which is necessarily implied therefrom, and that which is essential to carrying out the purposes for which the district was created.

Courts, in holding that a school board has the right to employ legal counsel even though the statute does not specifically give it this authority, reason that it is implied within a general grant of power to manage the affairs of the school district.¹

Dr. Garber goes on to explain the meaning of the court in

Arrington v. Jones, 191 S.W. 361 (Tex.) which dealt with this question:

There is no authority expressly given to trustees to employ an attorney to bring suit in behalf of trustees . . . But, having the power . . . to contract and to sue and be sued in the courts, the authority on the part of trustees to employ an attorney to institute and prosecute an action in their behalf would exist as a necessary incident of the powers to contract and to sue and manage and contract the affairs and interests of the public school.²

Hamilton and Mort emphasized the necessity of employing legal counsel:

To deprive them (school board) of the right to employ counsel would render them helpless to enforce the legal rights of the district. Of course, the right sought to be enforced must be a right of the district and not that of a private individual.³

The School Code of Michigan specifically authorizes school districts to retain legal counsel. Under the general powers and duties of boards of education:

The board shall have the authority to employ an attorney to represent the school district or board in all suits brought for or against the district, and to render such other legal service as may be for the welfare of the school district.⁴

¹Lee O. Garber, "Hiring An Attorney," Nations Schools, 60 (July, 1957), p. 59.

²Ibid., p. 60

³Robert R. Hamilton and Paul R. Mort, The Law and Public Education (Chicago: The Foundation Press, 1941), p. 96.

⁴Michigan, The School Code of 1955, Sec. 360.

THE IMPORTANCE OF SPECIAL BONDING ATTORNEYS

With the clear understanding that boards of education may legally employ counsel, let us turn specifically to the special bonding attorney. What have writers interested in this aspect of school administration had to say about the important functions of the special bonding attorney? About his fees?

Nearly all authors on the subject emphasize the need for the retention of a special bonding attorney when a bond issue is anticipated. There is general agreement that though school superintendents must be familiar with the laws relating to their work, they are not prepared and cannot be expected to handle bond issues without competent legal advice. There is agreement, too, that local attorneys are seldom well enough versed in this special field of law to undertake counsel on bond issues. As one writer succinctly put it:

The legal procedure (of bond issues) is mountainous and detailed. Not only are the procedures too lengthy to describe here, but laws vary so much from state to state that generalization is impossible. Expert advice needs to be sought. Usually a start on this can be secured from the state department of education or the county superintendent of schools. Ordinary lawyers are seldom useful as they often know less school law than most educational administrators.¹

Support for this point of view is given in a recent volume by Rosenstengel and Eastmore. They point out the use of bonding attorneys and even make mention of the fee arrangement:

If the board of education is holding an election with a view to issuing bonds, a bonding attorney should be employed. Most local attorneys are not approved as bonding attorneys. This lack of approval is not a reflection on the competence of the local lawyer; it is merely that investors will require

¹Albert J. Huggett, Practical School Administration (Champaign, Ill.: The Garrard Press, 1950), p. 247.

the approving opinion of a legal bonding specialist. It will save both time and money for the board of education to employ the bonding attorney at the very beginning of the procedures which take place leading to the issuing of bonds.

The fees paid to a bonding attorney will vary with localities, but usually they are a small fraction of 1% of the bonds.¹

Writers in the field seem to fear that with the "mountainous" legal detail required, an error might invalidate the whole election. Greider and Rosenstengel made reference to that fact when they wrote:

In many states where elections on proposed bond issues are required, it is extremely important that every legal requirement be observed meticulously. Any deviation by accident or intention may result in protests culminating in the election's being declared invalid by the courts.²

Wahlquist and Arnold,³ Miller and Spalding,⁴ and many others have written similarly. Weber has perhaps caught the need for the bonding attorney's services most accurately and expressed that need most clearly:

The preparation of transcript of the complete procedure preparatory to issue of school bonds is a precise and technical task. It should be done in entirety, or at least supervised by an attorney well versed in the field of public school bonding. Otherwise some technicality may be omitted which may completely invalidate the issue or at all events handicap the sale. In many communities none of the resident lawyers can qualify for this service. In such cases an outside man should be employed. This consulting attorney should be engaged even before any resolution or motion of

¹William E. Rosenstengel and Jefferson M. Eastmond, School Finance, Its Theory and Practice (New York: The Ronald Press Co., 1957), p. 288.

²Calvin Grieder and William E. Rosenstengel, Public School Administration (New York: The Ronald Press Co., 1954), p. 120.

³John T. Wahlquist and William E. Arnold, The Administration of Public Education (New York: The Ronald Press Co., 1952), p. 416.

⁴Van Miller and Willard B. Spalding, The Public Administration of American Schools (Yonkers-on-Hudson, New York: World Book Co., 1952), p. 368.

any sort has been passed by the board and he should remain the advisor of the board until the bonds have been sold and delivered.¹

It must not be concluded that the school superintendent and local legal counsel should stay completely out of bond proceedings. Several authors have indicated the importance of one or the other, or both, in assisting the special bonding attorney. Weber contends that the superintendent in particular should check many details of the bond proceedings and should assist in providing local school information for the bond issue and transcripts. Rosenstengel and Eastmond wrote on this same topic and reached the conclusion that:

A school board which plans to vote bonds should employ an attorney, preferably a bonding attorney, to guide and direct the procedure of the board's actions through the bond issue. The employment of an attorney does not, however, lessen the administrator's responsibility of having a thorough knowledge of the state laws relative to bond issues.²

It is clear that the literature supports the assumption that school districts should employ special bonding attorneys for services in connection with bond issues.

THE LOCAL LEGAL COUNSEL'S ROLE IN BOND ISSUE PROCEEDINGS

The most comprehensive treatment of the local legal counsel's role in bond issue proceedings is a doctoral dissertation "Fees of Local Legal Counsels for Services Related to School Bond Proceedings in the New York City Metropolitan Area," by Frederic J. Byrnes. Dr. Byrnes' primary interest, as indicated by the title of his study,

¹Oscar F. Weber, Problems in Public School Administration (New York: The Century Co., 1930), p. 645.

²Rosenstengel and Eastmond, p. 232

was in fees paid to local legal counsel for assistance rendered in connection with bond issues. However, he necessarily dwelt at length on the special bonding attorney and relationship of the two legal specialists. A considerable effort will be made here to summarize Byrnes' work as it relates to this study.

Byrnes sees liaison between board and special bonding attorney as the essential function of the local legal counsel in connection with bond issues. He states:

The primary function of the school district's local legal counsel in connection with a bond issue would seem to be that of providing liaison between the board and the special bonding attorney. The necessary information required by the special bonding attorney in the preparation of resolutions, notices, advertisements and other documents would be the responsibility of the local legal counsel working with the board and school officials.

If the district does retain local legal counsel for services related to the bond issue, the special bonding attorney's relationship with the board is usually through the local legal counsel. When local legal counsel is not retained for this purpose, school officials designated by the board work directly with the special bonding attorney. The documents required by statute are prepared in most cases by the special bonding attorney, or if prepared by the local legal counsel or school officials they are usually reviewed and approved by the special bonding attorney prior to board action. Prospective investors are assured before the sale of the bonds that the special bonding attorney will furnish the successful bidder his approving opinion to the effect that the bonds are valid and legally binding obligations of the district. A school district's local legal counsel would not be able to provide the board or prospective investors with this approving opinion except under unusual circumstances.¹

¹Frederick J. Byrnes, "Fees of Local Legal Counsels for Service Related to School Bond Proceedings in the New York Metropolitan Area" (unpublished ED.D dissertation, Advanced School of Education, Teachers' College, Columbia University, 1956), pp. 5-6.

In a later passage Byrnes hints again that local counsel may not be absolutely essential to the preparation of a school bond issue for public sale: "There seems to be some reason to believe, however, that a bond proceedings is not so technical nor so legalistic that it is beyond the understanding of the average board member or school official."¹ Still later in his summary of major findings, he writes:

Although the statutory requirements for bond proceedings may differ in the several states, the documents and papers that are required for the record of proceedings are quite similar. The work involved in the preparation of the required documents is precise but not difficult and is being done in many cases by school officials without assistance of local legal counsel.²

The final position taken by Byrnes in this study is that exceptional cases exist where school officials have proven ability to handle the work entailed in providing assistance to special bonding attorney; nevertheless, special bonding attorneys prefer to have local counsel act as liaison for the board. In short:

It is good practice for a board of education to retain local legal counsel to render service related to school bond proceedings provided that an agreement for reasonable fee for these services can be made with local legal counsel in advance.³

As has been indicated, much of the work related to the authorization of a bond issue is in furnishing the special bonding attorney with the required information for preparation of the documents that eventually become a part of the bond issue proceedings. The statutes governing bond proceedings will vary somewhat in the several states, but the documents required are usually those included in the following:⁴

¹Ibid., p. 23.

²Ibid., p. 37.

³Ibid., p. 89.

⁴American Association of School Administrators, American School Buildings, Twenty-seventh Yearbook, Washington, 1949, pp. 303-304.

For the preliminary opinion the attorney will require most of the following documents, each of which must be certified as to its authenticity:

1. Statement of assessed valuation.
2. Sworn statement of debt.
3. Minutes of board meeting at which resolution to borrow was past.
4. Citation of legal authority to borrow.
5. Resolution authorizing school election to approve the bond issue.
6. Notice of election.
7. Certificate of publication of election notice.
8. Form of ballot.
9. Proceedings canvassing election returns.
10. Certificate of public official showing that election returns are certified public record.
11. Advertisement of sale.
12. Certificate of publication of sale notice.
13. Certificate of sale and award.
14. Resolution confirming sale.
15. Certificate of signatures on bonds.
16. Copy of bond form.
17. Nonlitigation certificates.
18. Treasurer's receipt for payment of bonds.

Full and prompt cooperation of the administration in providing the attorney with these documents is essential. The board's local attorney should assist the bond attorneys in every possible way.

Byrnes sent questionnaires to 118 school districts in the New York City Metropolitan area. Replies were received from 80 districts. However, the replies from only 66 school districts were used in his study. Byrnes' Table III, shown on the following page, summarizes the services rendered by local legal counsel in connection with school bond issues as reported by 57 districts. Seven districts report that local legal counsel were not retained for services related directly to any of their bond proceedings, and 2 districts did not include this information in their questionnaire returns.

The tabulation of Table III for the 57 districts reporting includes 167 bond issues.

TABLE III
 TOTAL NUMBER OF DISTRICTS REPORTING THE VARIOUS SERVICES
 RENDERED BY LOCAL LEGAL COUNSELS IN
 CONNECTION WITH SCHOOL BOND ISSUES

Services Rendered	Districts Reporting
Attendance at all Board meetings	17
Attendance at Board meetings as requested	45
Attendance at Finance Committee meetings	11
Consultation with local governmental officials	36
Consultation with state governmental officials	40
Preparation of application to state governmental agencies for permission to exceed debt limit	21
Attendance at local public meetings and hearings on bond issue	36
Preparation of debt statement	19
Preparation of resolutions calling for public meeting on bond issue	46
Preparation of extracts of minutes and submission of proofs to bonding attorneys	38
Preparation of all legal advertisements	41
Preparation of brochure distributed among electors prior to referendum	10
Preparation of legal notices to be posted prior to referendum	37
Preparation of ballot for referendum	43
Correspondence and liaison with bonding attorneys	52
The clerical work related to correspondence, debt statements, resolutions, extracts of minutes, etc.	27

TABLE III¹ - Continued

Services Rendered	Districts Reporting
Preparation of contract with architects	33
Review of and approval of contract with architect	47
Preparation of contracts with principal building contractors	25
Review of and approval of contracts with principal building contractors	50
Attendance at opening of bids for building construction	42
Attendance at meeting for awarding of contracts for building construction	39
Examination and approval of performance and payment bonds of building contractors	49
Preparation of bond circular to be sent to prospective bond buyers	21
Attendance at opening of bids on bonds	43
Attendance at meeting awarding sale of bonds	40
Attendance at signing and delivery of bonds	36

Source: Information from completed questionnaires reported by fifty-seven school districts.

¹Ibid., pp. 42-43.

The responsibility for correspondence and liaison with the special bonding attorney was the service most frequently reported as rendered by local legal counsels with fifty-two of the fifty-seven districts including this service. Over eighty per cent of the districts reported that the services of local legal counsel included review and approval of contracts with principal building contractors and with the architect, as well as reviewing and approving the performance and payment bonds of building contractors.

Most of the reporting districts did not require their local legal counsels to attend all board meetings, but forty-five of the fifty-seven districts had local legal counsels attend meetings as requested. All but eleven of the reporting districts had the local legal counsel prepare the resolutions calling for the public meeting on the bond issue. The other services rendered by local legal counsels, reported by over two-thirds of the districts, include consultation with state governmental officials, the preparation of all legal advertisements and the ballots for referendum, attendance at opening of bids for building construction and for the sale of the bonds, and attendance at the meeting awarding the sale of bonds. In many cases, of course, the opening of bids on the bonds and the award of sale are made at the same meeting.

In general, the replies indicate that the majority of districts reporting retain local legal counsels to provide liaison with the bonding attorney, to review and approve contracts and performance bonds, to prepare the necessary resolutions for the special district meeting and the ballot for the referendum, and to be present at board meetings as requested as well as at the opening of bids on construction and sale of bonds.¹

Byrnes includes another basic table that helps summarize his data. This is Table IV which shows the basis for the determination of the fee of local counsel for services in connection with special bond issues.

It is evident from this table that the most common basis for determining the fee of local legal counsel is a percentage of the total bond issue.

¹Frederick J. Byrnes, "Fees of Local Legal Counsels for Service Related to School Bond Proceedings in the New York Metropolitan Area" (unpublished ED.D dissertation, Advanced School of Education, Teachers' College, Columbia University, 1956), pp. 41-44.

Twenty-nine districts, of the sixty-six districts reporting, had at least one bond issue where the percentage basis was used to determine the fee of local legal counsel. Of the eighty-five issues on which this percentage was applied, fifty-one were at one per cent with twenty-five of the fifty-one including the fee of the special bonding attorney in the fee of local legal counsel. Thirty-two bond issues, reported by fifteen districts, used time as the basis applied by districts for determining the fee of the local legal counsel. Twenty districts reported that local legal counsels were paid for thirty bond issues on a flat fee basis or as billed, and it is quite likely that both of these bases have been influenced to some extent by the percentage or time bases. Several districts that reported the fees on the basis of "as billed" where the fees had not been determined exactly as yet made such comments as the following: "We think it will be about .75 of 1%," "On the basis of past fees, this fee should be about \$4,000," "The board has budgeted \$9,000 but it should be less than this."¹

Byrnes was able to note a definite downward trend:

Especially where the percentage basis has been used as the basis for determining the fees of local legal counsels. Districts that had been paying a flat one per cent in more recent issues, or have determined the fee by a sliding percentage scale such as one per cent on the first \$500,000 and one-half of one per cent on the balance of the total issue. One district that did pay its local legal counsel a fee of two per cent on comparatively small bond issues has gradually reduced this basis to one and one-half per cent and in its most recent issue to one per cent on the first \$1,000,000 and one-half of one per cent on the balance.²

A second trend seems to be appearing where districts are planning large bond issues of three to four million dollars. In these cases boards are employing local legal counsel on an annual salary or retainer basis which will include payment for services in connection with all special bond issues. Thirty-eight of sixty-six districts reporting to Byrnes do have local legal counsel on an annual retainer ranging from \$100 to \$5500 with \$320 the median amount. Byrnes

¹Ibid., pp. 47-48. ²Ibid., p. 49.

TABLE IV¹

BASIS FOR DETERMINATION OF FEE OF LOCAL COUNSEL FOR SERVICES IN CONNECTION WITH SCHOOL BOND ISSUES, BY NUMBER OF DISTRICTS AND NUMBER OF BOND ISSUES, ACCORDING TO INCLUSION OF FEE OF SPECIAL BONDING ATTORNEY

Basis	Fee of Special Bonding Attorney Included in Local Counsel's Fee		Fee of Special Bonding Attorney not Included in Local Counsel's Fee		Totals	
	Number of Districts	Number of Issues	Number of Districts	Number of Issues	Number of Districts	Number of Issues
Percentage of Bond Issue	16	41	13	44	29	85
Percentage of Construction Costs			1	1	1	1
Percentage of Fee of Special Bonding Attorney	3	4	3	5	3	5
Flat Fee			9	10	12	14
Time			15	32	15	32
As Billed	2	2	5	14	3	16
Negotiated	1	1	1	1	2	2
Included in Annual Retainer			5	10	5	10
Included in Fee for Other Issues	1	1	1	1	2	2
Totals for Districts with Local Legal Counsels	23	49	54	113	77	167
Districts with No Local Legal Counsel						
Totals All Districts	23	49	54	113	11	33
					83*	200

Source: Information from completed questionnaires reported by sixty-six school districts.

*The total in column 5 is greater than sixty-six due to the fact that districts reported that more than one basis was used in some instances when a district reported several bond issues.

¹Ibid., p. 48.

emphasizes, however, that though interviews with school officials indicate "several districts" are studying possibility of employing local legal counsel on annual retainers and including bond issue services in the retainer, the evidence clearly shows that the percentage of bond issue basis still is the most popular method of determining fees for the work.

A further arresting fact is that thirteen districts reporting on fees paid on twenty-seven bond issues were determined on basis of time.

The total of the twenty-seven issues reported is \$24,302,500 and the total of the fees paid on a time basis for services rendered in connection with these issues, including all costs for extra services, is \$60,001.62. The average cost per bond issue is \$2.47 for each \$1,000 of the issue or approximately .25 of 1% of the total bond issues. On only one of the twenty-seven issues reported, on which the fees of local legal counsels were determined on the basis of time, was the fee in excess of 1% of the bond issue. In this instance, the bond issue was for \$30,000 and the district reported that the purpose of the issue was the acquisition of two sites and that the local counsel also acted as the board's agent in purchasing any individual parcels of land. Several of the fees reported as determined on the basis of time were less than .1 of 1% of the bond issue.¹

It must be remembered that the work load for attorneys can vary tremendously from bond issue to bond issue and school district to school district. Consequently, it is a practical impossibility to estimate with accuracy the time that will be required for legal services in this connection. It is precisely because of this variation in circumstances with each bond issue that time and labor required, rather than percentage of the issue, is considered by Byrnes the most justifiable and equitable method of determining attorney's fees.

¹Ibid., pp. 63-64.

Byrnes concludes his study of the fees of local legal counsels for services related to school bond proceedings in the New York City Metropolitan area by listing the major findings of his study as follows:

1. Bond proceedings are technical matters and all statutory requirements must be complied with by the district. It is important that the special bonding attorney be retained by the district in the early planning stages of the bond issue.
2. Although the statutory requirements for bond proceedings may differ in the several states, the documents and papers that are required for the record of proceedings are quite similar. The work involved in the preparation of the required documents is precise but not difficult and is being done in many cases by school officials without assistance of local legal counsel.
3. State departments of education do offer potentially valuable assistance to school officials through published materials that are related to school bond proceedings. In New Jersey the forms required for the authorization of a bond issue are provided by the Department.
4. The majority of school districts do employ local legal counsels for services in connection with school bond issues in addition to retaining the special bonding attorney. Only seven of the sixty-six districts reporting did not retain local legal counsels for services directly related to the bond proceedings.
5. There is no consistent pattern in the method of determining the fee of local legal counsel for services related to a bond proceedings. Eight different bases were reported by fifty-nine districts with the percentage of total bond issue being the base most frequently used to determine the fee of local counsel.
6. The study of actual practices indicated a significant trend away from the one per cent fee towards a reduced percentage fee, a "sliding scale" of percentage fees or employment of local legal counsel on a more substantial annual retainer basis with a flat fee for each bond issue.
7. Many (but not all) of the fees of local legal counsels, particularly those determined on a percentage basis, include the fees of the special bonding attorney. Many school districts do not know that they are paying for the services of the special bonding attorney. Fees

7. (Contd.) of the special bonding attorney were not reported for thirty-eight of the forty-one issues on which the fees of local legal counsels were determined as a percentage of the bond issue and which included the fees of special bonding attorneys.
8. In general, fiscally dependent school districts paid lower fees to local legal counsels since in many cases the services were rendered by the local municipal government's counsel. This was especially true in the Chapter 6 districts of New Jersey and in all of the Connecticut districts contacted.
9. The services rendered by local legal counsels vary considerably. The services reported most frequently were those related to the local legal counsel acting as liaison with the special bonding attorney, the review and approval of contracts and the examination of performance and payment bonds.¹

Without further comment on these findings he relates his conclusions in this most important study. The summarizing paragraph only is included here:

1. The fees of local legal counsels for services related to school bond proceedings should be reasonable and adequate and should be determined on the basis of time.
2. It is desirable that state departments of education make a survey of the legal fees paid to local legal counsels for bond proceedings within the state.
3. It is good practice for school districts to reach an agreement with local legal counsels before any services are rendered.
4. It is good practice for school districts to pay the fees of the special bonding attorneys directly.
5. It is good practice for school districts to have the record of proceedings, or a photostatic copy of the record, for each bond issue on file in the board of education office.²

¹Ibid., pp. 87-88. ²Ibid., pp. 90-93.

In succeeding chapters of this study the researcher will relate his findings to the findings and conclusions of Byrnes. This will serve to point up or give more meaning to the work under discussion here.

THE PLACE OF THE ATTORNEY IN THE SCHOOL DISTRICT ADMINISTRATIVE ORGANIZATION

A key part of the investigation undertaken in this study was the organizational pattern of school systems with particular reference to the position of attorneys in relation to the school board and superintendent. Information on this subject was sought in literature, both from the field of school administration and business administration.

The literature in school administration deals with a tremendous variety of topics and necessarily so, as the administration of a school district entails the management of an unusually varied assortment of activities. Of the texts which place particular emphasis on administrative organization, the experts seem to divide between those who accept the ancient line-staff military organizational pattern and those who seek a more "democratic" pattern. In neither instance do the authors give consideration to the place of legal counsel. More often they deal in generalizations with frequent attacks on the dual administrative organization and defense of the more common unit system. Because so little has been written by school administration authors on the topic under study, the author was forced to turn elsewhere for expert opinion.

Some writers in the business administration field have indicated the analogous relation of the corporation Board of Directors and an elected governmental body such as a Board of Education or City Council.

Peterson and Plowman have made such an analogy:

The Board of Directors of a Corporation must exercise its powers as a group and not singly as individual members of the organization. In this respect the board functions precisely as any other representative body. For instance, a city-council elected by the people of a community can act only when in session as a council. Similarly, directors must make their decisions in board meetings, formal minutes of which are required by law, to be kept by a designated officer.¹

They then outline the basic functions of an effective board of directors as follows:

In spite of the great variations that exist among corporate directorships with respect to the details of board activities, the basic functions of an effective board of directors may be summarized as follows:

1. The exercise of trusteeship by appraisal of the progress of the company hereby being alert to danger, on the other hand, and advantageous opportunity on the other.
2. The consideration and establishment of the major policies and objectives of the corporation.
3. The selection of the chief executive and senior officers and the determination of their compensation, conditions of retirement and pensions.
4. The delegation of adequate managerial authority to the chief executive and his subordinates.²

Those familiar with school board operations will note the appropriateness of this list of functions for school boards.

¹Elmore Peterson and E. Grosvenor Plowman, Business Organization and Management (Homewood, Ill.: Richard D. Irwin, Inc., 1953), p. 149.

²Ibid., pp. 152-153.

If the analogy, as contended, is apt, then literature on the organization of businesses or corporations ought to provide insight on school district administrative organization, at least as it relates to the legal counsel. A survey of the business administration literature reveals the expected differences of opinion on where the legal counsel fits into the organization pattern.

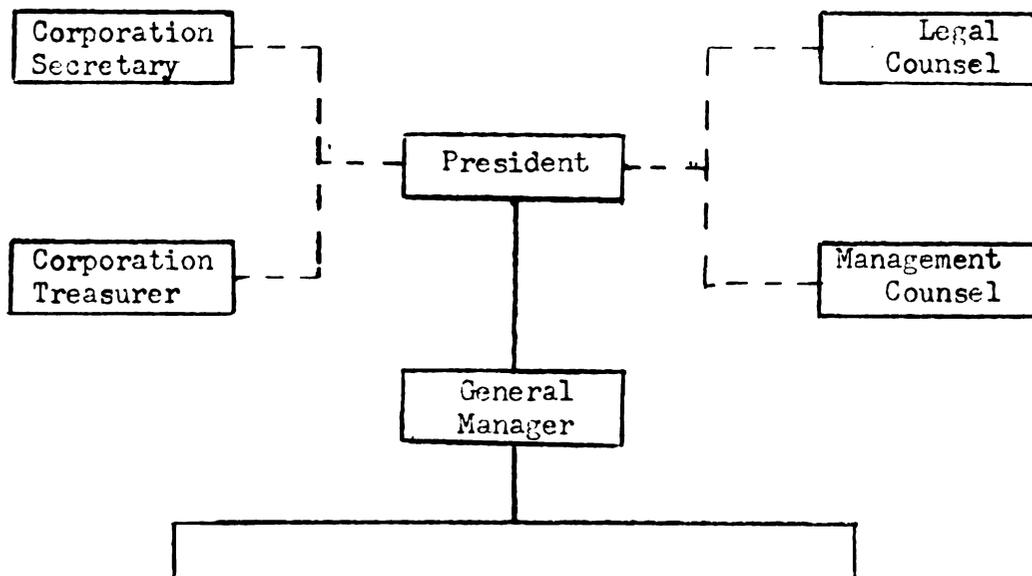
General Electric employs legal counsel at the vice president level and, in fact, call him "vice president and legal counsel." He is a member of the executive office and reports directly to the company president.¹

Many business and manufacturers' organizations include legal counsel on their boards of directors. Such a pattern is not possible, of course, in publicly elected boards of education, except as an elected member happens to be in the legal profession. However, in such instances, it is generally advised that the board member refrain from actual legal service to the school district.

The most common organizational pattern, however, is for the legal counsel to appear as a staff person to the president or general manager. Hodges charted the position in such a way:

¹Franklin G. Moore, Manufacturing Management (Homewood, Ill.: Richard D. Irwin, Inc., 1953), p. 80.

FIGURE 1

LINE AND STAFF ORGANIZATION¹

Though his chart does not include a board of directors, it is assumed that Hodges was simply trying to show the upper administrative strata and was not concerned about the governing body. It is clear that had Hodges felt the legal counsel should report directly to the Board of Directors he would have included that group in his chart.

This emphasis on the attorney serving as a staff person to the president or general manager with no direct contact with the board of directors is evident in other publications. Figures 2 and 3 both indicate clearly the concern of the authors with this relationship.

¹Henry G. Hodges, Management - Principles and Practical Problems (Boston: Houghton Mifflin Co., 1956), p. 114.

FIGURE 2

ORGANIZATION CHART¹

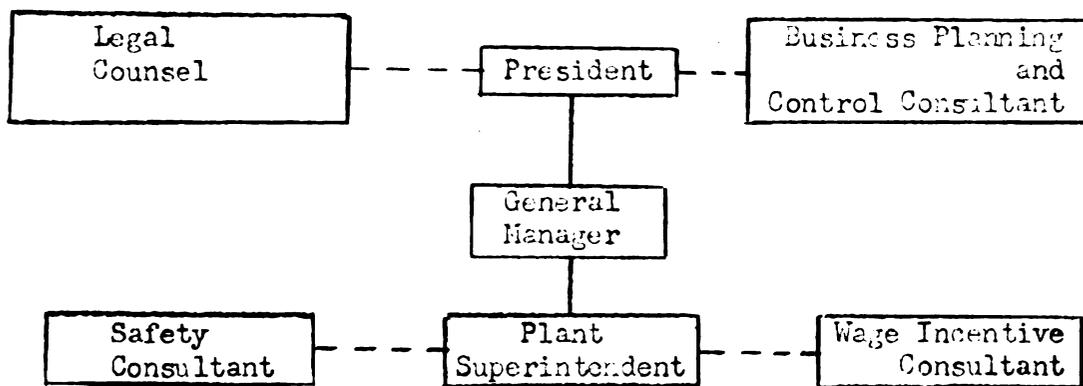
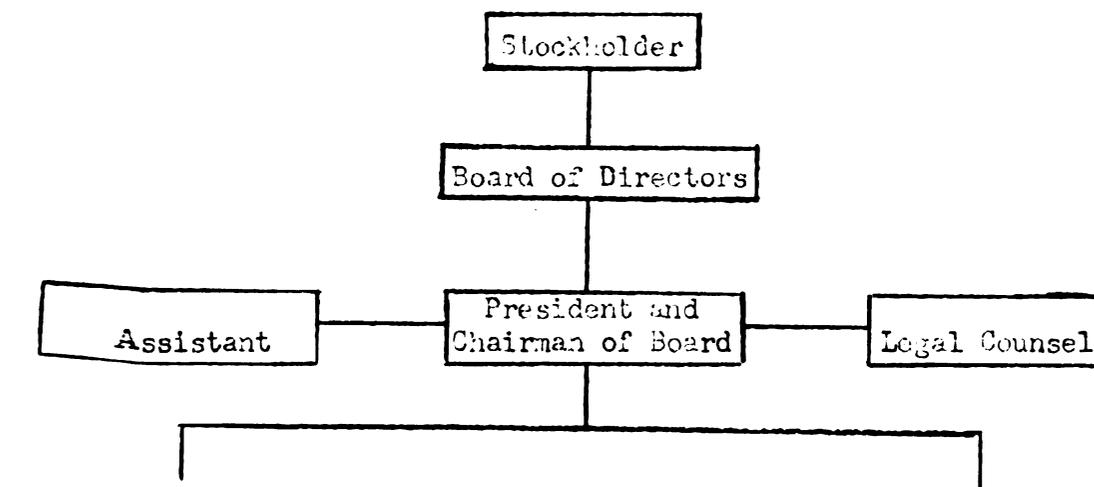


FIGURE 3

ORGANIZATION CHART OF A LARGE CORPORATION²



¹Floyd H. Rowland, Business Planning and Control (New York: Harper and Bros., 1947), p. 105.

²Richard N. Owens, Management of Industrial Enterprises (Homewood, Ill.: Richard D. Irwin, Inc., 1953), p. 116.

Holden, Fish and Smith describe further the purpose of staff personnel and indicate that legal counsel should be so considered:

The primary purpose of many staff agencies is to render specialized advice and counsel to management upon request. Such agencies normally have no directional, administrative, or control functions, but give authoritative opinions when asked and often bring to management's attention developments of interest within their respective fields. Among the functions which are largely advisory in character and fall within this group are: Legal, Public Relations, Economics, Labor Relations, Aspects of Personnel Administration.

The effective organization of such agencies, as a rule, presents no unusual problems. They normally report to the president or general management, or to the divisional executive most closely concerned, but are usually available for consultation by any interested executive or department.¹

This limited number of references summarizes and in fact, virtually exhausts mention of the legal counsel's position in the administrative hierarchy in business administration literature.

SUMMARY

In this chapter the author has attempted to present the thinking of writers in the field of educational administration on the organizational relationship of the school attorney to the superintendent and board of education. Realizing the similarity between the normal school system organizational pattern and that of many business and manufacturing concerns, the researcher also turned to the field of business administration for expert opinion that might throw light on the problems under study.

The business literature can be summarized rather briefly.

Writers in this field seem to concur with school administration

¹Paul E. Holden, L.S. Fish, and Hubert L. Smith, Top Management Organization and Control (New York: McGraw-Hill Book Co., 1951), p. 44.

specialists who urge the necessity for general legal counsel. Business writers go on to point out that legal counsel should be aligned as staff positions to the president or general manager which are analogous positions to the school superintendent. The actual applicability of this recommendation will have to await further analysis in later chapters of this paper.

The school administration experts dealt more extensively with the need for special bonding attorneys than any other aspect pertinent to this study. There is unanimity of opinion that municipal bond law specialists must be used by school districts to manage the intricacies of bond issue proceedings. The same degree of agreement is not found when the question of the extent of participation by local legal counsel in school bond issues is raised. The study that was reported most extensively on this subject was that of Byrnes's. Dr. Byrnes concluded that it is good practice to retain local counsel to render services related to school bond proceedings. Byrnes's second major conclusion was that time and expenses should be the determining factor in the fee arrangement with local counsel rather than the more common percentage of the bond issue amount.

CHAPTER III

METHODOLOGY OF THE STUDY

In the previous chapter dealing with the review of literature the investigations and thoughts of various individuals were cited to provide an orientation to the subject under study. The present discussion is concerned with creating an understanding of the type of instruments utilized and how they were developed, the pre-testing of the instruments, the procedure employed in administering the instruments, the collection of data, and how the data will be handled in this paper.

THE QUESTIONNAIRE

As indicated previously, the author is indebted to the Michigan State University Department of Administrative and Educational Services for making available the data collected from a questionnaire pertinent to this topic. The questionnaire was mailed in May, 1957, to 698 school districts in Michigan. This represented every school district in the state that employed a superintendent of schools. The superintendents were asked to complete the questionnaire and return it to Professor William H. Roe, Department of Administrative and Educational Services, who also wrote a "covering" letter to accompany the questionnaire.

Of the 698 questionnaires mailed out, 433 were returned. The percentage of return was 62.9% which, according to current research practice, is large enough to provide a valid sample of the state as a whole.

Table 1 shows the number of school systems whose superintendent returned the questionnaire. The table breaks down the returns by the size of the school system as indicated by student enrollments, May, 1957.

TABLE 1
NUMBER OF SCHOOLS RETURNING QUESTIONNAIRES
BY SCHOOL ENROLLMENT

School Enrollment	Number Reporting
0---199	13
200--399	36
400--599	67
600--999	95
1,000--1,999	117
2,000--4,999	66
5,000--7,999	10
8,000--11,999	13
12,000--19,999	4
20,000--over	3
Size unknown	<u>3</u>
	432

School enrollment, May 1957.

The questionnaire concluded with the question, "Do you have some comments or specific problems that would be useful in establishing criteria for a good working relationship between the superintendent, school boards and school attorneys?" Sixty-six responses to this "open-ended" or "essay" type question were received. These answers are quoted in their entirety in Appendix B. They are also discussed when pertinent in the text material in Chapter V. The remaining questions seeking factual data are treated in Chapter V, also.

THE DEVELOPMENT OF CRITERIA

It was suggested in Chapter I that a scale was needed with which to "measure" the current status of the attorney-superintendent-board of education relationship. This measuring scale seemed to be best obtained by the development of criteria for the establishment of this relationship by men of stature in the field of education. Inasmuch as this study involves the disciplines of both education and law, it seemed advisable to select experts who had a thorough understanding and interest in both fields.

The panelists or jurors were selected from among the members of the National Organization on Legal Problems of Education with only one exception. This organization states as its purpose:

To improve school administration by promoting interest in understanding of school law throughout the United States, by holding meetings for the presentation and discussion of school law problems, by stimulating the teaching of school law, and by issuing publications on school law subjects. The Organization shall serve as a clearing house for information on research and publications, and render other related services to those who become members of the Organization.

It seems clear that membership in this organization indicates considerable interest in the fields of law and school administration. The National Organization on Legal Problems of Education sponsored a recent volume entitled "Law and the School Superintendent." Ten of the seventeen contributing authors of this book were asked to be panel members. These men are school superintendents or professors of education at various colleges and universities. Three additional panelists from the faculties of the three largest universities in Michigan were asked to participate. Each of these men is a specialist in school administration and each has written or otherwise exhibited an interest in the field of school law. Eleven of the thirteen men asked readily assented to serve on the panel. Their names are listed in Appendix D.

The next step in the study was to present to the panel numerous statements about the topic under study that could be evaluated by the experts. The assumption was that agreement on a particular item by experts in the field could be considered a criterion with which to evaluate present practices and guide future actions of school boards and superintendents. The virtual void of literature on the topic under consideration put great responsibility on the author in formulating the initial draft of statements for surveillance by the jury. However, much help was received from the author's committee, other staff members in the Department of Educational Services at Michigan State University, and from practicing attorneys and school superintendents. When the initial statements were prepared they were sent to an informal group of judges who were asked simply to indicate; if the statements appeared

to be suitable for isolating criteria for establishing a successful attorney-superintendent-school board relationship; if the statements were clear in their intent; and whether they had any additional statements that should be added to the list. Several revisions were made as a result of this procedure. The statements for potential criteria for both the special bonding attorney and local counsel as finally revised are found in Appendix C.

Provision for the experts to comment on each statement was deemed important for clarification of their responses if they so chose. Further examination of the form will reveal that the respondent was presented with four classifications from which to choose his response. It was felt that this range of options from "strongly agree" to "strongly disagree," was sufficient to provide for each expert to indicate his judgment of the relative value of the several criteria.

In order to distinguish objectively between those statements deemed of sufficient value to qualify as criteria and those not, numerical values were assigned. The response "strongly agree" was assigned three points; "tend to agree" was assigned two points; "tend to disagree," one point; and a response of "strongly disagree" was given no value. Failure to respond to an item was deemed evidence of strong disagreement and hence was also given no value.

The distribution of value ratings by the experts is shown in Tables 4 and 5 on pages 51 and 66. The statements for isolating criteria are shown with the various sub-statements. The points accumulated from the ratings on each statement are totaled and the median score calculated. A median score of 2.0 was arbitrarily set as the

score necessary to qualify the statement as a criterion for use in this study.

THE STRUCTURED INTERVIEW SCHEDULE

It was felt insufficient for the purposes of this study to limit the data gathering to the questionnaire. Further information on present conditions in respect to the employment of school attorneys was required; the requirement stemming from the limitations of the questionnaire technique as discussed in Chapter I. The case study method was chosen to secure the desired supplemental data. The tool used was the structured or focused interview schedule.

Good and Scates have written of the interview technique:

Certain types of information can be secured only by direct contacts with people; for example, intimate facts of personal history, of personal habits and characteristics of family life, and opinions and belief. While certain of this information can be obtained through use of questionnaires, check list, or tests distributed to groups of respondents, there are unique characteristics of the interview that render it much more than an "oral test."¹

They go on to cite the special values of the interview, in comparison with the questionnaire:

1. The interviewees may provide personal and confidential information which they would not ordinarily place in writing on paper, they may wish to see the investigator who is securing the information and to receive guarantees as to how the facts will be used; they may need the stimulation of personal contacts in order to be "drawn out"; and some interviewees may be too ignorant to read and write.
2. The interview enables the investigator to follow up leads and to take advantage of small clues; in dealing

¹ Carter V. Good and Douglas E. Scates, Methods of Research: Educational, Psychological, Sociological (New York: Appliston - Century - Crofts, Inc., 1954), p. 354.

2. (Contd.) with complex topics and questions, the development or trend of the conversation is likely to proceed in any direction, and no instrument prepared in advance can fully meet the situation.
3. The interview permits the investigator to form an impression of the person who is giving the information, to arrive at some judgment of the truth of the answers, and to "read between the lines" things that may not have been said in words.
4. The interview provides an opportunity for the interviewer to give information and to develop certain attitudes on the part of the respondent, a procedure that is not possible in using a questionnaire or a test. This opportunity for "give and take" is especially important in the "treatment" or "therapeutic" interview, used extensively in case work. In this way the interview permits an exchange of ideas and information; it is not necessarily a one-way street.

Parten² has indicated that most respondents would rather talk than write and the interview technique relieves the informants of that responsibility. Merton and Kendall point out in chorus with the above that such a non-directive approach, "...gives the subject an opportunity to express himself about matters of central significance to him rather than those presumed to be important by the interviewer."³

In the above statement Merton and Kendall are describing the focused interview which was adopted for this study as best meeting the demands of the situation. They go on to further describe the focused interview as follows:

1. The persons interviewed are known to have been involved in a particular concrete situation, such as viewing a film or hearing a radio program.

¹Ibid., p. 356.

²Mildred Parten, Surveys, Polls, Samples (New York: Harper & Bros., 1950), p. 91.

³Robert K. Merton and Patricia L. Kendall, "The Focused Interview," The American Journal of Sociology, 51:54 May 1, 1956.

2. The hypothetically significant elements, patterns, and total structure of the particular situation have been previously analyzed (content analysis) by the investigator, and he has arrived at a set of significant hypotheses concerning the meaning and effects of determinate aspects of the situation.
3. On the basis of this analysis, the investigator has developed an interview guide, outlining the major areas of inquiry and the hypotheses which locate the pertinence of the data to be obtained in the interview.
4. The interview itself is focused on the subjective experiences of the persons exposed to the pre-analyzed situation; these reported responses enable the investigator to test the validity of his hypotheses and to ascertain unanticipated responses to the situation, thus giving rise to fresh hypotheses.¹

The essential purpose of this study, it will be recalled, was to critically analyze the current situation as it relates to the attorney-superintendent-board of education relationship in terms of criteria established by experts. This led the case study or interview portion of this study down a particular path. It indicated a need to secure depth information about existing conditions and, by implication, impelled the investigator to determine what the attitudes of the people were about their current situation.

While the criteria were designed, in part, to measure the formal administrative organization, the investigator realized that formal patterns of association are often not so important as the informal systems. Attorneys-superintendents and school board members participate in rather unique social systems. The roles they play in their periods of interaction and, in fact, the persons they interact with, are determined quite informally in most cases. The whole web of human interactions is different from case to case as the members

¹Ibid., p. 55.

themselves bring different backgrounds to the situation. It will be found later in this study that the participants described their interactions but couldn't tell why they interact in that way. Often the patterns were established over past years before any of the current participants were even on the scene. But this is part of the study--a portion of the information sought in each case.

The author was directed by this line of reasoning to construct an interview schedule that included questions eliciting both current factual data and further questions of the open-ended or focused interview type seeking opinion and attitude data. Examination of the final interview schedule in Appendix E reveals that this "dualism" of questions, so to speak, was accomplished.

The writer believes that a careful consideration of the character of the people interviewed, the structure of the study preliminary to the interviewing, and the schedule employed in this phase of the investigation will reveal many elements in common between the methodology used in this study and the focused interview described by Merton and Kendall.

Since the factual questions could be easily answered by either "yes" or "no" or a numerical response, this portion of the interview data was easily tabulated for analysis. However, the crucial parts of the interview were open-ended questions. The responses to these, of course, are not tabulated but are treated in the text material in ensuing chapters.

Like the other instruments used in this study, the interview schedule was carefully refined prior to use by pre-testing and the

excellent suggestions of the author's committee and other Michigan State University staff members. The pre-testing consisted of interviews using the schedule with several superintendents. Items that needed to be added were found as well as those that needed clarification and re-arrangement. There were two major revisions as a result of this pre-test activity.

The focused interview schedule was administered during the month of May, 1959, in ten school systems. The ten districts were selected by a proportionate stratified sampling. Hagood and Price have written:

Because by stratified sampling we get more reliable estimates of universe parameters from the same number of observations, it is a more efficient method of sampling than the simple random methods and, if feasible, should be used when the necessary knowledge is available."¹

More specifically to this study, Hagood and Price point out:

Whenever we know the distribution of a characteristic associated with the one we are interested in studying, we can utilize this knowledge to advantage by stratifying the universe on the basis of the known distribution and drawing from the several strata random samples proportional to the size of the strata."²

With these thoughts in mind, every school district in Michigan that operates a twelve grade system (kindergarten through high school) was grouped by size of student enrollment. There were nine groups ranging from the school districts of less than 400 students to a group including districts with student populations in excess of 20,000. One district from each group was selected by random sampling except the 1,000 to

¹Margaret J. Hagood and Daniel C. Price, Statistics for Sociologists (New York: Henry Holt and Co., 1959), p. 277.

²Ibid., p. 277.

1,999 student enrollment group within which a very high proportion of the school districts in Michigan fall. Two districts were secured from this group. Table 2 shows the enrollment groupings from school systems which were selected.

TABLE 2

Student Enrollment	School Districts
0 - 399	A
400 - 599	B
600 - 999	C
1,000 - 1,999	D, E
2,000 - 4,999	F
5,000 - 7,999	G
8,000 - 11,999	H
12,000 - 19,999	I
20,000 - over	J

The author traveled about 1,200 miles in making the interviews and spent the equivalent of a full week in getting to the interview sites, conducting the examination and returning home. In several cases two interviews were conducted in remote parts of the state on the same day. Every interview was made by the author personally.

The focused interviews were with school superintendents with only two exceptions. In the two largest districts preliminary investigation disclosed that the assistant superintendents in charge of business affairs actually had more day-to-day contact with the attorneys of their districts than the superintendents. These assistants also attend all school board meetings so are familiar with that aspect of the school district operation. Each interview was preceded by a telephone call explaining the study and requesting an appointment. In every case the

prospective interviewee was exceedingly cordial in his reaction and set an early date for the interview.

The districts chosen represented an excellent geographical and sociological distribution. Only the Upper Peninsular was not represented geographically. Large cities, fast growing metropolitan area districts, and rural school systems were all included. Table 3 summarizes background information on the school districts and interviewees. It can be seen that all of the districts had passed at least one bond issue in the last five years with three of the districts having experienced three bond issues. It is evident from the table, too, that the smaller districts were under the leadership of less experienced men; the two smallest districts had beginning superintendents. This, combined with the startling lack of training in school law of the same men looms as an important fact in this study.

MUNICIPAL FINANCE COMMISSION DATA

The final source of data for this study was the files of the Michigan Municipal Finance Commission. This agency is charged with the responsibility of reviewing for approval all municipal bonds prior to the sale of the bonds. The Commission is composed of the following members of the State Administrative Board: the Auditor General, the State Treasurer, the Attorney General, and the Superintendent of Public Instruction.

The Commission employs a small staff who gather data from municipalities for the use of the Commission. Among the documents submitted to this state agency is the form Application for Approval of the Municipal Finance Commission. After a successful bond issue

TABLE 3

SUMMARY OF BACKGROUND INFORMATION OF CASE STUDY
SCHOOL DISTRICTS AND INTERVIEWEES

School District	Total Enrollment	Class of District	Location in State	Type of Community	No. of Recent Bond Issues	Yrs. in Present Position	Total Years Supt. or Assistant	Training in School Law
A	335	4th	Thumb	Rural	one	1	1	none
B	460	4th	Central Lansing	Rural	one	2	2	none
C	950	4th	Central Lansing	Rural	one	3	22	two courses
D	1,950	4th	Central Flint	Suburban	one	3	7	none
E	1,850	4th	Central Lansing	Suburban	two	9 mos.	7	one course
F	3,300	4th	Central Flint	Suburban	three	23	27	one course
G	5,967	3rd	South-Eastern	Urban	three	6	25	two courses
H	8,600	3rd	South-Eastern	Urban	two	7	23	one course

TABLE 3 - Continued

School District	Total Enrollment	Class of District	Location in State	Type of Community	No. of Recent Bond Issues	Yrs. in Present Position	Total Years Supt. or Assistant	Training in School Law
I	17,064	3rd	South-Western	Urban	one	8	24	none
J	29,500	3rd	South-Eastern	Urban	three	11	22	two courses

Source: Structured Interview Schedule.

election and prior to the sale of the bonds this application must be approved. The form requests the estimated fees the municipality intends to pay for legal services connected with the bond issue. It asks for a separate report on local counsel and bonding attorney fees.

For the purposes of this study 243 applications were studied. These were submitted by school districts in 1955 and 1956 over a fifteen month period and represent every school district application made during that period. The pertinent data from these forms was tabulated to permit easy analysis. The size of the bond issue, the fees paid (actually, estimated to be paid) to local counsel for services on the bond issue, and the fees to be paid to the special bonding attorney were listed. Then the percentage that the legal fees were of the total bond issue amount was calculated. Various other manipulations of this basic data were made to enhance the analysis.

The Municipal Finance Commission data became an extremely interesting and important part of this study.

SUMMARY

In this chapter the author has attempted to show the development and use of the instruments used in this study. The panel of experts was discussed, as was the instrument sent to them with statements for isolating criteria for the use of both bonding attorneys and local legal counsel. The questionnaire and case study interview schedule was presented. The Municipal Finance Commission was discussed. Data from this agency was obtained which became an important part of the analysis of fees paid to local legal counsel and bonding attorneys for services rendered in connection with bond issues.

In the next chapter the responses of the panel of experts will be carefully analyzed in an effort to isolate valid criteria that can be used to measure the effectiveness of current practice in administering the important school attorney-superintendent-board of education relationship.

CHAPTER IV

DEVELOPMENT OF CRITERIA

Chapter I of this dissertation described the setting and stated the problem of this study. In Chapter II the literature relating to the study was reviewed for help in further understanding of the problem and hints as to its solution. Chapter III described, in detail, the methods and instruments used in the research. Before starting in this chapter to analyze the responses of the panel or jury of experts to the statements for isolating criteria, let us briefly restate the problem to regain perspective. The reader will recall that the central problem was to critically analyze the financial and administrative relationship between the school attorney (both local legal counsel and bonding attorney), the school superintendent, the boards of education of school districts in Michigan. Three central questions were asked, What are the present conditions of employment of school attorneys in Michigan?, What are the problems deriving from the three-way relationship between counsel, superintendent, and board of education?, and Are there criteria which can be isolated and will be useful in establishing the school attorney as an integral part of the school administrative organization? It is the latter question which this chapter will attempt to answer.

Each statement for isolating criteria relative to school attorneys will be individually considered unless grouping two or more together will better serve. The total points and median score as

described in Chapter III will be used to ascertain if the statement qualifies as a criterion. It will be remembered that eleven experts judged each statement on the basis of, "tend to agree," "tend to disagree," or "strongly disagree." Each of these possible choices was awarded a point value beginning with three points for "strongly agree" and reducing in value consecutively to "strongly disagree" which was awarded a value of zero or no value. A median score of 2.0 was arbitrarily selected as the necessary qualification for a statement to be considered a criterion. Table 4 on the following two pages presents the jury ratings in tabular form. The left-hand column refers to the statements sent to the jury with their multiple choices designated alphabetically. The eleven jurors range across the top of the table. The numerical value attached to each juror's responses to every possible choice in the statements are shown. The total points for each possible choice are arrived at simply by adding the values assigned to each juror's response. The median, of course, is the total value divided by eleven, the number of jurors.

When interpretive comments have been made by the jurors about a statement those comments will be considered in the discussion of the statement if they are meaningful to the study.

SPECIAL BONDING ATTORNEYS

The statements relating to the special bonding attorney will be considered first. The exact statements that were sent to the jury will be given followed by an analysis. If the statement qualifies as a criterion, the criterion will be stated.

TABLE 4

ANALYSIS OF JURY RATING OF STATEMENTS
FOR ISOLATING CRITERIA RELATIVE TO
SPECIAL BONDING ATTORNEYS

Statement	Jurors											Total Points	Median
	1	2	3	4	5	6	7	8	9	10	11		
1a	-	0	-	0	0	0	0	0	0	3	2	5	.4
b	-	0	-	0	0	0	0	0	0	-	0	0	0
c	-	0	-	0	0	0	0	0	0	-	1	1	.1
d	3	3	3	3	3	3	3	3	3	-	3	30	2.7
2a	-	0	-	-	-	0	-	-	0	-	-	0	0
b	-	0	-	-	-	0	-	-	0	-	-	0	0
c	-	0	-	-	-	0	-	-	0	-	-	0	0
d	-	0	-	-	-	0	-	-	0	-	-	0	0
e	-	0	-	-	-	0	-	-	0	-	-	0	0
f	-	0	-	-	-	0	-	-	0	-	-	0	0
g	3	3	3	3	3	3	3	3	3	3	3	33	3.0
3a	-	0	-	1	0	2	0	0	0	-	1	4	.4
b	-	1	-	1	0	0	0	0	0	-	1	3	.3
c	2	3	3	2	3	2	3	0	0	-	2	20	1.8
d	2	0	3	2	-	2	3	0	0	-	1	13	1.2
e	3	2	-	3	3	3	3	3	3	3	3	29	2.6
4	3	3	3	3	3	3	3	3	3	3	3	33	3.0
5	2	3	3	3	-	3	2	3	1	0	3	23	2.1
6	3	3	3	3	3	3	2	3	3	3	3	32	2.9
7a	-	0	-	3	0	0	1	0	3	3	3	13	1.2
b	-	2	-	1	3	0	1	3	1	-	-	11	1.0
c	3	3	3	1	3	3	3	0	2	-	-	21	1.9
d	-	2	3	0	3	0	1	0	1	-	-	10	.9
8	-	1	-	3	-	3	1	0	3	3	3	17	1.5
9	3	2	-	0	3	0	1	3	1	-	-	13	1.2
10	-	3	3	3	-	3	3	0	2	-	-	17	1.5
11	-	0	-	-	-	0	1	0	1	-	-	2	.2
12	-	3	-	1	-	0	3	0	0	-	-	7	.6
13	-	1	-	1	-	0	1	3	1	-	-	7	.6
14	3	2	3	3	-	0	1	0	3	-	-	15	1.4
15	-	3	-	1	-	3	1	0	0	3	2	13	1.2
16	-	-	-	-	3	-	-	0	-	-	-	3	.3
17	1	3	1	2	3	2	1	3	3	0	3	22	2.0
18	3	3	1	3	3	2	3	3	1	2	2	26	2.4
19	2	3	2	3	3	2	2	2	3	2	2	26	2.4
20	1	3	1	2	2	3	2	0	3	2	2	21	1.9
21	3	3	3	3	3	3	3	3	3	3	3	33	3.0
22	3	2	3	3	3	3	3	0	3	3	3	29	2.6

Statement 1. Qualified legal assistance on bond issue proceedings should be employed by school districts, depending on the,

- (a) size of the district
- (b) superintendent's knowledge of school law
- (c) size of bond issue
- (d) by all school districts
- (e) other factors (specify)

Statement 2. Qualified legal assistance on bond issue proceedings should be employed by school districts of:

- (a) less than 499 students
- (b) from 500 to 999 students
- (c) from 1000 to 2999 students
- (d) from 3000 to 5999 students
- (e) from 6000 to 9999 students
- (f) all school districts

These two statements are so closely related in their intent that they should be considered together. Statement 1 seeks to determine if all districts should have legal advice on bond issue proceedings or if there are mitigating factors that may negate the necessity for such assistance. For example, could the factor of size influence whether or not a school district needs legal advice on bond issue proceedings? If the superintendent is experienced and well-versed in school law can the district get by satisfactorily without a bonding attorney? Are there other factors that may affect the necessity for legal assistance? The central question here is one of basic importance to the entire study, for one of the assumptions in the research design was that all districts require assistance from qualified municipal bond attorneys for bond issue proceedings.

The reader will recall from Chapter II that writers in the field have consistently expressed the urgency of retaining bonding attorneys for their unique and specialized services. There was some

indication, however, in pre-testing the instrument under discussion that if any factor was operative here it was the factor of school district size. For recognition of this, the author included Statement 2. This statement attempts to find the size of district, measured in terms of student enrollment, above or below which a bonding attorney may or may not be necessary.

The returns from the jury indicate a conclusive belief that all school districts require legal assistance for bond issue proceedings. Neither size nor any other factor affects this necessity. Only one juror "tended to agree" that size may be a factor, but the same juror reported that he "strongly agreed" that all districts needed legal help on bond issues. In Statement 2 the same juror again emphasized his belief that all districts should employ bond counsel.

The median score for Statement 1(d) was 2.7 and the median for Statement 2(g) was 3.0. It is possible then to state the first criterion as:

Criterion I. Qualified legal assistance on bond issue proceedings should be employed by all school districts.

Statement 3. Advice on legal matters involved in school bond issue election proceedings should be rendered by:

- (a) the school superintendent
- (b) an attorney on the board of education
- (c) the school district's legal counsel
- (d) a school law specialist
- (e) a municipal bond law specialist
- (f) other (specify)

The jurors clearly believe advice on legal matters involved in school bond issues should be sought from municipal bond law specialists.

The median score was 2.6. There was considerable feeling that the local legal counsel should render such advice also. Only one juror was willing to forsake the municipal bond specialist for the exclusive services of the local counsel. Seven of the eleven jurors selected both types of attorneys. The local legal counsel polled a total score of twenty points and median score of 1.8. It will be remembered that a median score of 2.0 was necessary to qualify as a criterion, hence, the criterion must exclude the local counsel and read as follows:

Criterion II. Advice on legal matters involved in school bond issue proceedings should be rendered by a municipal bond law specialist.

Statement 4. The financial arrangements with a bonding attorney should be spelled out in written form and agreed upon by both parties in advance of actual service.

On the basis of what is normally considered "good business" this statement would seem to be completely acceptable. The experts certainly subscribe to this for it is one of the few statements that was "strongly agreed" upon by the entire jury. The statement, then, received a total of thirty-three points and the maximum median score of three points and can be restated in its present form as:

Criterion III. The financial arrangement with a bonding attorney should be spelled out in written form and agreed upon by both parties in advance of actual services.

Statement 5. The administrative relationship of the bonding attorney to the board of education and administrative staff should be written in the bylaws or policies of the board of education.

Statement 5 received twenty-three total points resulting in a median score of 2.1. This qualifies it as a criterion. There were some interesting comments made on this statement. Two of the panel members who scored the item less than "strongly agree" made the comment that the administrative relationship to the board of education and administrative staff should be a part of the contract between the bonding attorney and school district. One of them also suggested the relationship be recorded in the board minutes of the district. Still another member said the statement simply was "not necessary." Two additional comments were made that should be considered. The first by one of the jurors who thought the relationship should be in the contract. This man added that he would "strongly agree" if the district has bonding projects under way at all times." The second comment was that the relationship should be "part of the bylaws which spell out the relationship of all special consultants to the administrative officers and board of education." Both of these comments may be worthy of some thought in light of the total vote on this item, and particularly the latter comment. This point will be discussed further in succeeding chapters of this report.

The criterion is stated as:

Criterion IV. The administrative relationship between the bonding attorney and the board of education and administrative staff should be written in the bylaws or policies of the board of education.

Statement 6. The administrative relationship between the bonding attorney and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.



Like Statement 4 this is simply a "good business" procedure and, for that reason, exacted no comment by the jury. Only one juror "tended to agree" while the other ten "strongly agreed." Thus, Statement 6 totaled thirty-two points and a high median score of 2.9 qualifying it as a strong criterion.

Criterion V. The administrative relationship between the bonding attorney and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.

Statement 7. The bonding attorney should generally receive instructions from the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) local counsel
- (e) other (specify)

Statement 8. The bonding attorney should generally report to the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) local legal counsel
- (e) other (specify)

These two statements are being considered together because they are so closely related. Reference to Table 4 on page 51 will disclose a remarkable lack of agreement by the experts on these two statements and their various alternatives. One wonders what is behind such lack of agreement and whether lifting these men from their environments and bringing them together to discuss the two statements they might reach consensus on a particular method of operation relative to



these statements. Can it be a case of misinterpretation as they read the statement? Has each person read something different here or is there simply a lack of agreement on these issues? On both statements the superintendent and board of education working jointly received the highest score but in neither case did the median score qualify as a criterion; the scores were 1.9 and 1.5 respectively.

An interesting observation, here, is that none of the alternatives in either statement escaped having at least one of the experts "strongly disagree" with that choice. There was also at least two panelists who "strongly agreed" with all the alternatives to both statements except 8(d). None of the experts agreed that the bonding attorney should report to the local legal counsel although three of them agreed that the bonding attorney should receive instructions from him. This presumable inconsistency prevails throughout the responses to these two statements. None of the comments, nor the comments taken collectively, assist in clarifying the situation with Statements 7 and 8. Although "reporting to and receiving instructions from" the superintendent and board jointly received the most agreement and least disagreement of the various alternatives, no criteria are extractable from these statements.

One final comment. As seen in Chapter II the review of literature in the field of education anticipated this lack of agreement on where the attorney fits in the administrative hierarchy. The simple disclosure that the educational administration literature has neglected this relationship may indicate a lack of agreement in the field. However, the business administration writers have not failed to meet this question head-on. The literature there, it will be recalled, advocated a staff

position to the president or general manager for the attorney. Assuming comparability in the superintendent-board of education relationship to that between the president of a corporation and his board of directors, wouldn't the staff relationship to the superintendent be advised? A staff relationship to the superintendent would mean the attorney would both report to and receive instructions from the superintendent. The superintendent, of course, reports to and receives "policy instructions" from the board of education in the usual interpretation of the superintendent's role.

Statement 9. Bonding attorney fees should be based upon:

- (a) an annual retainer
- (b) percentage of bond issue
- (c) a sliding percentage scale
- (d) time and expenses
- (e) other (specify)

Two jurors commented on this statement to the effect that the bar associations or the bonding attorneys would determine the fee arrangement. One of the reasons for including the statement was to see if school law and school administration experts felt that a particular kind of fee arrangement should be insisted upon by school officials. In Chapter II it was reported that Rosenstengel and Eastmond found: "The fees paid to a bonding attorney will vary with localities, but usually they are a small fraction of 1% of the bonds"! This seems to imply that usually fees for this type of service are based on a percentage of the bond issue. The question is, "Is this the best type of fee arrangement?" The jury did not supply a conclusive answer. Once again at least one juror "strongly agreed" and at least one "strongly disagreed" to every other alternative. There was more agreement for a sliding percentage of the

bond issue, but the total of fifteen points resulted in only a 1.4 median score which is not sufficient to qualify it as a criterion. The only conclusion possible here is that once again there is too little agreement among the experts on the method of payment to say with conviction, "this is the way it should be !"

Statement 10. The special bonding attorney should be expected to attend public meetings held to discuss the bond issue proposals.

Five of the jurors "strongly agree" with this statement and two others "tend to agree." Three "tend to disagree," including one who wrote, "Not usually, but in a few special cases, yes!" One person "strongly disagreed." This scoring resulted in a total of twenty-two points and median of exactly 2.0 which means it barely qualified as a criterion.

Criterion VI. The special bonding attorney should be expected to attend public meetings held to discuss the bond issue proposals.

Statement 11. The special bonding attorney should be expected to attend school board meetings where the bond issue proposals are being determined.

There were two comments of note made on this statement:

"Details, 'yes,' general proposal, 'no'"; and "Might not always be necessary--depends on the circumstances." This statement needs little clarification. The total points scored were twenty-six with a median of 2.4 which results in:

Criterion VII. The special bonding attorney should be expected to attend school board meetings where the bond issue proposals are being determined.

Statement 12. The special bond attorney should be expected to attend the board meetings at which bids for bonds are being opened.

None of the experts disagreed with this statement. It totaled twenty-six points and received a median score of 2.4. The only comment made was, "It might not always be necessary; depends on the circumstances." However, the scoring is so favorable that the criterion must be stated just as the original statement.

Criterion VIII. The special bonding attorney should be expected to attend the board meetings at which bids for the bonds are being opened.

Statement 13. The bonding attorney should be expected to prepare the bond circular for potential bond buyers.

This statement is one of the "near misses." Although eight experts "agreed" with the statement as opposed to only three who "disagreed," the statement did not garner enough total points to qualify as a criterion. The median score was 1.9 points. The limited number of comments seemed to indicate that the bonding attorney should assist in the preparation of such a document but school officials themselves or a fiscal agent employed by them should be responsible for its preparation.

Statement 14. The bonding attorney or his firm should be qualified to render an approving opinion on the bond issue.

There was complete unanimity on this statement, all jurors "strongly agreeing," making the median score 3.0. Hence,

Criterion IX. The bonding attorney or his firm should be qualified to render an approving opinion on the bond issue.

Statement 15. The bonding attorney should arrange for the signing and delivery of bonds.



Reference again to Table 4 will indicate that nine of the jurors "strongly agree" with this statement, one "tends to agree" and one juror "strongly disagrees" with it. There is no comment from any of the jurors. The median of 2.6 qualifies this statement as:

Criterion X. The bond attorney should arrange for the signing and delivery of bonds.

Statement 16. The selection of a bonding attorney should be made by the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) other (specify)

Statement 17. The termination of relations with a bonding attorney, if necessary, should be initiated by the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) other (specify)

Here again are two closely related statements that can most efficiently be treated together. These statements stemmed from preliminary interviews and reports that indicated difficulties sometimes arose in this area.

The summary of scoring is complicated by comments offered by the jury members. In both instances the "board of education" alternate received a high enough median score to qualify as a criterion.

Four jurors selected "board of education" as a "strongly agree" item and then commented "on the recommendation of the superintendent." One wonders if those who selected "superintendent and board jointly" were not thinking the same thing. In the words of one juror, "Board of



Education is the only legal answer. Actually done with advice of the superintendent." It is the conviction of the author that few, if any, of the jurors meant that either the board of education or superintendent should select the attorney, at least, without consultation with the other. With that thought in mind the researcher feels well advised to state the criterion as:

Criterion XI. The selection of a bonding attorney should be made by the board of education upon the recommendation of the school superintendent.

The matter of termination of relations with a bonding attorney exacted less comment than the selection. The "board of education" alternate received a median score of 2.1 points. However, again the "superintendent and board of education" choice drew many points; a total of seventeen. As one juror wisely pointed out, however, "The school board and superintendent are not coordinate in this action." Again one wonders about the real intent of the jurors. How did they interpret the term "initiate"? Does it make a difference who is dissatisfied in who initiates the action? The author is required to presume on the basis of the actual checked responses and comments that Statement 17 can most satisfactorily be stated as:

Criterion XII. The termination of relations with a bonding attorney, if necessary, should be by the board of education upon the recommendation of the school superintendent.

Statement 18. The bonding attorney should be expected to participate in discussions at school board meetings of purely educational matters that are involved in bond issue proposals.

Statement 19. The board of education should be influenced by the bonding attorney on educational matters that are involved in bond issue proposals.

There is considerable agreement on these two statements. Only two points were recorded for Statement 13 and only a single point was all that Statement 19 garnered. In other words, the agreement was entirely negative. This is another instance when preliminary investigation disclosed a problem area. The criterion in this instance can probably most effectively be stated in negative form.

Criterion XIII. The bonding attorney should not participate in school board discussions of purely educational matters that are involved in bond issue proposals.

Statement 20. Qualified legal advice on school bond issue elections should be available from:

- (a) state departments of education
- (b) county offices of education
- (c) county government offices
- (d) city government offices
- (e) other (specify)

There was surprising concurrence that "state departments of education" should provide qualified legal advice on bond issue elections. Not a single juror recorded a "disagree" vote although two jurors failed to respond to this alternate. Six of the jurors "strongly agree" with this item. The median score was 2.2 points, qualifying it as a criterion.

Although "county offices of education" found some favor, there were not enough votes to come close to qualifying. An interesting note is the complete rejection of county and city governments as a possible source of this type of assistance. Neither of these sources attracted a single "agreement" vote.

Criterion XIV. Qualified legal advice on school bond issue elections should be available from state departments of education.

From the twenty statements in the section on special bonding attorneys, fourteen criteria have been isolated. These criteria selected by a jury of experts in the dual fields of school law and school administration should be of significant assistance to school board members and superintendents as well as members of the bar who specialize in municipal bonds.

LOCAL LEGAL COUNSEL

The author will turn his attention now to the equally important local legal counsel. It must be remembered that the local counsel is the lawyer who is retained by the school district to provide general legal services.

Throughout this attempt to isolate criteria relating to the local legal counsel the similarity in both the statements and responses to those relating to the special bonding attorney will be noticed. As much as possible repetition will be avoided. The reader will, in some instances, be referred to the comments previously made about the special bonding attorney. Always the attempt will be to present the material clearly and succinctly.

Table 5 on the following pages presents the jury ratings of statements for isolating criteria relative to local counsel in tabular form. A detailed explanation of this table was presented on page 50.

TABLE 5

ANALYSIS OF JURY RATING OF STATEMENTS
FOR ISOLATING CRITERIA RELATIVE TO
LOCAL COUNSEL

Statement	Jurors											Total Points	Median
	1	2	3	4	5	6	7	8	9	10	11		
1a	-	3	-	-	0	0	1	3	0	-	1	8	.7
b	-	1	-	-	0	0	1	0	0	-	0	2	.2
c	-	1	-	-	0	0	1	0	0	-	0	2	.2
d	-	2	-	-	0	0	1	0	0	-	0	3	.3
e	3	3	3	3	3	3	3	3	3	3	3	33	3.0
2a	-	-	-	-	-	0	-	0	-	-	-	0	0
b	-	-	-	-	-	0	-	0	-	-	-	0	0
c	-	-	-	-	-	0	-	0	-	-	-	0	0
d	-	-	-	-	-	0	-	0	-	-	-	0	0
e	-	-	-	-	-	0	-	0	-	-	-	0	0
f	-	-	-	-	-	0	-	0	-	-	-	0	0
g	3	3	3	3	3	3	3	3	3	3	3	33	3.0
3a	-	1	3	-	0	2	2	0	3	-	1	12	1.2
b	-	1	0	-	0	1	2	0	0	-	1	5	.4
c	-	1	-	3	2	2	3	0	3	3	2	19	1.7
d	3	3	3	3	3	2	3	3	2	-	3	28	2.5
4	3	3	3	3	3	3	3	3	3	3	3	33	3.0
5	3	2	3	3	3	3	3	3	3	3	3	32	2.9
6	3	3	3	3	3	3	2	3	3	3	3	32	2.9
7a	-	1	3	3	3	3	1	-	3	3	3	23	2.1
b	3	2	-	-	3	0	1	3	1	-	1	14	1.3
c	-	3	-	-	3	3	2	-	1	-	2	14	1.3
8a	-	1	3	3	0	3	1	-	3	3	3	20	1.8
b	3	2	-	-	3	0	1	3	1	-	0	13	1.2
c	-	3	-	-	3	3	3	-	1	-	1	14	1.3
9a	3	3	-	3	-	1	2	3	2	3	1	21	1.9
b	-	2	3	-	-	2	1	0	3	-	3	14	1.3
10	3	3	1	3	3	1	2	3	3	2	3	27	2.4
11	2	3	2	1	3	1	2	3	2	2	3	24	2.2
12a	-	2	-	-	3	0	1	0	0	-	0	6	.5
b	3	3	3	2	-	3	3	3	3	3	3	29	2.6
13	2	3	3	3	3	2	3	3	3	2	3	30	2.7
14a	-	1	-	-	0	1	1	0	3	-	1	7	.6
b	3	3	-	3	3	3	3	3	1	3	1	26	2.4
c	-	2	3	-	0	2	1	0	1	-	3	12	1.1
d	-	-	0	3	-	-	-	0	-	3	-	6	.5
15a	-	1	-	3	0	1	0	0	3	3	3	14	1.3
b	3	2	3	3	3	3	3	3	1	-	1	25	2.3
c	-	3	3	-	0	2	1	0	1	-	2	12	1.1
e	-	-	-	3	0	-	-	0	-	-	-	3	.3

TABLE 5 - (Continued)

Statement	Jurors											Total Points	Median
	1	2	3	4	5	6	7	8	9	10	11		
16	2	3	1	2	3	1	2	3	0	1	3	21	1.9
17	2	3	2	3	3	2	2	3	3	3	3	29	2.6
18	3	3	3	3	3	3	2	3	3	3	3	32	2.9
19	3	3	1	3	3	2	2	3	3	2	3	28	2.5
20	3	3	2	3	3	2	2	3	3	2	3	29	2.6
21	3	3	3	3	3	3	2	3	3	3	3	32	2.9
22	3	3	1	2	3	2	2	3	0	2	3	24	2.2
23	3	2	3	2	3	2	2	3	3	3	3	29	2.6
24	3	2	3	2	3	2	2	3	3	3	3	29	2.6
25	0	1	0	0	0	0	0	0	0	0	0	1	.1
26	0	1	0	0	0	0	0	0	0	0	0	1	.1
27a	-	3	3	3	3	3	2	3	3	3	1	27	2.4
b	-	1	3	1	3	2	1	0	3	2	2	18	1.6
c	-	1	3	0	0	0	0	0	0	-	1	5	.4
d	-	0	-	0	0	0	0	0	0	-	1	1	.1
e	3	3	-	-	-	-	-	-	-	-	-	6	.5

Statement 1. Qualified legal advice should be "on call" for general legal problems arising in the operation of the school district, depending on the

- (a) size of school district
- (b) community setting (rural, urban, suburban)
- (c) superintendent's knowledge of school law
- (d) number of legal problems arising
- (e) "on call" for all school districts
- (f) other factors (specify)

Statement 2. Qualified legal advice should be "on call" for general legal problems arising in the operation of school districts of:

- (a) less than 499 students
- (b) from 500 to 999 students
- (c) from 1000 to 2999 students
- (d) from 3000 to 5999 students
- (e) from 6000 to 9999 students
- (f) over 10,000 students
- (g) all school districts

The reader will note that Statements 1 and 2 are similar to the first two statements under the special bonding attorney. The attempt here was precisely the same. Should all school districts have available qualified legal assistance? If not, what factors determine that such assistance is not required? If size is the factor, what size?

Once more the experts unanimously "strongly agreed" that all school districts should have a qualified legal advisor "on call". Table 5 shows a median score of 3.0 for both Statements 1(e) and 2(g). The criterion then is stated as:

Criterion I. Qualified legal advice should be "on call" for general legal problems arising in the operation of all school districts.

Statement 3. General legal advice should be provided school districts by:

- (a) the school superintendent
- (b) an attorney on the board of education
- (c) a local attorney
- (d) a school law specialist
- (e) other (specify)

There is some feeling that a local attorney can provide general legal advice to school districts although most of the jurors prefer a school law specialist. Several jurors preferred the specialist but gave recognition to the local attorney also. Four men remarked that a competent local attorney who "prepared himself for school service" would be satisfactory. One juror added, "All attorneys are not good school attorneys!" This comment was repeated many times by superintendents interviewed in the case studies. This is an important point. Every district should have legal counsel "on call" but legal counsel must be a

qualified person who has specialized in school law. This would seem to indicate that the rather frequent political appointment of local resident attorneys is not wise. The complexity of public education and the general unfamiliarity of attorneys with the mountainous legal provisions governing education warrant the best legal service available.

The tabulation of points on this statement revealed that only the "school law specialist" totaled enough to qualify as a criterion. The median score for this item was 2.5.

Criterion II. General legal advice should be provided school districts by school law specialists.

Statement 4. The financial arrangements with the local legal counsel should be spelled out in written form and agreed upon by both parties in advance of actual services.

Statement 5. The administrative relationship of the local counsel to the board of education and staff should be written in the bylaws or policies of the board of education.

Statement 6. The administrative relationship of the local legal counsel and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.

These three statements are, of course, closely related and consequently shall be considered together. They all apply to rather fundamental administrative arrangements that, as said before, seem to be simply "good business." One would suppose, then, that all three statements would poll a heavy point total, as they certainly did. It might reasonably be asked, if all this is true, if these statements are truly fundamental, what is the need of incorporating them in the study. Anticipating only slightly, the author is compelled to remark that the

research disclosed a startling disparity between the responses of the jury to these statements and the actual situation among school districts in Michigan.

The jury found much agreement on these items. Statement 4 was "strongly agreed" upon by all eleven jurors and thus can be stated as:

Criterion III. The financial arrangements with the local legal counsel should be spelled out in written form and agreed upon by both parties in advance of actual services.

Statements 5 and 6 each polled thirty-two of a possible thirty-three points, for a median in each case of 2.9 points. The only comment on these items referred to the possibility that these arrangements might be provided by law in some states. In any event that particular jury member "strongly agreed" with both statements.

Criterion IV. The administrative relationship of the local counsel to the board of education and staff should be written in the bylaws or policies of the board of education.

Criterion V. The administrative relationship of the local legal counsel and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.

Statement 7. The local legal counsel should generally receive instructions from the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) other (specify)

Statement 8. The local legal counsel should generally report to the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) other (specify)

There is considerable divergence of expert opinion on these two statements, particularly the latter. However, it would seem that the thinking is somewhat clearer on the local counsel's relationship to the superintendent and school board than the bonding attorney's. In response to Statement 7 the jurors scored twenty-three points with a median of 2.1 for the "superintendent" alternate. None of the experts specifically indicated "disagreement" with this selection. This statement can be stated as:

Criterion VI. The local legal counsel should generally receive instructions from the superintendent of schools.

It is commonly considered a sound principle of administration that a person report to and receive instructions from the same person. Consequently, it would be anticipated that the jury would vote identically on Statement 8 as it did on Statement 7. Such was the case except for minor differences for all except one juror. Juror 5, as shown in Table 5 "strongly agreed" in Statement 7 that the superintendent or board, or superintendent and board jointly, should issue instructions to the local legal counsel. This juror explained in a comment that the source of instructions depended upon the nature of the legal assistance required. In other words, instructions should emanate from the "superintendent in case of some matters, board in others, and jointly in some." The same juror "strongly disagreed" that the superintendent

should be the person to whom the local counsel reported, preferring him to report either to the board or superintendent and board of education jointly. One can only surmise that this juror thinks the complexity of law requires that interpretation should go directly from the legal authority to the board rather than pass through the superintendent. The reader is referred to page 57 of this study for a summary of the same two statements as they apply to the special bonding attorney. Much that is said there is applicable here.

Even though a criterion is not forthcoming from the responses to this statement, the thoughts of one of the jurors perhaps should be remembered in connection with these two statements:

Instructions might be formulated by the board, of course, and conveyed to counsel directly if he is present at the board meeting or else by communication from the superintendent. The local legal counsel should generally report to the superintendent and to the board also when the superintendent and legal counsel feel recommendations are of a policy nature or of sufficient importance that the board should be informed directly.

It is suggested that the above comment may capture the feeling of the majority of experts. There is not sufficient evidence, however, that this is true to attempt to construct a criterion from the thought.

Statement 9 Local legal counsel fees for routine services should be based upon:

- (a) an annual retainer
- (b) time and expense
- (c) other (specify)

Byrnes was reported in Chapter II of this study as finding no consistent pattern in the method of determining the fee of local counsel for services related to bond issues. He found a trend away from the one per cent fee towards a "sliding scale" of percentage fees or a more

substantial retainer with a flat fee for each bond issue. It was Byrnes' recommendation that fees of local counsel for services related to bond issues should be determined on the basis of time.

The jury in this study was asked to indicate the best fee arrangement for local counsel in general, not specifically as the fees relate to bond issue services. There was not sufficient agreement to isolate a criterion. There was considerably more favor for an annual retainer than anything else. The "annual retainer" alternative polled twenty-one points, one less than the total required for a criterion. The "time and expense" selection polled fourteen points with a median score of 1.3 points. There were no other fee arrangements proposed, although one juror suggested that the fee arrangement might be provided for in the school laws of some states. It should be mentioned that no juror "strongly disagreed" with an annual retainer. The author would suggest that the advice of one of the jurors who wrote, "A moderate annual retainer plus fees for special services," perhaps would receive more support among the experts than any other arrangement. The response to Statement 10 supports that argument.

Statement 10. If local counsel is on retainer, legal activities involving unusual time and expense by the attorney should be reimbursed above the retainer.

The experts found much more agreement with this item than the previous one. The median on this statement was 2.4 points, more than enough to qualify it as a criterion. The intention seems clear; the experts aren't sure whether or not an annual retainer is the best fee arrangement for local counsel, but if that is what the school district chooses to do, the retainer should be moderate and unusual activities

reimbursed separately. This intention seems to be embodied in the recommendation of the juror quoted above.

Criterion VII. If local counsel is on retainer, legal activities involving unusual time and expense by the attorney should be reimbursed above the retainer.

Statement 11. The local legal counsel should serve as liaison between the school district and bonding attorney for bond issue election proceedings.

This statement relates precisely to Byrnes' study. As reported earlier, Byrnes found that fifty-nine of the sixty-six school districts polled in his research used local counsel as liaison between the district and the special bonding attorneys. The Twenty-Seventh Yearbook of the American Association of School Administrators was quoted in Chapter II as saying, "The board's local attorney should assist the bond attorneys in every possible way." The jury of experts in this study gave a total score of twenty-four points to this statement indicating agreement with the policies of those districts who so utilize their local counsel. The criterion based on a median score of 2.2 points is:

Criterion VIII. The local legal counsel should serve as liaison between the school district and bonding attorney for bond issue election proceedings.

Statement 12. The local legal counsel should attend school board meetings:

- (a) every meeting
- (b) on request

The panel rather "strongly agreed" that local counsel should attend school board meetings on request only. One juror "tended to

agree" and a second thought local counsel should appear at every board meeting. Four jurors "strongly disagreed" that counsel should appear at every meeting. The logical question to ask here is, Why do the experts feel so strongly that local counsel should not attend every meeting? It does not appear to be just a matter of the panelists' feeling that the attorney and board of education can save one another time by the attorney appearing only on request. If this were the case it is not likely that four of the eleven jurors would have deliberately "strongly disagreed" to counsel showing up at every board session. It would seem something of deeper significance is at play in this situation. It is possible only to speculate in the absence of evidence. None of the jurors made comments on this statement. Preliminary testing of the instrument used in this study and the interviews that accompanied pretrial administration of the instrument were revealing on this statement. It was suggested several times in discussions of this and Statements 25 and 26 that continuous close association with school officials at board meetings might lead to participation in purely educational policy matters. This, of course, was deemed undesirable. It was also felt much less likely to occur if the attorney attended board meetings only when requested.

Whether this is the reason behind the jurors action or not cannot be told with certainty. In any event the intent of the jury is very clear in this statement. A median score of 2.6 points was awarded the alternate "on request" while only a .5 median was recorded for counsel to attend every meeting of the board.

Criterion IX. The local legal counsel should attend school board meetings on request rather than every meeting.

Statement 13. The local legal counsel should be expected to attend public meetings on request.

This seems like a reasonable demand on the time of local counsel.

The jury of experts "agreed unanimously" and awarded this statement at thirty point total and median of 2.7 points. It becomes:

Criterion X. The local legal counsel should be expected to attend public meetings on request.

Statement 14. The selection of a legal counsel should be made by the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) other (specify)

Statement 15. The termination of relations with local legal counsel, if necessary, should be initiated by the:

- (a) superintendent
- (b) board of education
- (c) superintendent and board jointly
- (d) other (specify)

The jury decreed that the board of education, upon the recommendation of the superintendent, should both select and terminate relations with the special bonding attorney. Table 5 reveals a similar situation with respect to local counsel. The experts named the board of education as the agent to select and terminate relations with the local legal counsel as well.

Again one ponders over the possibility of misconception of terms. The term "jointly" was intended to mean "together" as it is

commonly used. The accepted method for a board of education and superintendent to work "together" in matters of this kind is for the superintendent to recommend action to the board. This assumes that the action is within policy, if not, the superintendent would recommend a policy. Did the jury members who checked the alternate "superintendent and board jointly" have this method of operation in mind? Only one of those jurors commented on either statement. He wrote in relation to Statement 14, "The superintendent should nominate counsel." Two jurors who checked "board of education" explained "Upon the recommendation of the superintendent." Another problem of interpretation was with the word "initiate" in Statement 15. One juror asked, "What constitutes initiation?"

Statement 14 seems to be clear enough to state it as:

Criterion XI. The selection of local legal counsel should be made by the board of education upon the recommendation of the superintendent.

As was the case with the special bonding attorney, an adjustment in Statement 15 perhaps should be made to clarify the apparent intent of the jury.

Criterion XII. The termination of relations with local legal counsel, if necessary, should be by the board of education upon the recommendation of the superintendent.

Statement 16. The local legal counsel should be expected to supervise the annual school election proceedings if a bond issue is not involved.

Seven jurors "agreed" with this statement, but four did not.

The resulting total score was twenty-one points which computes to a 1.9 median. It seems clear that this is an area that school officials

may wish to use local counsel. A millage proposal, inexperience of the superintendent, the press of other duties, and community expectations are all factors that may create the desirability of counsel supervising the annual election. On the other hand, most school men have had experience with these proceedings and even those who are serving their first superintendency probably find sufficient help in the prescribed forms, the school code, and from neighboring colleagues to handle such an election.

Statement 17. The local legal counsel should be expected to prepare architectural and construction contracts.

Statement 18. The local legal counsel should be expected to review for approval architectural and construction contracts and performance bonds.

These two related statements attempt to further define the major areas of assistance that should be rendered by local legal counsel. Both statements received a high point total and qualify as criteria.

Many school districts use architectural and construction contracts that are standard forms approved by the American Institute of Architects. If an attorney chose to use a standard form, fill in the necessary information, perhaps even modify the original document, this would be considered as "preparation" of the contract documents as the term is used here. If the attorney drew up a complete contract form to be used by architects and contractors as a standard form for that particular school district, that would be considered as "preparation" of the contract, also. Many times the architects assist in the preparation of the contracts and in some cases actually prepare them for approval by the school district's counsel. The experts prefer to have

the contracts actually prepared by the attorney, however, as evidenced by the median of 2.6 points, Statements 17 and 18 can then be stated as:

Criterion XIII. The local legal counsel should be expected to prepare architectural and construction contracts.

Criterion XIV. The local legal counsel should be expected to review for approval architectural and construction contracts and performance bonds.

Statement 19. The local legal counsel should be expected to attend bid openings for new construction.

Statement 20. The local legal counsel should be expected to attend board meetings when construction contracts are to be let.

Statement 21. The local legal counsel should be expected to review final payment certificates and documents for contractors.

There is little comment needed on the above three items. Only one juror "tended to disagree" with Statement 19. The responses to the other statements were entirely affirmative. With median scores of 2.5, 2.6, and 2.9 points respectively, the jury agrees that these duties are to be expected of local counsel. They become:

Criterion XV. The local legal counsel should be expected to attend bid openings for new construction.

Criterion XVI. The local legal counsel should be expected to attend board meetings when construction contracts are to be let.

Criterion XVII. The local legal counsel should be expected to review final payment certificates and documents for contractors.

Statement 22. The local legal counsel should be expected to negotiate on behalf of the board of education for the purchase or sale of property.

One person "strongly disagreed" to this statement and two others explained that the school board may want to have someone else negotiate but "transactions should always be cleared by counsel." The generally strong support for this item probably stems from the jury's awareness of the legal technicalities involved in title clearance, fee-simple titles, legal property descriptions, options, resolutions leading to condemnation and so on. Sometimes taxpayers are prone to point their fingers at school board members and administrators over property negotiations. Perhaps the jury had such thought in mind when it recommended that legal counsel do the property negotiations.

On the strength of a median score of 2.2 points, Statement 22 becomes:

Criterion XVIII. The local legal counsel should be expected to negotiate on behalf of the board of education for the purchase or sale of property.

Statement 23. The local legal counsel should be expected to try condemnation cases when necessary.

There is no disputing the experts' intent on this statement. Of a possible thirty-three points, this statement polled twenty-nine and no dissenting votes were cast or comments made. Rather than write

this statement as a criterion, it seems more economical to combine it with the succeeding statement.

Statement 24. The local legal counsel should be expected to perform other court services as may be required by the school districts.

Each expert voted on this item exactly as he did on the previous statement. However, three jurors recorded comments. A typical comment was, "with special assistance if necessary." One wonders why the same comments were not made concerning condemnation trials. In any event the statement qualifies as a criterion. A slight change in the wording incorporates the intent of the previous statement.

Criterion XIX. The local legal counsel should be expected to perform condemnation proceedings and other court services as may be required by the school district.

Statement 25. The local legal counsel should be expected to participate in discussions at school board meetings of purely educational matters.

Statement 26. The board of education should be influenced by the local legal counsel on educational matters.

It was suggested in the discussion of Statement 12 that attendance at every school board meeting might promote the possibility that counsel would become an active participant in all board discussions. The jury was positive in its declarations that counsel should attend meetings only on request. Whether the reason stated above was one of the reasons the jurors had in mind is unknown. What is known, however, is that the jury unanimously "disagrees" that local counsel should participate in discussions of purely educational matters. This is a point that must be remembered by board members and superintendents as well as attorneys.

The tabulation of scores for these two statements shows a total point score of only one for each item. It is clear that if counsel does not discuss educational policy matters except as they require legal interpretation, that the board will not be influenced in purely educational matters by him. Hence, Statements 25 and 26 can be consolidated. The extent of agreement and importance of these statements are too great, it seems, not to restate the items in negative form and offer them in consolidated form as:

Criterion XX. The local legal counsel should not participate in school board discussions of purely educational matters.

Statement 27. Qualified advice on general legal problems arising from the day-to-day operation of the school district should be available from:

- (a) state departments of education
- (b) county offices of education
- (c) county government offices
- (d) city government offices
- (e) other (specify)

It will be remembered that the jury felt state departments of education should provide legal advice on bond issue proceedings. The jury reached the same conclusion about general legal advice to school districts. Only one juror "tended to disagree" with this statement. None of the other alternatives, e.g., county offices of education, or county or city governments, attracted enough favorable reaction to qualify as a criterion. In fact, eight of the eleven jurors "disagreed" with having either the county or city governments provide legal assistance to school districts. It would seem by the strength of the negative vote, both here and on the same statement under the special bonding

attorney, that these school law and administration authorities are very concerned about the possibility of inexperienced legal advice being given school officials. Statement 3 determined that "school law specialists" were the choice of the jury for rendering general legal advice to school districts. The rejection of legal departments of other governmental units seems entirely consistent with this stand.

The median score on the "state department of education" alternate was 2.4, qualifying it as:

Criterion XXI. Qualified advice on general legal problems arising from the day-to-day operation of the school district should be available from state departments of education.

SUMMARY

Forty-seven statements were sent to a jury or panel of experts. The statements were divided into those dealing with the special bonding attorney and those related to the local legal counsel. The experts were to judge each item on the basis of "strongly agree," "tend to agree," "tend to disagree," or "strongly disagree." These ratings were awarded numerical values of three, two, one and zero, respectively. A median value of at least two was necessary for a statement to qualify as a criterion. From the forty-seven statements, thirty-six criteria were isolated, fourteen on the special bonding attorney and twenty-two on the local legal counsel. These criteria are summarized in the final chapter.

The following chapter will use the criteria to "measure" existing practices relative to the administration of school attorneys in Michigan.

CHAPTER V

PRESENT METHODS OF SELECTION AND ADMINISTRATION OF SCHOOL ATTORNEYS

The previous chapter isolated very important criteria for the financial and administrative relationship between school attorneys, superintendents and board of education. This chapter will be divided into three main sections. The first will be an analysis of the responses to the questionnaire sent to all school superintendents in Michigan. The analysis will be made in relation to the criteria established by the jury of experts. The second portion of this chapter will be a similar analysis of the data found in the ten case study school districts. Thirdly, an analysis of the records of the Municipal Finance Commission will be undertaken. Two hundred forty-three school district bond issues will be analyzed for information on fees to both bonding attorneys and local counsel. These bond issues were approved by the Commission in 1955 and 1956.

ANALYSIS OF QUESTIONNAIRE DATA

The questionnaire, it will be remembered, was sent to 698 school districts in Michigan. The number returned was 433, or 62.9% of those sent out. It contained fifteen highly select questions, most of which applied to local legal counsel. The term "attorney" or "school attorney" was used to designate the general legal advisor to the school district. "Bond attorney" was the designation given the municipal bond law specialist. The questionnaire contained an item that asked the size

of the school districts participating in the study. The grouping of school districts by size was shown in Table 1 on page 34. The entire questionnaire, as stated earlier, can be found in Appendix A.

The vital question, "Do you employ a school attorney on a regular basis?" was asked as one of the first questions on the instrument. The reader will recall the unanimous agreement of the experts that all school districts, regardless of size, should have counsel available. Criterion I was actually stated, Qualified legal advice should be on call for general legal problems arising in the operation of all school districts. The questionnaire returns indicated that nearly two-thirds (61.2%) of the school districts in Michigan do not employ or retain local counsel on a regular basis. Only 162 superintendents responded affirmatively; 265 reported they did not. Six failed to respond to this item. However, Question 4 asked, "On what basis is your attorney employed? Fee? Salary? Retainer?" In this case 228 returns reported a fee basis, 124 a retainer, only 13 a salary, and 68 failed to respond. There seems a discrepancy at first glance between the 162 school districts reporting the employment of an attorney on a regular basis and the 365 districts who employ counsel on a fee, retainer, or salary basis. It seems reasonable to assume that a very large number of those reporting employment of counsel on a fee basis do not seek legal advice frequently enough to consider it "regular employment" of the attorney by the district. Clearly, any school district that has a man on retainer or salary would answer that they were employed on a "regular basis." There were 137 such districts, or a clear majority of the 162 school systems that employ counsel regularly. On the other

hand, there were 223 fee-paying districts. These much more than make up the difference between the 137 systems that employ counsel on a retainer or salary basis and the 162 that employ counsel regularly. Is it enough to have an attorney around to be called on a fee basis? The term "on call" in the criterion means "readily available." It implies a stable relationship over a period of time so school officials feel free to call whenever a legal question arises. The verbatim comments by respondents included in Appendix B contain several interesting statements on this point. One superintendent wrote, "It would be helpful to be able to consult one (an attorney) more frequently without worrying about the cost!" (3) Still another said, "It would be very helpful if a superintendent could pick up the 'phone and receive a quick answer to some legal questions." (14) A third superintendent indicated satisfaction with the availability of counsel; "I feel that the school attorney is an important member of our staff, always at hand when needed, never inflicting unwanted advice." (15)¹

It seems clear that a great many school districts in Michigan do not have the kind of legal service described by these school officials. Nor do they have the "on call" service deemed very important by leading experts in the fields of school administration and school law. It appears then, that although 265 districts do not employ counsel on a regular basis, many of them occasionally seek legal information and pay a fee for the assistance.

The fifth item on the questionnaire asked, "Do you employ a separate and specialized attorney for advice and counsel on bond issues,

¹The number in parenthesis refers to the numbered verbatim response found in Appendix B.

elections and similar specialized activities?" Of the 433 school districts in Michigan reporting, 66.4% stated that an attorney who was experienced in handling bond issues was employed when the district engaged in bond issue proceedings. There are only two firms in Michigan that are recognized by bonding companies for writing legal opinions on bonds. These firms, of course, were named repeatedly by the various superintendents responding. There are several other attorneys in the state who have specialized in school law and who have undertaken to handle bond issue proceedings. They do not render approving opinions on the bonds, but do most of the other work usually performed by the larger municipal bond firms. Because of their specialization in school law these men serve as local counsel to a large number of school districts in the state. This accounts for some of the 33.6% of the school systems that do not employ "a separate and specialized bonding attorney." Some of the others can be accounted for in a similar manner. Instead of employing local counsel who also performs bond issue services, many districts in the state employ one of the large municipal bond law firms for bond issues and then seek their advice on general legal matters. This may be a natural outgrowth of two things, a satisfactory relationship established by working together on bond issue proceedings, or recognition by the superintendent that he has found a school law authority. In many cases the municipal bond firms do not charge the school districts for their general legal services unless a written opinion or other more involved request is made. These two points seem to be substantiated by both the case study and questionnaire.

It appears that Michigan school districts meet, for the most part, the criterion isolated previously as Criterion I under the

Special Bonding Attorney, Qualified legal assistance on bond issue proceedings should be employed by all school districts.

The sixth question on the instrument sent to all school superintendents in Michigan was, "If your bond attorney is paid on a percentage basis (percent of total issue), what is the percentage?" Only eighty-three people answered this question; 350 failed to respond. What possible reason can be assumed for this startling fact? It will be discovered later that several of the superintendents interviewed in the case study portion of this research did not have accurate knowledge of the basis for their bonding attorney's fees. It may be possible then to assume that that may be one of the reasons so few superintendents responded to the sixth question. There also may have been some reluctance to disclose this information for comparison with other school districts although strict confidence was pledged in use of the returns.

Two respondents reported bonding attorney fees of \$1 per bond. All others reporting indicated fees based on a percentage of the total bond issue. The range of fees was from .01% to 10%. Most districts paid .3%, however. Several superintendents reported that the percentage was figured on a sliding scale where the percentage varied inversely with the amount of the bond issue. This accounts in part for the extreme range in fees. It is doubtful, however, if a 10% fee for bond services is ever justifiable. More will be said about this important aspect of the study later.

The question, "Who participated in the selection of your attorney? Board only? Superintendent only? Superintendent and Board?" drew an overwhelming response indicating a joint selection. Only five

superintendents made the selection on their own while sixty boards of education employed counsel without the advice or recommendation of their superintendents. Twenty-five districts failed to respond to this item. Three hundred forty-three, or 79% of the districts, reported a joint selection of legal counsel. Whether this means the superintendent actually recommended the attorney or whether the superintendent and board simply agreed that a particular person should be employed is not known. It may not be significant in any event. What is significant, however, is that approximately 15% of the school districts employ counsel on the basis of either the superintendent's action or the board's; in each case without the participation of the other. This is clearly a violation on the part of a relatively large number of districts of a basic administrative criterion established in this study. Criterion XII stated, The selection of a legal counsel should be made by the board of education upon the recommendation of the superintendent. It is clear from the responses to the seventh item on the questionnaire that although most districts in Michigan conform to this policy, many do not.

"Does your attorney attend board meetings; Regularly? Only when asked? Never?" This eighth question corresponds to Criterion IX which states, The local legal counsel should attend school board meetings on request rather than every meeting. The response from the school administrators shows that nearly one-fourth of the school districts in Michigan do not meet this criterion! In a total of 296 systems the attorney appears at board meetings "on request." This represents 63.4% of all districts in the state. Thirty-nine, or 9%, attend "regularly," while sixty-four, or 14.8%, never show up at school board sessions!

One superintendent recognized the potential problem that seemed to concern the experts. He wrote, "It is very possible that difficulty could arise when the school attorney is present at all board meetings. He could influence the board regarding matters which are not within his jurisdiction."

Another question dealing with the potentially sensitive area of administrative relationships is Question 9, "Do you feel that you, as superintendent, could recommend to the board that you change school attorneys without causing friction?" It would seem that a relationship between the board, attorney and superintendent built on the criteria isolated by the experts in this study would enable the superintendent to answer Question 9 affirmatively. Much agreement by the jury was evident on the criterion that urged board of education written policies setting forth the administrative relationship. Criterion V stated the need for agreement on the policies governing relationships prior to services of the attorney. Still another criterion directly related to this question is Criterion XII; The termination of relations with local counsel, if necessary, should be by the board of education upon the recommendation of the superintendent.

Only 55.7% of the superintendents in Michigan gave an unqualified affirmative answer to the question, "Do you feel that you, as superintendent, could recommend to the board that you change school attorneys without causing friction?" Slightly more than 11% said, "No!" While nearly one-fourth responded, "Don't know!" One wonders if the absence of clearly defined written policies accounts for most of the 106 school officials who "Don't know!" Perhaps many of the forty-eight who answered

negatively and the thirty-eight who failed to respond can be counted among those who have not written a policy governing the attorney-superintendent-board relationship. The case studies revealed the possibility of still another reason why this question was answered as it was. The point must await discussion until the case study data are presented.

Questions 11 and 12 pertain to the attorneys' offering advice on matters that are strictly educational rather than legal. The first question asks if he ever has given his unqualified opinion and the second inquires if the school board was ever influenced by such opinions. It was stated earlier in the study that these questions were included because preliminary investigation disclosed a problem in this area. The problem is substantiated by the response to the questions. Nearly ten per cent of the school boards in Michigan have heard the lay opinion of their local counsel on strictly educational matters and have been influenced by that opinion. Approximately 20% of the superintendents either did not answer the questions or did not know if their board had heard the attorney offer his opinion on such non-legal matters.

Some interesting comments were made on these two questions. Several superintendents supported the proposition that the attorney should restrict himself, or be restricted, to those matters which require his specialized training. "He is for advice on legal matters and not on educational. Act as an advisor when asked and not on whole agenda. Let the board make decisions without comment unless it is a legal problem," wrote one superintendent. Another said, "Restrict to legal aspects of problems only." Still another; "There is need to clarify distinctly

the province that the superintendent and the attorney each prevail in, and to insure that neither invades the other's area." One superintendent thought not only should the attorney stick to his field but admonished school officials as well, "Yes, attorneys should give legal advice only and perform duties related to his profession--superintendents likewise--boards likewise!" One man worried about what could happen. "We have an excellent relationship. If the attorney were local, sat at the board table, and was in politics it could be unfortunate."

The twelfth question asked, "From whom do instructions to your attorney originate?" It will be recalled that the jury of experts were unable to agree on this question in regards to the bonding attorney. However, the jury did agree that the local counsel should generally receive instructions from the superintendent of schools. This is Criterion VI.

Once again school officials in Michigan fall far short of meeting the criteria established. In only 41.3% of the school districts in the state do the instructions to local counsel originate from the superintendent. In 31.9% of the cases the superintendent and board issue the instructions. It is not clear whether the respondents meant the superintendent and board both gave instructions or gave instructions together. It is possible that some respondents meant the board gave instructions on some occasions and the superintendent on others. On the other hand, some respondents may have interpreted the question to mean that the orders were given at a meeting of the board by the board and superintendent working jointly. It is not of great moment in either case. The jury was clear in its intent that the superintendent was the

agent for actually instructing the attorney. It is presumed, of course, that the superintendent has kept the board informed of his activities with counsel or has actually been requested to seek certain legal advice.

In slightly over 17% of the Michigan school systems the school board itself exercises as its prerogative the communication of instructions to counsel.

The related question, "To whom does the attorney most frequently report regarding progress on legal work?" found a different alignment of responses. In this instance 70.2% reported the superintendent as the agent receiving the reports. Only 8.5% of the boards of education in Michigan receive reports from counsel directly. As in the previous question, only a small number of districts have an arrangement different from those discussed above. In those few cases the business manager is most often the one from whom instructions originate and to whom counsel reports.

It is important to note that the "superintendent and board" response was not an option stated on the actual questionnaire in either Question 12 or 13, yet 138 respondents chose to write it in on Question 12. No one did on Question 13. The instrument for isolating criteria relative to school attorneys contained statements similar to these two questions. An alternate "Superintendent and Board jointly" was included. The jury did not look favorably upon the alternate in either statement. On the other hand, the practicing school administrators reported instructions originating from the superintendent and board in nearly 32% of the school systems in the state. Strangely, the jury failed to agree sufficiently to establish a criterion on the important matter of to whom local

should report. Yet in practice there is a clear pattern. Somewhat over 70% of the systems, as reported above, have counsel report to the superintendent. On the previous question regarding the issuance of instructions the jury was able to isolate a criterion, but the practice in this instance is far removed from what the jury agreed upon.

The final question concerned the specialization of the local counsel. It asked, "Is your attorney also employed by another school district? Is this an advantage? A disadvantage? Not important?" Nearly 59% of the school districts in Michigan share the services of their local counsel with another district or districts. Slightly less than 20% do not and the remaining superintendents either didn't know or failed to respond.

More superintendents said that it was not important that the attorney was employed by another district than felt that it was an advantage. Only seven superintendents felt it was a disadvantage. It will be remembered that Criterion II was, General legal advice should be provided school districts by school law specialists. Attorneys serving more than one school system are more likely to be considered specialists. The different experiences gained from working with more than one district should serve to deepen a lawyer's understanding of school problems and school law. One of the most favorable findings in this study of Michigan school districts is possibly this revelation that nearly 60% of the districts share their legal counsel. It is possible that many of those who felt that employment of their attorney by another district was not important failed to sense the positive value of "specialization."

Many comments were made about the need for specialists to assist school officials with legal problems. Some typical comments were:

With the reactions of communities as a whole, Board of Education can hardly afford not to have a good attorney understanding school law. (13)

I feel (purely personal) that few attorneys are really acquainted with school law. (23)

Use only those who specialize in school problems if possible. (43)

The average attorney knows very little about school law and does not have time to specialize. (65)

Some superintendents suggested several districts banding together and employing counsel to their mutual benefit. The benefit being accurate and immediate legal interpretation rather than financial.

The schools of Washtenaw County tried to work out a plan for retaining an attorney by several schools to make it worth his time to study school law. Under the present plan each district has a separate attorney and each must give considerable time and effort to study before an opinion can be rendered. It would be helpful if a superintendent could pick up the 'phone and receive a quick answer to some legal question. (14)

We have used an attorney for specific purposes only. Advise securing one experienced in school problems. May be just as well if retained by several schools so as to make it worth his while to keep up on school legislation and able to advise on common problems. (25)

One of the criteria isolated in the previous chapter concerned the possibility of securing legal advice from other quarters. The suggested possible sources were, state departments of education, county offices of education, county government offices, and city government offices. There was a strong negative reaction to the city or county governments providing legal assistance to school officials. Eight of the eleven jurors "disagreed" with such an arrangement.

Three superintendents in Michigan wrote that they received legal advice from these sources. One of the case study schools used the county prosecutor.

The criterion isolated was, Qualified advice on general legal problems arising from the day-to-day operation of the school district should be available from state departments of education. Several superintendents suggested this source. Among the comments were these:

The Department of Public Instruction should have a corps of attorneys who could give advice and help to the hundreds of school districts. Why should these districts be forced to spend thousands of dollars for advice when one attorney could draw up forms (in hundreds of similar instances) for districts. Years ago the department answered legal questions and boards of education frequently could get the necessary help and information for bonding, etc. Today, when hundreds of districts are annexed, one procedure should suffice for most of such districts. Today when we ask for such help we are told to have our attorney make the contact or inquiry. The legal hierarchy or fraternity is too strong. The fees charged districts today are frequently unreasonable. For instance, in my thirty-six years as superintendent, it was not necessary for any of my boards of education to hire a lawyer for any reason until a very few years ago. (41)

Eliminate use of local attorneys. Have state supply opinions and direction through a Department of Public Instruction attorney. Let boards hire own bonding attorney. (44)

I believe school attorneys should have some official in the State Department of Public Instruction whom they may contact, if need for such contact should arise. (53)

The questionnaire did not provide for seeking data relative to portions of this study. It was explained in Chapter I that one of the limitations of the research was the adoption of the questionnaire by the author after it had been sent out by others. As the research project developed many areas of inquiry were added. Questions eliciting further information about such matters as the duties of counsel, attendance at meetings, and the administrative arrangements boards have with counsel

would have been helpful. Nevertheless, a great deal of important information was gathered by the questionnaire. The existing conditions relative to the employment and use of attorneys as determined by the questionnaire returns have been assessed against the criteria established for that purpose by a jury of experts. The questionnaire returns will be supplemented now by the case study data. Further data that will assist in completing the analysis of Michigan school districts for this study will be presented from the files of the Municipal Finance Commission later in this chapter.

ANALYSIS OF CASE STUDY DATA

The case study data was intended to supplement the information sought through the questionnaire. It was designed to provide both factual and opinion data. A structured interview schedule was developed to meet these demands. Included in the interviews were periods when the interviewee could take over and talk about what was on his mind in relation to the study.

Besides these periods there were open-ended questions that sought to find data on a particular aspect of the study. These questions were followed up in the interview by whatever questions were suggested by the initial response of the interviewee.

Ten school districts were selected by proportionate stratified random sampling for case study. Table 3 in Chapter III shows that the districts range in school enrollment from 335 up to 29,500 students. Three of the districts were classified as "rural," three are regarded as "suburban" and four are "urban" districts. In the two largest districts the assistant superintendents in charge of business were

interviewed rather than the superintendents. This was done because they actually had more day to day contact with the school attorneys than did the superintendents in those districts. They were completely familiar with both the financial and administrative arrangements made with counsel and with the extent of participation in school board meetings and other school district functions.

A complete analysis of the data secured from each school district will be presented in the following pages. Aspects of the study that have been discussed previously will be incorporated in this section to clarify and give continuity to the presentation of the material. A tabular presentation of the case study data can be found in Appendix F. Analysis of the ten districts in terms of the criteria will be made primarily in summary paragraphs after the data from all of the districts has been carefully sifted for pertinent facts.

School District "A"

School District "A" is the smallest in the study. Typically, this small rural community was provided leadership in its educational enterprise by a man of limited experience as a superintendent. At the time of the interview (May, 1959) he was serving his first term as an executive officer of a board of education. Table 3 reveals that he had never had a college course in school law.

In spite of the superintendent's lack of experience, he had managed to guide the school district through the intricacies of a \$150,000 bond issue. The school board had accepted his recommendation and employed a municipal bond law firm whose headquarters was in Chicago. The firm also had an office in Detroit, a distance of approximately fifty

miles from Village "A." The superintendent asked neighboring colleagues for their recommendations on a bonding attorney and was referred to the firm that was ultimately employed. No other system among the case study units employed this firm.

The fee arrangement with the bonding attorney was made orally in the nature of a "general estimate." The final billing by the bonding firm was for \$700 which included all expenses as well as the written legal opinion covering the bond issue. The method of computing the fee was not known by the superintendent. It actually represents .47% of the bond issue, although this probably was not the basis for the fee.

As no local legal counsel was employed by this school district none assisted the bonding attorney. The attorney reported to and received all instructions from the superintendent. Neither the superintendent nor board of education had ever seen the bonding attorney or any representative of the firm. All transactions were by mail or telephone.

No administrative chart existed in this small district where the only administrators, other than the superintendent, were the high school and elementary school principals. The board of education had no written policies. Obviously no administrative provisions were made for either the bonding attorney or the local legal advisor, if such should ever be employed.

The superintendent expressed reasonable satisfaction with his sources of legal information, although he would have preferred a school law specialist on retainer. He presently calls the county prosecutor whose office is in a nearby town. Occasionally he seeks information of

a legal nature from the county superintendent of schools. The superintendent has asked the county prosecutor questions concerning the legal uses of bond money, title clearance and sale of school property, eligibility of voters for school elections, school bus accidents and insurance.

The superintendent in District "A" would have appreciated a source of general legal assistance at both the State Department of Public Instruction and the County Board of Education office. While he did not feel similarly about a special bonding attorney, he suggested that the State Department might keep a list of approved municipal bond law firms that school officials could use as reference.

This superintendent was rather firm in his belief that a school law specialist is required to offer the assistance needed by school officials in small districts. He thought all districts needed such help, but was under the impression that the cost of qualified legal counsel would be prohibitive for poorer school systems.

School District "B"

School District "B" is also a rural system with an inexperienced superintendent. Table 3 reveals that he was serving the second year of his first superintendency. He had never had a course in school law, but subscribed to a publication devoted exclusively to reporting school law matters and did considerable other reading on school law topics.

The only school bond issue election held in this community in recent years was a \$30,000 issue in 1955. The district employed a lawyer from a rather distant part of the state, a man who had only begun to do municipal bond law work. He was not qualified to render a legal opinion on bonds for bond buyers. The attorney's fee for the issue was

\$300 which represents 1% of the bond issue amount. The superintendent, who was not present at the time, was not aware of how the fee was computed. There was no formal contract or agreement on fees with the bonding attorney. It is not known if an oral agreement was reached. As in the previous case the employment of the bonding attorney was recorded in the minutes of the district without reference to the fee arrangement.

There was little to distinguish this school system from the others in respect to the administrative arrangements with attorneys. The district had no written or charted administrative hierarchy. However, in practice, any source of legal assistance reported to and received instructions from the superintendent. The sources of general advice had been college professors of school administration at a nearby university, neighboring superintendents, and occasionally an attorney residing some thirty miles away. The attorney was recommended by a colleague of the superintendent. He was not a school law specialist. The status of married students, the district's liability for spectators and participants at athletic events and many questions concerning school district reorganization had been referred to these various sources for advice.

As might be expected, the superintendent reported dissatisfaction with the arrangement he had for securing general legal advice. He felt himself inadequately prepared to handle the several reorganization and annual school elections and other things that often are done by local counsel in larger districts. He realized the limitations of the college professors and the attorney he sometimes turned to for advice. He felt little security in accepting the advice of these people. He expressed a strong desire for the district to retain a school law



specialist and for further training himself, feeling that it should be at school district expense. The superintendent said every district needed sound legal assistance "on call." He did not favor either the State Department of Public Instruction or County Superintendents as a source. He preferred individual districts solving their own problems of securing advice, although he suggested that several small units might profitably band together for retention of a school law specialist.

School District "C"

School District "C" is a slightly larger system with an enrollment of nearly 1000 students. It is a rural district centering in a small community about fifteen miles from Lansing. The superintendent had been in the system only three years but had served for nineteen years as superintendent of other districts. Table 3 reveals that he had had two courses on school law. In 1955 the district had voted approval of \$65,000 in bonded indebtedness. The superintendent interviewed was not in the district at that time.

The largest municipal bond law firm in Michigan has an office in Lansing. This firm handled the bond issue for School District "C." The superintendent and his secretary were unable to find the amount paid to the bonding attorney. It was stated that the amount was probably determined by percentage of the bond issue but what percent was unknown. Of course, the superintendent did not know if an oral agreement on the fee for the bond issue was reached or not. There was no record in the official minutes of the school district of the employment of the bond firm. There was no formal contract or written agreement on services to be found in the school district records. The superintendent did not

have an organization chart or written policy on the administrative relationship between the board, superintendent, and attorneys. Just as in the two previous districts, the superintendent both issues instructions to the attorney and receives reports from him.

It was mentioned earlier that many school districts use their bonding attorney for general legal advice. This was mentioned many times by respondents to the questionnaire that went to all school superintendents. Such was the case here. There was no formal agreement, no retainer, simply a tacit understanding by the attorney, the board of education, and the superintendent that general legal assistance would be rendered when requested. The fee depended on the nature of the request, of course. When the attorney was asked to help with the annual election he submitted a bill at the completion of the services. When the superintendent called for advice on a rather routine matter, the attorney did not charge the district. The district in any case paid "as billed." The basis for the billing was unknown by school officials in District "C."

The superintendent felt he could change attorneys without causing friction between himself and the board. He expressed satisfaction with his present arrangement for legal advice because of the competence of the bond law firm. He favored, however, the State Department of Public Instruction having a qualified person on its staff for general legal assistance. He did not feel the same way about the County Board of Education. He did not feel that municipal bond law advice should be available from either the state or county school authorities. His fear concerning the county unit was expressed by others, i.e., the small and relatively poor county school offices may end up employing inexperienced school attorneys.

School District "D"

School District "D" is about twice as large as "C." It draws its 1350 students from as wide a variety of circumstances as any district in the study. The school system is centered in an unincorporated village on the outskirts of Lansing. It is an established community, having had its own identity for as long as the City of Lansing itself. The student body comes from the rural areas annexed to the district, from the stable sections of the village, from the new project homes in the village, and from the teeming suburban area adjacent to Lansing. The district had lost its superintendent to a larger system nine months prior to the interview. The new superintendent was experienced but unfamiliar with many of the details pertinent to this study as far as this school district was concerned. As a result, the author spent some time with the ex-superintendent as well as the present superintendent.

The district had successful bond issue elections in 1952 and 1956 for \$360,000 and \$1,525,000 respectively. The same municipal bond law firm that served District "C" handled both bond issues. In other ways Districts "C" and "D" are very much alike, too. District "D" did not execute a formal contract with the bond law firm, nor was there a written agreement. The two parties apparently agreed orally on the financial arrangements. The official minutes of the district recorded the employment of the bonding attorney, but did not mention fees. The actual fee paid on the 1956 issue was \$2975 which is approximately .2% of the total bond issue amount.

School District "D," like "C," had no administrative chart or policy showing the relationship between attorneys, the board, and

superintendent. The superintendents interviewed thought it was likely that the board had originally selected the bonding attorney. However, the new man was confident he could change attorneys without causing friction with the board of education. The attorney received instructions from and reported to the superintendent.

Again, like District "C," this system uses the bonding attorney as local legal counsel. The superintendent was grateful for the excellent service he received in this respect but expressed dissatisfaction nevertheless. He would have preferred to have an attorney on retainer, a person who would attend board meetings when necessary. The present attorney offers highly competent service on general legal matters, but he does it without charge and the superintendent feels restricted in the amount of help for which he can ask. The bonding attorney, when asked to go on retainer, refused.

This district had had experience with other legal counselors. In a condemnation case the superintendent had to carefully tutor a Lansing lawyer in school law. He found mistakes in the lawyer's advice due to his lack of knowledge of the Michigan School Code. Both superintendents had sought legal advice from the State Department of Public Instruction. Such problems as annual election procedures, charging tuition to non-residents, and clarification of a board member's status as a vendor-owner had been referred to counsel in recent months. As a result of their experiences both the ex-superintendent and present superintendent of District "D" spoke of the necessity for all school districts to have available, preferably on retainer, specialized school law counsel.

The present superintendent did not favor the Department of Public Instruction or county school office employing either general counsel or bonding attorneys for the assistance of school districts. He expressed the concern that too much help would be required for too many school units resulting in too little individual attention to any of them.

School District "E"

Table 3 shows District "E" to be only 100 students larger than "D." It, too, is a suburban district of rapid growth. It is located in the Flint area. The most striking differences between Districts "D" and "E" are the socio-economic status of the residents and the tax base available to the districts. District "E" is populated to a much greater extent by professional people and, in the words of the superintendent, "A wealthier class." District "D" is a "bedroom community" for factory workers in Lansing. It has very little industry of its own and the resultant property value of the district is low. On the other hand, District "E" houses a huge Chevrolet plant and other lesser industries. It is one of the wealthiest school districts in Michigan.

The superintendent of District "E" reported a \$3,500,000 bond issue in 1959. The bonding attorney's fee, exclusive of expenses, was \$3500, or .1% of the issue. It was not known how much the bonding attorney's expenses would be. The district employed the same municipal bond law firm that Districts "C" and "D" retained. In keeping with the pattern of the other case study districts, there was no formal contract or written agreement on the fee arrangement nor did the official

minutes of the district mention the fee. There was an oral agreement between the firm and the district, however.

This was only one of two among the case study districts that utilized the services of a local counsel in connection with a bond issue. The local legal counsel charged a fee of \$7500 for his work. The fee was agreed upon in advance of services and a formal contract was executed. The fee was simply a flat amount suggested by the counsel for "any work connected with the bond issue and construction." The retention of local counsel for this purpose was recorded in the district minutes which included the fee. It is interesting to note that the bonding attorney's fee does not appear to have been significantly reduced even though local counsel assisted in the proceedings.

The fee of the local counsel for general services, other than in connection with bond issues, to the district was computed on a flat rate basis. The superintendent was not aware of the basis for the rate, he simply saw that whatever amount was billed by the attorney was paid.

This was the first among the case study districts to spell out the administrative relationship of the board, local counsel and superintendent in written form. The relationship was described in the board's policy book and the local counsel had read the policy. The same condition did not prevail for the special bonding attorney; the policy did apply to him. Instructions to both attorneys originated with the board and superintendent jointly and in both cases the attorneys reported to either the superintendent or to the board and superintendent together.

It was not known who selected the special bonding attorney, but the board of education acting alone selected the local counsel.

The situation regarding the selection is important to describe. Fifteen months prior to the investigator's interview of the superintendent, District "E" employed a different attorney for both general advice and bond issue services. This man was described by the superintendent as "The best qualified bond attorney in the state." In other statements the superintendent made it clear that he held the initial attorney in very high regard. As a result of a political issue the school law specialist's services were terminated with the school district. The superintendent described the reason as follows: "He was associated with an element in favor of extension of Flint's boundaries!" The present counsel is not a school law specialist. He "happened to be present" at a meeting of citizens that favored the point of view on the boundary extension that the board held. He became acquainted with board members that night and subsequently was retained.

As a result of this superintendent's experience he felt keenly that school law specialists are needed for the type of work under study here. He remarked, as did several others, that he had had to correct many mistakes made by attorneys not familiar with school laws. His remark that "the average attorney doesn't know as much school law as the average superintendent" is a thought shared by many superintendents encountered in this research. He also supported the view that the State Department of Public Instruction should have on its staff both a bonding attorney and a school law specialist. He would have liked the county school offices to staff general legal counsel only. He thought districts of less than 1000 students might be able to get by without counsel "on call." He suggested they could use the services of the Department of Public Instruction.

School District "F"

School District "F" is also a suburban Flint system. It is considerably larger than "E," having an enrollment of 3300 students. The district is slightly below the state average in property valuation per child enrolled. The superintendent had been head of this system for twenty-three of his twenty-seven years devoted to school administration. Like most of the superintendents involved in this study, his training in school law was limited as seen in Table 3.

District "F" has had three bond issues in recent years. In 1955, \$440,000; in 1957, \$600,000; and in 1959, \$975,000 in bonded indebtedness were approved by the voters of the district. The bonding attorney for the first two issues was a local resident lawyer who also acted as general legal counsel for the board of education. He was described by the superintendent as being, "extremely interested and favorable to the school." He served the district as local counsel without charge. His fee for the two bond issues was \$500 each. This represents a fee of only .03% and .09% of the total bond issue amounts. This man was not a specialist in municipal bond law or general school law. He was not qualified to render a legal opinion on the bonds.

There was no financial arrangement, either oral or written, with this attorney in advance services. No administrative policy existed to define the relationship the attorney had to the board and superintendent. The man was released from service with the school district as "part of an election campaign." He had become identified with certain school board candidates and those candidates lost the election.

The 1959 bond issue proceedings were handled by a widely experienced Flint attorney who is considered a school law specialist. He is not qualified to write legal opinions on bonds but does all other work in connection with bond issue elections. This is the attorney who was released by District "E." Ironically, he was replaced in "E" by his predecessor in District "F." The fee for the 1959 bond issue jumped to \$4375 or .5% of the \$975,000 total. Again no written agreement or formal contract was made between board and attorney prior to service. The board apparently knew of the significant increase in fees in advance, however, as the result of an oral agreement. The official minutes of the district carry the record of the employment of the attorney--not the fee arrangement.

The same man was retained by the district for \$150 per year for general counsel. Unusual activities requiring considerable time and expense by the attorney are reimbursed as billed. There still is no administrative policy or chart that clarifies the counsel's role in the administrative organization. Counsel reports to and receives instructions from the superintendent. It was clear that counsel in this case, as in the previous district, was the board's man, however. He was selected by them and the superintendent frankly reported that he did not feel he could recommend changing attorneys without causing friction between the board and himself. Further, this was the first instance among the case study districts where the attorney was reported as having offered his lay opinion on matters that were strictly educational. It was stated that the board was influenced in its educational policy deliberations by the opinion of its counsel even though no legal

considerations were involved. Individual board members telephoned the attorney to discuss both educational and legal matters.

The superintendent of District "F" felt that the State Department of Public Instruction and county boards of education might employ lawyers who are not sufficiently specialized to perform the required bonding and general legal service for school districts. Consequently, he preferred having individual districts secure their own counsel. He was quick to assert the need for specialists in school law for all school districts. He pointed out that smaller districts in particular needed legal assistance because of "the usual inexperience of small system superintendents."

School District "G"

District "G" is an urban system located in a "college town" in the southeastern part of the state. The enrollment at the time of the interview was nearly 6000 students. The superintendent has had twenty-five years experience as a school executive, six in District "G." He is a popular figure in both the Michigan and national organization of school administrators. Many years prior to this study he had had two school law courses. He possesses a Ph.D. degree in school administration.

District "G" had successful bond issue elections in 1952, 1954, and 1958 for \$2,100,000, \$3,100,000, and \$4,500,000 respectively. The bond attorneys for all three issues were the largest municipal bond law firm in Michigan. The same firm handled issues for seven of the ten case study districts. Their fee for the \$4,500,000 1958 issue was \$4839, or .1% of the total. There was an oral agreement on the fee prior to service and the employment of the bond law firm together with the fee was recorded in the district minutes. The board of education's policy

book contains a description of the administrative organization of the district including the relationship of the attorney to the board and superintendent. The description applies to both the bonding attorney and local counsel. Both have seen the policy and operate within it. The policy specifies that the attorneys are consultants to the superintendent. All questions addressed to the attorneys go through the superintendent and the attorneys report to the superintendent. The only exception permitted is that the bonding attorney may receive instructions and report to the business administrator if the problems fall in his realm. Even though the local counsel resided in town and consequently was easily accessible to individual board members, both he and the board members understand the policy and adhere to it strictly.

The local counsel has had to deal with such legal matters as property negotiations, review of possible improper registrations of children, a State Tax Commission appeal, and the legality of board members personally serving as precinct workers at annual school elections. For this type of service counsel was paid on a time and expense basis. The superintendent reviews each billing submitted by counsel. If he considers it out of line he asks the attorney to explain it so he can relay the explanation to the board if necessary. In some cases counsel adjusts the billing.

The local counsel for District "G" rarely attends school board meetings, perhaps only once or twice a year. Consequently, he has little opportunity to participate in educational discussions and has not done so.

Once more the superintendent on the job spoke for specialized legal assistance. He thought perhaps a "one building district" might not require counsel "on call" but all others should have such service available. He thought the State Department of Public Instruction should employ both a bonding attorney and general school law specialist for assistance to school districts. He reported having used such a person in the past and finding it valuable, particularly for legal questions relating to such things as transportation, hot lunches, and school district reorganization. He also thought local bar associations might organize to provide counsel to districts such like insurance agents sometimes do.

School District "H"

Table 3 shows School District "H" to be the second urban district in the case study series. It is a large city on the fringe of Detroit. The school population is 8600 students. District "H" has a widely experienced superintendent. The man has been a school executive for twenty-three years and head of District "H" for seven years.

In recent times this district had had a large bond issue of \$7,250,000 and a refunding bond election involving \$7,000,000. The election on the larger issue was in 1950, while the refunding process took place in 1953. Table 3 refers to the earlier bond issue in order to keep the fee figures on a comparable basis with the other districts. The refunding issue involved some complications that undoubtedly affected the fees. It was very interesting from the point of view of this study, however, and considerable space will be devoted to the refunding program here. Before doing that though, a study of the regular bond issue and

the administrative arrangements for attorneys in the district will be profitable.

The 1954 bond issue was handled once again by the large municipal bond law firm that Districts "C," "D," "E," and "G" used. The fee was reported as "one dollar per bond," or .1¢, which amounted to \$7250. As has happened so frequently with the other school districts, the bond law firm proceeded with only an oral agreement on the fee structure. There was no record in the minutes of the district that the firm was even retained by the board for services in connection with the then pending bond issue. It is important to note at this point that the local counsel was not involved in the 1954 bond issue.

This district also failed to provide any administrative direction to either the bond attorneys or local counsel on their roles in relation to the superintendent and board of education. No policy existed of this type and the district's administrative charge did not include school attorneys. In practice, both attorneys reported to and received instructions from the superintendent.

The local counsel's fees for general legal services were based on a flat rate of approximately \$25 per call by the superintendent. The counsel submitted bills for services periodically taking into consideration his time and expenses although these were not itemized on the bill.

This district changed local legal counsel between 1954 and 1953. The pattern was nearly identical to that of District "E." It was another instance of a political upheaval in the community. In this case it revolved around a board of education proposal to update existing school buildings by remodeling rather than constructing new plants.

A group of citizens took exception to the plan presented in public meetings. Within months the community lost its superintendent of schools by resignation and certain board members by defeat at the polls. The new board majority employed a new superintendent and retained new legal counsel, the previous counsel having been identified with the unpopular plan to remodel existing school buildings. The new attorney was selected by the board because "he was a man of high stature in the community." He was not a school law specialist.

When the matter of refunding bonds was brought before the board in 1953, the superintendent was authorized to consult with various legal and financial experts about the possibilities of such an action. The superintendent worked for several months with a well-known financial consultant to Michigan school districts and with the bond law firm that the system had retained in 1954. The negotiations were informal. The oral understanding was that the financial consultant would be paid for his services. The tacit understanding was that the bonding firm would ultimately enter into the proceedings formally. At this stage the district's local counsel, who was not involved, called the school board president and asked to become a part of the proceedings. He felt he could provide a valuable service to the district on the refunding issue. At a subsequent board meeting the matter was raised. The local counsel argued that he could perform certain important liaison functions for the board. This liaison he viewed as essentially political in nature. He suggested that someone of his own political hue was needed to influence politicians in the state capitol to approve the refunding issue. He set his fee at \$15,000 which the board orally agreed to pay. The minutes

of the district carry the record of his employment but not his fee. The local counsel was associated with a different bonding firm from the one previously used by the district. He asked the board to terminate relations on this issue with the original bond law firm and formally retain the one he was associated with. The board, after investigation, agreed to do so. A fee for the new bond law firm was agreed upon orally. Again no mention of the fee was made in the minutes of the district, although employment of the firm was recorded. The fee was \$12,000, or .17% of the total amount. The combined legal fee was \$27,000 which represents .38% of the total \$7,000,000 issue. The financial consultant was "so incensed by the size of the local attorney's fee that he refused to submit a bill to the school district." It must be remembered in this case that the refunding issue was more complex than the usual type of bond issue proceedings.

The superintendent of District "H" felt he could change bonding attorneys "with cause" but could not recommend changing local counsel without causing friction between the board and himself. He also felt that all school districts need competent legal assistance and that this was a matter for each individual district to procure. He did not favor the county or state education offices providing such service.

School District "I"

School District "I" is another "college town." It is located in the southwestern section of the state and is one of the largest cities in Michigan. The industries are varied, but the manufacture of paper is undoubtedly the largest and best known industry. The school population at the time of the interview was 17,064, which ranks it among the five

highest in the state. The person who deals most directly with the attorneys employed by the district is the business manager. This man, who has the status of assistant superintendent, is widely experienced, as shown in Table 3. He has served in his present capacity for eight years. He has been a superintendent or business manager for a total of twenty-four years, the service being performed in several school districts. The business manager is well-known among Michigan public school leaders, being considered an authority on school fire insurance for his work in that field for the State Business Officials Association.

District "I" had had only one recent bond issue election, but it was for a huge amount, \$10,000,000. The election was held in 1956. Once again the municipal bond law firm that does most of such work in the state was employed. They performed their services for \$10,000 which represents .1% of the total issue. The assistant superintendent described the basis for payment as being a "flat rate." In keeping with the pattern of the previous districts in this study, District "I" engaged the bond law firm with only an oral agreement. The employment of the firm was not recorded in the district's minutes. Selection of the firm was made by the board of education.

Assistance in the form of liaison between the bonding attorney and the school district was obtained by retaining the district's local legal counsel for that purpose. His fee was \$5,000 which again was simply a flat rate billed after the services were rendered. The fee included whatever expenses were incurred by counsel. The combined fees came to \$15,000 for all legal services in connection with the \$10,000,000 issue. This still represents only .15% of the total. Interestingly,

the board retained financial consultants on this issue whose fees totaled \$10,000, but that is not a part of this study. Returning to the administrative and financial arrangements made with the local counsel on this issue, it was reported that the board did not execute a formal contract with counsel for services, did not have a written agreement, did not have an oral agreement on fees and did not record the retention of counsel or his fee for the work in the official minutes of the district.

District "I" did not have a description of the role of its attorneys in the administrative organization. There was no indication on the district's administrative chart of the relationship of the attorneys to the board and staff. The practice on bond issue proceedings was for the special bonding attorney to receive directions from and report to the local counsel. This is the first instance of this administrative arrangement that has been disclosed among the case study districts. When counsel was performing his more common general legal services he received instructions from the superintendent and board of education and reported back to the board. The local counsel was selected by the board only, the same as was the bonding attorney. The assistant superintendent reported that the superintendent would be able to recommend changing either attorney without causing friction between the board and himself. District "I" is unique among school districts in Michigan in that the local counsel attends every school board meeting.

The local counsel was a school law specialist who was paid a salary by the school district. He received \$500 per month. If the counsel became involved in litigation on behalf of the school district, he received extra compensation. The basis for computing the extra

amount was "actual costs which are approved in each case by the board of education."

The assistant superintendent, like most of his colleagues, favored the State Department of Public Instruction employing counsel for assistance to local school systems. He did not feel that the county offices should perform such services and expressed a rather common concern that the county school offices had "no jurisdiction over local districts in Michigan." He felt that local districts should take care of their own bond law problems because of the unique characteristics of each bond issue. As others have suggested, he thought the State attorney-general's office should provide more assistance of a general legal nature to local school districts.

School District "J"

The tenth case study school system is District "J," one of the state's largest and wealthiest districts. The school district boundaries of "J" are coterminous with the city limits. The school enrollment approaches 30,000 youngsters. Though the population of the city is entirely white, the range of socio-economic classes is broad. However, there is an unusually large managerial and professional population. The school district is located near Detroit and is the home of one of the nation's largest manufacturers of automobiles.

The assistant superintendent of schools in charge of the business affairs of the district was interviewed on the job for this study. He is a long-time school administrator, having served eleven years in his present position and a total of twenty-two years in top administrative posts in different parts of the country. He is the

author of a book and other publications in his field and possesses a doctorate degree. He was the person in his school district most familiar with the information required in this research.

District "J" had incurred bonded indebtedness for \$27,950,000 since 1954. In 1954, a \$9,000,000 issue was successfully passed and in 1956, a \$14,000,000 issue. The most recent bond election was in 1958 for \$4,950,000. Although the 1958 issue will be discussed here, it is important to note that all three of the elections and proceedings were conducted by the same firms and with the same arrangements, except, of course, the fee varied with the size of the bond issue. This is the tenth case study district to be discussed and the seventh to use Michigan's largest bond law firm. The fee was reported to be one dollar per bond, or .1% of the total issue. For the 1958 issue the fee amounted to \$4950. The district requested a letter from the bonding firm prior to the 1954 bond issue in which was to be stated a general description of the services to be performed and the basis for computing the fee for those services. Arrangements prior to subsequent bond issues included an oral agreement on the fees and an item in the district minutes retaining the firm for bond issue services with fees based "the same as for the previous issue." This district did not utilize its local counsel for bond issue proceedings.

The local legal counsel for District "J" was chosen by the board of education. The board solicited letters of interest from the members of the bar practicing in the city. The man selected was not a specialist in school law and did not serve any other school district. He was placed on an annual retainer of \$2500 per year plus court

appearances. Such varied questions as those relating to teacher tenure, the liability of the school district and its agents, and whether in financial crisis the board can refuse to furnish textbooks free of charge when such had been the policy, have been referred to counsel.

The administrative arrangements with the attorneys was not spelled out in written form nor was it charted for clarification. The assistant superintendent was not concerned about the absence of formal administrative provisions for the relationship of the attorneys to the board and staff. He expressed the conviction that "if the right personal relationships exist between the various parties, everything will work out satisfactorily." In District "J" the bonding attorney received instructions from and reported to the assistant superintendent in charge of the business affairs of the district. The local counsel received instructions from the board president, or secretary, or superintendent, or assistant superintendent. He reported back to the person who initiated the instructions. There was no hesitancy in the interviewee's reaction that the superintendent could recommend changing either attorney without causing friction between the board and superintendent. In this largest district involved in the case study portion of the research, the local counsel attends school board meetings only on request.

The assistant superintendent thought relatively stable and small school districts might get by without retaining local counsel. However, if property was being purchased and a building program conducted he thought even small districts should have general legal advice "on call." He also felt that the general legal service should be competent in terms of school law. He favored the State Department of Public

Instruction employing both types of attorneys. He specified that the special bonding attorney might be best used to give general advice on bond issue proceedings to other attorneys retained by the local school districts. He felt that expanding the county school district services was not particularly efficient and money diverted in that direction only made less available to the individual school unit which could use it to better advantage.

This analysis of the case study data will be summarized at the end of this chapter. It now seems advisable to delve somewhat deeper into the matter of fees for bonding attorneys and local counsel for bond issue services.

MUNICIPAL FINANCE COMMISSION DATA ON FEES FOR BOND ISSUE SERVICES

It seemed essential to the execution of this research to secure better comparison data on fees for bond issue services than was available from the other instruments used in the study. With this in mind the author spent two days in the Michigan Municipal Finance Commission offices. The commission employs a director and assistant director and several other staff people. It is charged with the responsibility of reviewing for approval, among other things, all municipal bond loans.

The Commission officials have not had sufficient numbers of employees to maintain many records they would like to keep. For example, they had only recently begun to request those using their services to submit a report which includes the fees actually paid to attorneys and financial consultants. For this reason it was necessary

to use forms that school districts had submitted to the Commission which contained only estimates of the fees to be paid. This is an important point because, as already shown, many school districts do not have accurate knowledge of what fees will be charged by either bonding attorneys or local counsel for bond issue services. The form from which the data in this section of the study was taken was the Application for Approval of the Municipal Finance Commission.

Table 6 contains the pertinent data from 243 school district bond issues approved by the Commission over a fifteen month period from September, 1955, through November, 1956. In order to facilitate comparisons, a column was included in the table giving the per cent that the total legal fees were of the total bond issue amount. This column reveals a range of from .1% up to 8.75%. Several districts paid over 4.00% for legal fees on small bond issues.

It is clear, of course, that in small bond issues, legal fees amount to a higher percentage of the total issue than is the case in larger issues. Regardless of the size of the issue, there is a certain amount of legal work required. For that reason most large bond law firms exact a basic fee and then superimpose a sliding percentage amount above that. It is the necessary basic fee that causes districts bonding for only a few thousand dollars to seem to pay such a high percentage when the fee is calculated on that basis. Table 7 illustrates this point very well. In this table, on page 130, the fees paid to all attorneys for their services are analyzed by the size of the issue. Bond issues that were less than \$100,000 have a high median of 1.94% that legal fees are of the total amount.

TABLE 6

MICHIGAN MUNICIPAL FINANCE COMMISSION APPROVED
SCHOOL BOND ISSUES FROM SEPTEMBER, 1955
TO NOVEMBER, 1956

<u>Date of Approval</u>	<u>Bond Issue</u>	<u>Amount of Issue</u>	<u>Bonding Attorney Fee</u>	<u>Local Counsel Fee</u>	<u>Total Legal Fees</u>	<u>% Legal Fee is of Total Issue</u>
9-27-55	1	\$72,000	-	\$1,000	\$1,000	1.39
9-27-55	2	72,000	\$300	900	1,200	1.67
10-4-55	3	22,000	-	500	500	2.27
10-4-55	4	98,000	617	-	617	.63
10-18-55	5	30,000	125	-	125	.42
10-25-55	6	45,000	-	350	350	.78
11-8-55	7	50,000	150	500	650	1.30
11-15-55	8	55,000	100	650	750	1.36
11-15-55	9	40,000	300	350	650	1.62
11-29-55	10	55,000	445	-	445	.81
11-29-55	11	70,000	600	-	600	.86
12-6-55	12	33,000	100	-	100	.30
12-13-55	13	70,000	150	850	1,000	1.43
12-13-55	14	79,000	500	-	500	.63
12-13-55	15	55,000	-	350	350	.63
12-30-55	16	25,000	50	300	350	1.40
12-20-55	17	23,000	-	500	500	2.17
12-20-55	18	13,000	75	300	375	2.88
1-17-56	19	47,000	-	500	500	1.06
1-17-56	20	48,000	150	800	950	1.98
1-24-56	21	25,000	100	700	800	3.20
1-24-56	22	60,000	-	500	500	.83
1-31-56	23	75,000	-	750	750	1.00
2-21-56	24	20,000	100	500	600	3.00
2-21-56	25	5,000	-	300	300	6.00
2-28-56	26	22,000	100	300	400	1.82
3-6-56	27	11,000	100	500	600	5.45
3-20-56	28	50,000	150	500	650	1.30
3-27-56	29	96,000	-	1,200	1,200	1.25
4-10-56	30	23,000	380	-	380	1.65
4-18-56	31	90,000	585	-	585	.65
4-18-56	32	50,000	425	-	425	.85
4-24-56	33	95,000	150	900	1,050	1.11
4-24-56	34	19,000	100	375	475	2.50
4-24-56	35	19,500	-	200	200	1.03
4-24-56	36	6,000	100	400	500	8.33
5-9-56	37	75,000	525	-	525	.70
5-9-56	38	65,000	150	600	750	1.15
5-15-56	39	85,000	565	-	565	.66

TABLE 6 - (Continued)

<u>Date of Approval</u>	<u>Bond Issue</u>	<u>Amount of Issue</u>	<u>Bonding Attorney Fee</u>	<u>Local Counsel Fee</u>	<u>Total Legal Fees</u>	<u>% Legal Fee is of Total Issue</u>
6-5-56	40	\$90,000	\$390	\$500	\$890	.99
6-12-56	41	45,000	150	700	850	1.89
6-19-56	42	65,000	100	500	600	.92
6-26-56	43	50,000	-	1,000	1,000	2.00
7-3-56	44	6,000	175	100	275	4.58
7-3-56	45	30,000	400	-	400	1.33
7-3-56	46	55,000	125	600	725	1.32
7-3-56	47	65,000	323	162	485	.75
7-10-56	48	20,000	-	300	300	1.50
7-24-56	49	40,000	400	250	650	1.63
7-24-56	50	40,000	905	-	905	2.26
8-7-56	51	70,000	505	-	505	.72
8-7-56	52	90,000	400	-	400	.44
8-7-56	53	70,000	-	500	500	.71
8-23-56	54	30,000	100	500	600	2.00
9-11-56	55	3,000	-	700	700	8.75
9-18-56	56	19,500	300	200	500	2.56
9-25-56	57	20,000	375	-	375	1.88
10-2-56	58	36,000	75	350	425	1.18
10-2-56	59	22,000	-	1,000	1,000	4.55
10-9-56	60	23,000	375	-	375	1.63
9-20-55	61	110,000	645	-	645	.59
10-4-55	62	160,000	745	-	745	.47
10-11-55	63	130,000	685	-	685	.53
10-11-55	64	100,000	625	-	625	.63
10-18-55	65	135,000	250	1,350	1,600	1.19
10-18-55	66	135,000	695	-	695	.52
10-25-55	67	130,000	685	-	685	.53
11-1-55	68	141,000	-	1,500	1,500	1.06
11-15-55	69	100,000	1,300	-	1,300	1.30
12-6-55	70	115,000	655	-	655	.57
12-13-55	71	130,000	685	-	685	.53
1-3-56	72	145,000	715	-	715	.49
1-24-56	73	130,000	785	-	785	.44
1-24-56	74	155,000	150	700	850	.55
1-31-56	75	125,000	-	500	500	.40
2-21-56	76	165,000	755	-	755	.40
3-6-56	77	150,000	375	525	900	.60
3-6-56	78	130,000	400	900	1,300	.72
3-6-56	79	130,000	785	-	785	.44
3-20-56	80	125,000	150	1,500	1,650	1.32
3-20-56	81	140,000	240	1,000	1,240	.89

TABLE 6 - (Continued)

<u>Date of Approval</u>	<u>Bond Issue</u>	<u>Amount of Issue</u>	<u>Bonding Attorney Fee</u>	<u>Local Counsel Fee</u>	<u>Total Legal Fees</u>	<u>% Legal Fee is of Total Issue</u>
4-3-56	82	\$150,000	\$550	-	\$550	.37
4-3-56	83	155,000	735	-	735	.47
4-18-56	84	100,000	625	-	625	.62
4-18-56	85	125,000	200	\$600	800	.64
4-24-56	86	150,000	725	-	725	.48
5-9-56	37	125,000	675	-	675	.54
5-15-56	38	200,000	825	-	825	.41
5-29-56	89	150,000	725	-	725	.48
7-17-56	90	177,000	-	850	850	.48
7-24-56	91	195,000	815	-	815	.42
7-24-56	92	198,000	-	850	850	.43
7-24-56	93	189,000	303	-	303	.43
7-24-56	94	110,000	150	1,500	1,650	1.50
7-31-56	95	195,000	200	850	1,050	.54
7-31-56	96	130,000	300	400	700	.54
8-7-56	97	100,000	-	1,000	1,000	1.00
8-21-56	98	161,000	-	850	850	.53
8-28-56	99	160,000	200	750	950	.59
8-28-56	100	120,000	-	750	750	.63
9-4-56	101	135,000	795	-	795	.43
9-4-56	102	100,000	150	750	900	.90
9-11-56	103	165,000	-	1,500	1,500	.91
9-25-56	104	200,000	200	600	800	.40
10-9-56	105	175,000	-	1,500	1,500	.86
10-9-56	106	165,000	755	-	755	.46
10-16-56	107	110,000	150	650	800	.73
10-23-56	108	110,000	645	-	645	.59
10-30-56	109	160,000	-	600	600	.38
9-20-55	110	425,000	500	2,675	3,175	.75
9-27-55	111	275,000	1,200	-	1,200	.44
10-4-55	112	390,000	1,205	-	1,205	.31
10-11-55	113	325,000	1,075	-	1,075	.33
10-13-55	114	240,000	300	400	700	.29
10-25-55	115	335,000	1,095	-	1,095	.33
11-3-55	116	360,000	360	1,140	1,500	.42
11-22-55	117	230,000	1,385	-	1,385	.29
11-22-55	118	350,000	900	-	900	.26
12-6-55	119	340,000	450	600	1,050	.31
12-13-55	120	345,000	1,115	-	1,115	.32
12-20-55	121	320,000	640	2,560	3,200	1.00
12-20-55	122	400,000	1,225	-	1,225	.31

TABLE 6 - (Continued)

<u>Date of Approval</u>	<u>Bond Issue</u>	<u>Amount of Issue</u>	<u>Bonding Attorney Fee</u>	<u>Local Counsel Fee</u>	<u>Total Legal Fees</u>	<u>% Legal Fee is of Total Issue</u>
1-10-56	123	\$269,000	\$300	\$2,600	\$2,900	1.08
1-10-56	124	346,000	346	2,000	2,346	.68
1-17-56	125	450,000	1,325	-	1,325	.29
1-24-56	126	200,000	825	-	825	.41
1-31-56	127	290,000	1,005	-	1,005	.35
2-21-56	128	350,000	1,200	-	1,200	.34
2-28-56	129	250,000	375	1,750	2,125	.35
3-6-56	130	310,000	845	845	1,690	.55
3-6-56	131	350,000	1,000	500	1,500	.43
3-20-56	132	425,000	1,275	-	1,275	.30
4-3-56	133	260,000	945	-	945	.36
4-24-56	134	268,000	961	-	961	.36
5-9-56	135	350,000	1,125	-	1,125	.32
5-9-56	136	250,000	925	-	925	.37
5-15-56	137	250,000	775	475	1,250	.50
5-22-56	138	400,000	1,225	-	1,225	.31
5-29-56	139	490,000	936	1,564	2,500	.51
5-29-56	140	300,000	450	2,050	2,500	.83
5-29-56	141	300,000	1,025	-	1,025	.34
5-29-56	142	350,000	1,125	-	1,125	.32
6-5-56	143	285,000	850	650	1,500	.53
6-19-56	144	313,000	-	850	850	.27
6-26-56	145	498,000	1,421	-	1,421	.29
6-26-56	146	400,000	200	2,000	2,200	.55
7-3-56	147	250,000	925	-	925	.37
7-10-56	148	340,000	450	600	1,050	.31
7-24-56	149	320,000	850	-	850	.27
7-31-56	150	425,000	300	500	800	.19
7-31-56	151	350,000	350	1,550	1,900	.54
8-28-56	152	360,000	1,145	500	1,645	.46
8-28-56	153	485,000	1,132	3,700	4,832	1.00
8-28-56	154	350,000	750	750	1,500	.43
9-25-56	155	450,000	1,325	-	1,325	.29
10-2-56	156	350,000	-	1,500	1,500	.43
10-16-56	157	225,000	875	-	875	.39
10-16-56	158	350,000	925	300	1,225	.35
10-23-56	159	350,000	1,125	-	1,125	.32
10-30-56	160	300,000	450	2,000	2,450	.82
10-30-56	161	300,000	1,000	500	1,500	.50
9-20-55	162	725,000	1,500	500	2,000	.32
9-20-55	163	700,000	600	2,400	3,000	.43
9-20-55	164	750,000	3,250	-	3,250	.43
9-27-56	165	750,000	1,500	-	1,500	.20

TABLE 6 - (Continued)

<u>Date of Approval</u>	<u>Bond Issue</u>	<u>Amount of Issue</u>	<u>Bonding Attorney Fee</u>	<u>Local Counsel Fee</u>	<u>Total Legal Fees</u>	<u>% Legal Fee is of Total Issue</u>
10-4-55	166	\$550,000	\$1,500	-	\$1,500	.27
10-11-55	167	575,000	1,575	-	1,575	.27
11-1-55	163	750,000	3,000	\$12,000	15,000	2.00
11-22-55	169	960,000	2,345	-	2,345	.24
11-29-55	170	620,000	1,365	-	1,365	.30
1-10-56	171	600,000	1,625	-	1,625	.27
2-7-56	172	650,000	1,300	200	1,500	.23
2-21-56	173	530,000	1,300	1,300	2,600	.49
2-21-56	174	500,000	1,150	3,550	4,700	.94
3-6-56	175	550,000	1,200	-	1,200	.22
3-20-56	176	590,000	1,100	200	1,300	.22
3-27-56	177	550,000	1,500	3,500	5,000	.91
5-15-56	178	750,000	1,500	-	1,500	.20
6-5-56	179	750,000	1,925	-	1,925	.26
6-19-56	180	525,000	-	3,500	3,500	.67
6-26-56	181	723,000	1,000	1,000	2,000	.23
7-3-56	182	500,000	1,425	-	1,425	.29
7-10-56	183	750,000	1,375	-	1,375	.25
7-17-56	184	500,000	1,150	-	1,150	.23
7-17-56	185	600,000	1,425	-	1,425	.24
7-24-56	186	500,000	1,425	-	1,425	.29
7-24-56	187	900,000	1,800	-	1,800	.20
7-31-56	188	725,000	2,000	-	2,000	.28
7-31-56	189	525,000	1,475	-	1,475	.28
7-31-56	190	750,000	750	2,750	3,500	.47
8-7-56	191	655,000	1,735	-	1,735	.27
9-4-56	192	530,000	300	1,800	2,100	.36
10-9-56	193	500,000	1,425	-	1,425	.29
10-30-56	194	750,000	1,925	-	1,925	.26
10-4-55	195	1,000,000	2,500	1,000	3,500	.35
10-11-55	196	1,500,000	3,750	3,750	7,500	.50
10-11-55	197	1,000,000	1,650	-	1,650	.16
11-1-55	193	1,000,000	1,200	1,200	2,400	.24
11-22-55	199	1,525,000	2,950	-	2,950	.19
11-29-55	200	1,500,000	2,725	-	2,725	.18
12-13-55	201	1,300,000	2,500	3,250	5,750	.44
2-7-56	202	1,530,000	4,000	2,500	6,500	.42
2-21-56	203	1,150,000	2,000	-	2,000	.17
2-28-56	204	1,500,000	3,000	-	3,000	.20
3-6-56	205	1,000,000	1,650	2,000	3,650	.37
3-13-56	206	1,500,000	5,000	450	5,450	.36
4-10-56	207	1,485,000	1,600	1,600	3,200	.22
4-24-56	208	1,300,000	2,600	-	2,600	.20

TABLE 6 - (Continued)

<u>Date of Approval</u>	<u>Bond Issue</u>	<u>Amount of Issue</u>	<u>Bonding Attorney Fee</u>	<u>Local Counsel Fee</u>	<u>Total Legal Fees</u>	<u>% Legal Fee is of Total Issue</u>
4-24-56	209	\$1,500,000	\$4,000	\$3,500	\$7,500	.50
5-9-56	210	1,400,000	2,825	-	2,825	.20
5-29-56	211	1,000,000	1,500	600	2,100	.21
5-29-56	212	1,270,000	2,695	-	2,695	.21
7-17-56	213	1,550,000	2,975	-	2,975	.19
8-7-56	214	1,250,000	2,675	-	2,675	.21
8-21-56	215	1,000,000	1,000	-	1,000	.10
9-13-56	216	1,500,000	4,000	3,500	7,500	.50
9-13-56	217	1,200,000	2,625	-	2,625	.22
10-16-56	218	1,200,000	1,200	6,000	7,200	.60
10-30-56	219	1,350,000	2,775	-	2,775	.21
1-10-56	220	2,500,000	2,500	-	2,500	.10
3-13-56	221	2,000,000	2,000	1,750	3,750	.19
3-27-56	222	2,220,000	2,850	9,300	12,650	.57
5-22-56	223	2,000,000	2,650	-	2,650	.13
5-29-56	224	2,600,000	3,000	3,000	6,000	.23
6-12-56	225	2,000,000	2,300	-	2,300	.12
6-19-56	226	2,000,000	2,800	-	2,800	.14
8-7-56	227	2,000,000	4,000	-	4,000	.20
8-7-56	228	2,200,000	3,575	-	3,575	.16
9-25-56	229	2,400,000	2,500	-	2,500	.10
10-30-56	230	2,500,000	3,800	-	3,800	.15
10-11-55	231	3,500,000	5,000	1,500	6,500	.19
1-17-56	232	3,200,000	6,000	500	6,500	.20
1-17-56	233	3,000,000	5,000	-	5,000	.17
2-28-56	234	3,475,000	4,000	4,000	8,000	.23
3-6-56	235	3,000,000	3,500	-	3,500	.12
3-20-56	236	3,300,000	4,525	-	4,525	.14
5-22-55	237	3,500,000	8,750	8,750	17,500	.50
9-18-56	238	3,100,000	-	3,000	3,000	.10
10-4-55	239	4,500,000	4,800	-	4,800	.11
5-1-56	240	4,500,000	4,800	-	4,800	.11
5-15-56	241	4,000,000	3,000	-	3,000	.20
6-5-56	242	14,000,000	14,000	-	14,000	.10
8-21-56	243	10,000,000	10,000	5,000	15,000	.15
TOTALS	243	\$168,961,000	\$302,539	\$178,821	\$481,360	195.19
MEDIANS		\$695,313	\$1,402	\$1,419	\$1,931	.30

The percentage declines in each group as the bond issues get larger. Bond issues of at least \$1,000,000 compose the last group shown in the table and the median percent that legal fees are of the bond issue amount is only .24%, which is the lowest of any group.

TABLE 7
SUMMARY OF FEES PAID FOR LEGAL SERVICES
ON 243 SCHOOL BOND ISSUES IN MICHIGAN
BY SIZE OF ISSUE

Size of Bond Issue	Number of Issues	Total Amount	Median Fee	Median % Fee is of Bond Issue
Less than \$100,000	60	\$2,733,000	\$566	1.94
\$100,000 to \$224,999	49	7,191,000	637	.63
\$225,000 to \$499,999	52	17,744,000	1,489	.44
\$500,000 to \$999,999	33	21,233,000	3,160	.39
Over \$1,000,000	49	120,005,000	5,158	.24
TOTALS	243	\$168,961,000	\$2,205	.30

Most school districts used bonding attorneys without involving local counsel. Others retained local counsel to assist bonding attorneys by performing liaison work between the school system and the municipal bond law firm. Still others had local legal counsel do most of the work connected with bond issues and utilized bond law firms only for minor assistance and the written legal opinion approving the bond issue. It is not possible in Michigan for local counsel to do all of the work. There are only two firms that are qualified to render legal opinions

approving bonds in the state. Consequently, local attorneys always have to submit their work for review by those municipal bond law firms in order to secure the written opinion necessary to market the bonds. For some reason many districts making application to the Municipal Finance Commission did not list a bonding attorney. It is probable that the local legal counsel in these districts included the bonding attorney's fee in their fees and the school district paid little heed to the negotiation.

Tables 3 and 9 also organize important data from the Commission's files. Table 3 shows the breakdown of fees by size of issue where the district employed a qualified bonding attorney, but did not retain local counsel for assistance. There were 117 such issues amounting to over \$98,000,000. The median fee for these issues was \$1642 and the median percent that the bonding attorney's fee was of the total issue was .41%. Again the fees decreased in percentage of the issue as the issues became larger.

When the school district decided to assist the bonding attorney by using their local counsel, too, the percentage of fees to the total issue went up significantly. Only five districts with bond issues of less than \$100,000 did this, and they paid a price for the extra service. The median fee in this instance soared to 2.23% as contrasted with only .97% when the bonding attorney performed the service alone. In no case was the percentage less in any size of issue category than when the bonding attorney performed the service without counsel. The median for all thirty-four issues was .63% compared to .41% without local counsel. See Table 9 on page 132.

TABLE 8

ANALYSIS OF FEES PAID TO BONDING ATTORNEYS
FOR EXCLUSIVE SERVICES ON SELECTED
SCHOOL BOND ISSUES IN MICHIGAN

Size of Bond Issue	Number of Issues	Total Amount	Median Fee	Median % Fee is of Bond Issue
Less than \$100,000	17	\$961,000	\$460	.97
\$100,000 to \$224,999	25	3,654,000	737	.53
\$225,000 to \$499,999	26	3,386,000	1,103	.33
\$500,000 to \$999,999	21	13,760,000	1,721	.26
Over \$1,000,000	28	70,895,000	3,616	.16
TOTALS	117	\$98,156,000	\$1,642	.41

TABLE 9

ANALYSIS OF FEES PAID WHEN BONDING ATTORNEYS WERE
ASSISTED BY LOCAL LEGAL COUNSEL ON SELECTED
SCHOOL BOND ISSUES IN MICHIGAN

Size of Bond Issue	Number of Issues	Total Amount	Median Fee	Median % Fee is of Bond Issue
Less than \$100,000	5	\$170,500	\$512	2.23
\$100,000 to \$224,999	0	-	-	-
\$225,000 to \$499,999	8	2,555,000	1,476	.47
\$500,000 to \$999,999	5	3,113,000	1,830	.31
Over \$1,000,000	16	40,290,000	6,806	.31
TOTALS	34	\$46,133,500	\$3,902	.63

There were sixty-two issues among the 243 where the local counsel did most of the work and requested only minor assistance and a written legal opinion from a bonding attorney. The median percentage was high for the total, 1.23%. Because of the larger number of bond issues involved here, the percentages are probably more realistic than when counsel assisted bonding attorneys as above. The difference between the median percentage when bonding attorneys handled the issues exclusively and when local counsels were assisted by bonding firm is .26%. This data is tabulated on the next page, in Table 10.

In those cases where it was reported that local counsel handled the entire proceedings the fees for such service again tended to be high, also. Table 11 shows that thirty districts reported this method of utilizing local legal counsel. Scrutiny of this table also discloses that twenty-six of the thirty issues were less than \$225,000. This has a tremendous effect on the median percentage, of course.

A study of the data gathered from the Municipal Finance Commission's files discloses wide differences in the amounts paid. Several of these variances are summarized below:

1. Two small \$25,000 bond issues approved within one month of one another. In the first district the bonding attorney charged \$50 and local counsel \$300 for a total fee of \$350, or 1.40% of the issue. In the second district the bonding attorney charged \$100, local counsel \$700 for a total legal fee of \$800, or 3.20 of the issue.

TABLE 10

ANALYSIS OF FEES PAID WHEN LOCAL LEGAL COUNSEL WERE
ASSISTED BY BONDING ATTORNEYS ON SELECTED
SCHOOL BOND ISSUES IN MICHIGAN

Size of Bond Issue	Number of Issues	Total Amount	Median Fee	Median % Fee is of Bond Issue
Less than \$100,000	22	\$967,000	\$690	2.19
\$100,000 to \$224,999	14	2,015,000	1,085	.79
\$225,000 to \$499,999	16	5,640,000	2,202	.63
\$500,000 to \$999,999	6	3,830,000	5,550	.85
Over \$1,000,000	4	5,720,000	7,313	.49
TOTALS	62	\$18,172,000	\$2,067	1.23

TABLE 11

ANALYSIS OF FEES PAID TO LOCAL LEGAL COUNSEL
FOR EXCLUSIVE SERVICES ON SELECTED
SCHOOL BOND ISSUES IN MICHIGAN

Size of Bond Issue	Number of Issues	Total Amount	Median Fee	Median % Fee is of Bond Issue
Less than \$100,000	16	\$689,500	\$603	2.25
\$100,000 to \$224,999	10	1,522,000	990	.67
\$225,000 to \$499,999	2	663,000	1,175	.35
\$500,000 to \$999,999	1	525,000	3,500	.67
Over \$1,000,000	1	3,100,000	3,000	.10
TOTALS	30	\$6,499,500	\$947	1.47

2. One district paid a combined bonding attorney and local counsel fee of \$4632 for services on a \$435,000 bond issue. Two other districts paid only \$4800 each for legal services on \$4,500,000 bond issues. The latter districts did not use local counsel.
3. On a \$750,000 bond issue one district paid a bonding attorney fee of \$3000 and a local counsel fee of \$12,000! The combined \$15,000 was the same amount another district paid in combined fees for a \$10,000,000 issue. In the first district the fees represent 2.0% of the total issue while in the second case the fees were only .15% of the total.

Still another district bonded for \$750,000 at about the same time paid only \$1500 for a bonding attorney. This represented .20% of the total issue.

4. One district bonded for \$2,500,000 using a bonding attorney who charged \$2500 for the total legal fee. A second district bonded for \$2,000,000 and paid local counsel \$1750 plus a bonding attorney fee of \$2000 for a total legal fee of \$3750. A third district bonded for \$2,220,000 for which the bonding attorney exacted a fee of \$2850; the local counsel in this district was paid \$9800 for a total fee of \$12,650!

5. Fees to local legal counsel for assisting bonding attorneys on issues of approximately \$3,000,000 ranged from \$500 to \$8750.

There can be little doubt from this analysis that the least expensive way for a school district to finance legal services in connection with bond issues is to retain a qualified municipal bond law firm and let the superintendent or his assistant perform many of the tasks that would otherwise be assigned to local counsel. This is shown clearly, too, by Table 12. This table summarizes the legal fees paid for the 243 bond issues studied by the type of legal services. In

TABLE 12

SUMMARY OF FEES PAID FOR LEGAL SERVICES
ON 243 SCHOOL BOND ISSUES IN MICHIGAN
BY TYPE OF LEGAL SERVICE

Type of Legal Service	Number of Issues	Total Amount	Median Fee	Median % Fee is of Bond Issue
Bonding Attorney Exclusively	117	\$98,156,000	\$1,642	.41
Bonding Attorney Assisted by Local Counsel	34	46,133,500	3,902	.63
Local Counsel Assisted by Bonding Attorney	62	18,172,000	2,067	1.23
Local Counsel Exclusively	30	6,499,500	947	1.47

spite of being the least expensive method of negotiating a bond issue election, leaving local counsel out of the proceedings may not be

advisable. It will be recalled that Byrnes in his study recommended use of local counsel as did the American Association of School Administrators in one of its publications. The experts in this study established Criterion VIII. The local legal counsel should serve as liaison between the school district and bonding attorney for bond issue election proceedings.

SUMMARY

Both the questionnaire and Municipal Finance Commission data can perhaps be best understood if summarized simply in the final chapter. However, the case study data seems to require more interpretation than can be logically given in Chapter VI. Consequently, this summary will deal particularly with the case study data. It will relate that data to the criteria previously established by the jury of experts.

It was found that all of the case study districts had successfully passed at least one bond issue election in recent years. Seven of the ten had employed Michigan's largest municipal bond law firm for their bonding proceedings. One district had retained an equally large Chicago firm and only two had failed to meet Criterion IX which stated that the bonding attorney or his firm should be qualified to render an approving opinion on the bond issue. All of the districts had met the vital criterion of employing legal assistance for bond issue proceedings. However, 20% of the case study districts failed to employ a qualified municipal bond law specialist.

The financial and administrative arrangements with bonding attorneys were inadequate in terms of the criteria. The fee arrangements were not covered by a written document or formal contract in a single

district. Most superintendents reached an oral agreement on the fees prior to the law firms service. In eight school systems the fee was not recorded in the board's minutes and only one-half of the districts recorded the employment of the bond law firm in the official board minutes. The administrative arrangements were even further from the desired practice. Only two districts had written a policy describing the relationship of local counsel to the board and superintendent and one of those did not make its policy applicable to the special bonding attorney. In the two districts that had such a written policy the attorneys were familiar with it. Most of the school districts gave instructions to their bonding attorneys through the superintendent who in turn received their reports. There was little agreement among the districts on the selection of special bonding attorneys. In three cases the interviewee did not know who made the selection. In the smallest district the superintendent did it and in two cases the board and superintendent working together selected the firm. In the remaining four systems the board of education made the selection. In spite of the rather minor role played in the selection process by the superintendents and in spite of instances of political motivation concerning the appointment of attorneys, only one superintendent admitted that he would not be able to recommend a change in bonding attorneys without causing friction between himself and the board. No evidence was found of bonding attorneys influencing boards on strictly educational matters.

Criteria I and II concerning local legal counsel state, in effect, that every school district should have general legal assistance "on call" from a school law specialist. Four of the case study districts had no

general legal assistance available. As might be expected, they were the four smallest districts. Of the six districts that have counsel available, only two considered their men school law specialists. It must be pointed out that District "J's" counsel was reported to have become sufficiently acquainted with the unique features of school law to perform satisfactorily. Presumably this was the case in the other districts as well.

It is interesting to note that the jury of experts could not agree on a method of reimbursement for local counsel and likewise there was little agreement in practice among the case study districts. Two paid on a flat rate basis; one time and expense; two others had counsel on annual retainers; and the sixth district paid counsel a monthly salary. In the instances where fees were paid by time and expense or flat rate, the districts tended to pay "as billed" without understanding how the amount was computed. This was also true in the cases where counsel was paid for unusual activities beyond his retainer. This, of course, is in violation of Criterion III which states, The financial arrangements with the local legal counsel should be spelled out in written form and agreed upon by both parties in advance of actual services.

Criterion VI makes the point that instructions to local counsel should stem from the superintendent. If the four districts that do not retain counsel but often call other sources for legal advice are included, seven districts comply with this criterion. In only two districts were the instructions given jointly by the board and superintendent. The largest district permitted certain board officers and top administrators to give instructions. Only one district expected their local legal counsel to attend every meeting which may affect the amount that various

counsel were able to participate in educational discussions. However, that district was not the one that reported such participation. It will be remembered that a strong criterion was isolated that indicated attorneys should not participate in board discussions of purely educational matters. In the single case where this rule was violated the violations seemed to occur outside of board meetings when board members called the attorney. This was a district where a political upheaval resulted in a change of attorneys. It was also a district where no board policy defined the role of counsel. The attorney who practiced this behavior was the same one who was released by another school district in this study.

Most of the interviewees in this part of the research agreed with the panel that State Departments of Education should provide general legal assistance to school districts. Seven people responded favorably to that suggestion. Like the experts, they did not favor county school offices performing this service.

Chapter V has presented the research data from the questionnaire returns and the Michigan Municipal Finance Commission files. The reader is again referred to Appendix F for a tabular presentation of the case study data. The final chapter will present the conclusions reached in the study with their implications for educational leaders.

CHAPTER VI

CONCLUSIONS AND IMPLICATIONS FOR EDUCATIONAL LEADERS

It has been the purpose of this study to inquire into the financial and administrative relationship between school attorneys, the school superintendents and boards of education in Michigan. The school district relationships with both special bonding attorneys and local legal counsel were investigated. The following questions were selected as being the most important to be answered for the purposes of this study:

1. What are the elements of a successful relationship between the school attorney, superintendent and board of education?
2. What contractual or employment relationship do school boards have with school attorneys?
3. How much do school boards pay for legal services on bond issues?

Hypotheses were advanced to be tested in this dissertation.

They were:

1. Some school districts in Michigan have been paying legal fees for bond issue services far in excess of what have been paid by other school districts for comparable services.
2. Unless careful attention is paid to sound administrative procedures in the establishment of the attorney-superintendent-board relationship, difficulties in that relationship are probable.
3. There is presently no accepted pattern for the establishment of a school attorney in the local school organizational plan.

4. Criteria exist which can be isolated and applied to the problem of establishing an attorney in the organizational plan of local school districts which will foster a more successful relationship between the attorney, superintendent and board.

The data bearing on these questions and hypotheses was secured from several sources. A questionnaire was sent to every school superintendent in Michigan; ten school districts were selected by structured proportionate random sampling for intensive case study; a panel of experts was utilized to determine criteria pertinent to the study; an extensive search of the literature in the fields of educational administration, school law, and business administration was conducted; finally, an analysis was made of 243 public school bond issues from the files of the Michigan Municipal Finance Commission.

This final chapter states the study conclusions and advances some educational implications which are projected from the conclusions. The conclusions will be summarized after stating them in relation to the criteria isolated in this study. The criteria themselves, of course, are conclusions reached as a result of this research.

CONCLUSIONS

This section of the chapter will be divided between conclusions reached relative to special bonding attorneys and those made concerning local legal counsel.

Special Bonding Attorneys

Criterion I. Qualified legal assistance on bond issue proceedings should be employed by all school districts.

This criterion was the result of a statement that attempted to determine if all districts should employ a bonding attorney for bond



issue services, or if there was some factor such as size that might enable certain districts to forego this service. The criterion is clear that all districts should employ such legal assistance.

The case studies revealed that all ten districts had employed attorneys for bond issue proceedings. The questionnaire did not get at this matter. However, the files of the Municipal Finance Commission disclosed that on 243 school bond issues, over a fifteen month period, every single district reported employing an attorney for bond issue services.

Michigan school districts meet the first criterion.

Criterion II. Advice on legal matters involved in school bond issue election proceedings should be rendered by a municipal bond law specialist.

As just mentioned, the case studies revealed that all ten districts employed attorneys for assistance on bond issue proceedings. Two of the attorneys were not qualified to write legal opinions approving the bonds, however. The questionnaire results indicated that an even greater proportion of districts in Michigan fail to meet this criterion. Slightly more than 33% of the school districts in the state do not employ a "separate and specialized" attorney for bond issue services. Although some of these perhaps can be accounted for by the fact that some districts use municipal bond law firms for general legal advice hence, do not employ "separate" firms for bond issue services. It seems clear that from one-fourth to one-third of Michigan school districts rely on unqualified attorneys for municipal bond law services.

Criterion III. Financial arrangements with a bonding attorney should be spelled out in written form and agreed upon by both parties in advance of actual services.

The data pertinent to this criterion comes solely from the case studies. Although most superintendents reported reaching an oral agreement on the fee to be charged for bond issue services, none had a written statement or formal contract.

Of the eight districts that recorded the employment of the bonding attorney in the official minutes of the district, only two included the fee to be charged. At best, only 20% of the school districts met Criterion III.

Criterion IV. The administrative relationship of the bonding attorney to the board of education and administrative staff should be written in the bylaws or policies of the board of education.

This is a key point in the study. Hypotheses two and three refer to the administrative relationships under investigation. The conclusion reached in this study is that Michigan school boards and superintendents have been remiss in not establishing policies that clearly indicate the relationship of the school attorney to the board and administrative staff. Only one district had such a written policy. It may be significant that this district has a history of excellent attorney-superintendent-board relationships and further, that the superintendent is widely experienced and has earned a doctorate in school administration and is highly respected both state-wide and nationally.



Criterion V. The administrative relationship between the bonding attorney and board of education and administrative staff should be agreed upon by both parties in advance of actual services.

This criterion was met only in the single instance cited above where the school district had such a policy.

Criterion VI. The special bonding attorney should be expected to attend public meetings held to discuss the bond issue proposals.

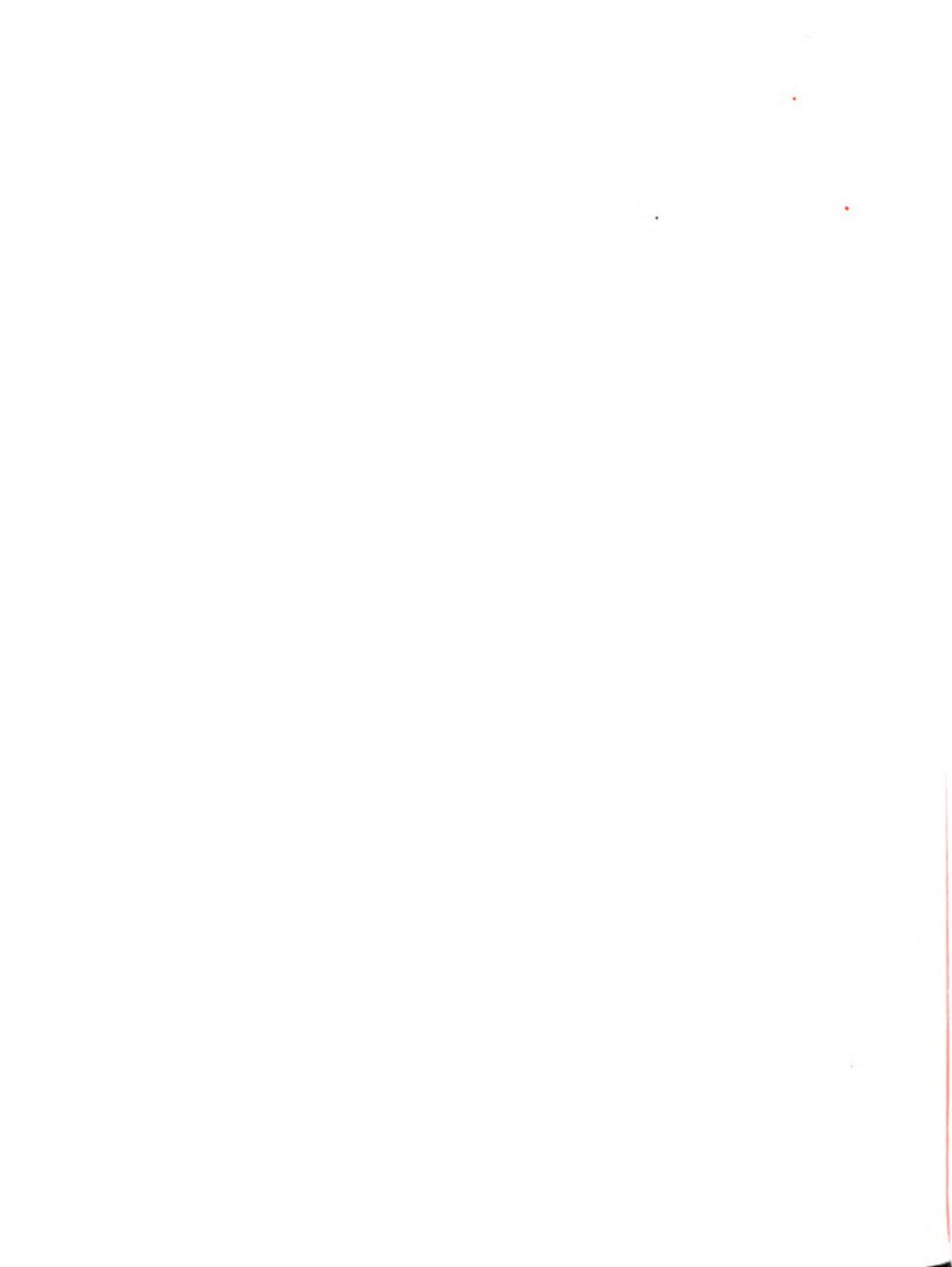
Criterion VII. The special bonding attorney should be expected to attend school board meetings at which the bond issue proposals are being determined.

Criterion VIII. The special bonding attorney should be expected to attend the board meeting at which bids for bonds are being opened.

It became apparent as this study progressed that limitations were required on the areas concerning school attorneys to be investigated. As the duties of attorneys were not considered central to the study, data concerning them was not pursued. Nevertheless Criteria VI, VII, VIII, and X are offered as important conclusions in this research.

Criterion IX. The bonding attorney or his firm should be qualified to render an approving opinion on the bond issue.

The reader is asked to refer to the discussion of Criterion II which alluded to the point made here. It seems clear from the data that one-fourth of Michigan's school districts use the services of an unqualified attorney for bond issue services. The second from the smallest school system among the case study districts and the only district which reported interference by counsel in strictly educational matters were the two case study districts that did not use a municipal



bond law specialist. The four largest systems, as well as four others, used qualified attorneys. There were ninety-two bond issues among the 243 analyzed that were handled by local legal counsels. Of these only twelve were larger than \$500,000 issues. These facts seem to indicate that the smaller school districts tend to employ attorneys who are not qualified to write legal opinions approving bonds.

Criterion X. The bonding attorney should arrange for the signing and delivery of bonds.

See Criterion VIII above.

Criterion XI. The selection of a bonding attorney should be made by the board of education upon the recommendation of the superintendent.

Three of the case study districts' superintendents did not know who selected the bonding attorney in their school systems. This was the result of changes in the superintendency after the attorney was selected. In one case the superintendent recommended the bonding attorney for board approval without the attorney appearing before the board. In two other cases a similar procedure took place except the board interviewed the attorney. In four districts the board acted without the superintendent. This is completely incompatible with the proper administrative relationship between attorney, superintendent and board that the experts in this study have described. The particular criterion being discussed, for example, shows the superintendent in an executive officer position to the board; a position of authority and influence where the board looks to him for leadership in the conduct of the school enterprise. In only three districts out of seven where the circumstances were known did this criterion seem to be met.



Criterion XII. The termination of relations with a bonding attorney, if necessary, should be by the board of education upon the recommendation of the superintendent.

It was found that bonding attorneys are quite stable in their associations with school districts. Only one instance was reported where the school board severed relations with a municipal bond law firm. In that case it was done by the board with the acquiescence of the superintendent after the local counsel persuaded the board that he could provide valuable political assistance on a refunding issue. The local counsel was associated with a different bond law firm than the board had been using, consequently, the bond law firm was changed. While this single instance is not sufficient to generalize on, it seems patent that if so large a proportion of Michigan school boards employ counsel without the recommendation of the superintendent they would be likely to feel free to release the attorney the same way. However, as mentioned, there is no evidence to state with conviction that Michigan school districts meet or fail to meet this criterion.

Criterion XIII. The bonding attorney should not participate in school board discussions of purely educational matters that are involved in bond issue proposals.

The impression received in making this investigation is that while bonding attorneys will attend board and other public meetings as requested, they are very rarely requested to do so. In many districts the bonding attorney had never met with the board of education, doing all business with the district by telephone and mail. This is somewhat understandable with the large number of school districts in the state



requiring bond issues and only two qualified municipal bond law firms to service them. It would seem to require local residence or frequent contact at school board meetings for bonding attorneys to be in a position to participate in educational discussions with boards of education. No instance of such participation was reported.

Criterion XIV. Qualified legal advice on school bond issue elections should be available from State Departments of Education.

This is not a criterion that a superintendent or board of education can use, of course. However, it is an important conclusion in this research. The panel of experts were asked if any source of bond law assistance should be made available to school districts. The panel agreed that State Departments of Education could render a valuable service to school districts by employment of a municipal bond law specialist.

Local Legal Counsel

Criterion I. Qualified legal advice should be "on call" for general legal problems arising in the operation of all school districts.

It was an assumption in this study that all school districts required legal service of a general nature to be readily available for assistance in the complex school operation. Although assumptions are not normally tested as are hypotheses, it seemed advisable to ask the experts to react to this statement. As anticipated, the panel strongly felt this should become a criterion.

Four districts, or 40% of the case study systems, did not employ local counsel, however, significantly, it was the smallest districts that failed to do so. It is perhaps significant, too, that

none of the four superintendents who were without counsel were satisfied with the arrangements they had, such as calling college professors or county prosecutors for legal advice. The questionnaire returns revealed that 61.2% of Michigan school districts do not employ legal counsel on a regular basis for general legal advice. The reasons for this decided failure to meet this important criterion seem to be several. The superintendents interviewed in the case studies indicated that cost was perhaps the most important factor; others cited the fact that no attorney was available who was familiar with school law; still others simply may not have requested the board to retain counsel even though they thought they should have such assistance. It is important to point out that several persons suggested districts banding together to employ counsel. This may be a worthy suggestion although some districts were found who only had to pay \$150 for specialized legal counsel to be on retainer for a year.

It is clear that on this key criterion Michigan school districts fail significantly to measure up to what experts consider an important and reasonable standard.

Criterion II. General legal advice should be provided school districts by school law specialists.

Several superintendents complained that the average attorney didn't know as much school law as the average superintendent. There is no question that the unique complexities of school law requires some degree of special experience or study to be mastered. Some attorneys achieve this experience at the expense of the retaining school district. This was true in four of the six districts in the case studies who

employed counsel. With the short supply of school law specialists that several superintendents mentioned, it may be that school officials must employ non-specialists. The suggestion of one superintendent might be worth consideration. He thought a special training opportunity for those attorneys interested in school law might be promoted by the State Departments of Education.

Criterion III. The financial arrangements with the local legal counsel should be spelled out in written form and agreed upon by both parties in advance of actual services.

The case studies sought information pertinent to this criterion. It was found that three districts of the six employing counsel based their fees on either a monthly salary as one district did, or on an annual retainer. In these instances the criterion was met, of course. The remaining three districts chose to pay their counsel either a flat rate or on a time and expense basis. One of these superintendents reported that the flat rate approximated twenty-five dollars per call; the others paid as billed. When extra services were performed beyond the retainer in those districts where counsel was on retainer, the fees were paid "as billed." In other words, there was a general failure to be clear about the fees to be charged by counsel before services are performed. This was most noticeable in connection with bond issues. One district paid local counsel \$12,000 for services on a refunding election without having had any agreement, oral or written, prior to service. Another district paid \$5,000 with the same lack of prior agreement. The tremendous discrepancies revealed in the study of 243 bond issues in the fees paid to local counsel suggest that boards of education are not complying

with this criterion. The discrepancies also suggest most forcibly that the criterion should be heeded by school officials.

Criterion IV. The administrative relationship of the local counsel to the board of education and staff should be written in the bylaws or policies of the board of education.

This is another key point in the study. The second hypothesis stated in Chapter I of this report was that unless careful attention is paid to sound administrative procedures in the establishment of the attorney-board-superintendent relationship, difficulties in that relationship are probable. Remembering that only six of the case study districts employed local legal counsel it is noteworthy that fully 50% of those districts had had difficulty in the relationship to the extent that counsel were replaced! In two instances the attorney had become associated with a board majority that had subsequently lost an election and counsel was replaced by the new board majority. In the third case the local counsel sided with a group on a community issue that was unpopular with the board. None of the cases showed evidence of exorbitant fees or incompetence. All were politically motivated. The superintendent in each case was by-passed. The question is, "Would a clearly written board policy have changed the behavior in these instances?" In one of the districts where the local legal counsel was replaced, the superintendent reported having a policy governing the relationship, but the policy was adopted after the occurrence. Neither of the other districts met the criterion above. There was only one other superintendent who reported a written policy that established and described the attorney-superintendent-board relationship. This district was enjoying

an excellent relationship. It is doubtful, however, if a generalization could be made on the limited data available from the field. It seems apparent, however, that in the absence of more evidence to support the wisdom of the criterion, the criterion must be accepted on face value as the best thinking of eleven school law and school administration experts on a matter of vital concern to school officials. School districts in Michigan fall far short of meeting the criterion at this writing.

Criterion V. The administrative relationship of the local legal counsel and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.

No comment is required here other than to refer the reader to the comments on the previous criterion.

Criterion VI. The local legal counsel should generally receive instructions from the superintendent of schools.

Although the experts were unable to agree on a criterion regarding to whom counsel should report, the questionnaire returns showed greater agreement in practice than on who should issue instructions. Seventy per cent of the school districts in Michigan ask counsel to report to the superintendent, but only slightly over 41% initiate instructions by the superintendent. In nearly 32% of the cases, the superintendent and board jointly issue instructions. This fact that reports are not made back to the person issuing the instructions is perhaps as poor practice as the fact that only 41% meet the sixth Criterion.

The case study data was more in line with the experts' demands. In two instances the board and superintendent issue instructions jointly. Only one case study district reported the board the initiator of instructions. In every instance the case study districts had counsel report back to the source of instructions. It must be acknowledged, however, that school officials do not comply in even a majority of cases with this criterion.

Criterion VII. If local counsel is on retainer, legal activities involving unusual time and expense by the attorney should be reimbursed above the retainer.

One of the most striking findings in this investigation was the tremendous disparity in the fees paid local counsels for bond issue services. For example, fees paid to local counsel for assisting bonding attorneys on issues of approximately \$3,000,000 ranged from \$500 to \$8750. It was also disclosed that fees tended to be greater when counsel was involved than when bonding attorneys are assisted only by the staff. Neither of these is sufficient reason to exclude local counsel for this service, however. The disparity in fees may be corrected by adherence to Criterion III which insists upon an agreement on fees prior to service. The extra cost involved in having local counsel serve as liaison may be money well spent if the administration is freed to deal with problems more directly related to the school instructional program.

Only two of the case study districts used local counsel as liaison between school officials and the bonding attorneys. One of these paid \$4000 for services on a \$10,000,000 issue and the other paid \$7500 for services on a \$3,500,000. A third district was described as using

local counsel to assist on a bond refunding issue. The local attorney was paid \$12,000 for services on this issue of \$7,000,000.

The data from the 243 bond issues analyzed in this study revealed that 117 bond issues were handled exclusively by municipal bond law firms. The remaining 126 issues involved local legal counsels exclusively, or as the principal person handling the issue assisted by a bond law firm or as an assistant to the bonding attorney. There is no question that local counsel were being used in connection with bond issues but there is some reason to believe the degree of participation was much greater than mere liaison that the panel of experts suggested. The pertinent criteria suggest that a municipal bond law firm, qualified to write a legal opinion approving the bonds, should be retained by all districts planning a bond issue election. The criterion being discussed here adds that local counsel should be employed to provide liaison between the school district and the bonding attorney. As seen, this is quite different from the pattern in Michigan.

Criterion IX. The local legal counsel should attend school board meetings on request rather than every meeting.

This area was deemed important for the possibility that regular attendance at board meetings might lead to participation in discussions of purely educational matters. Only one of the six case study districts that employed local legal counsel asked him to attend every school board meeting. There was no evidence of interference in educational policy matters in that case. Thirty-eight other Michigan school districts had counsel present at every meeting. This means that 9% of the school systems in the state do not comply with this criterion.

Criterion X. The local legal counsel should be expected to attend public meetings on request.

All of the case study districts that employed local counsel reported that their attorneys would attend public meetings when asked to do so. The request was seldom made, however.

Criterion XI. The selection of a legal counsel should be made by the board of education upon the recommendation of the superintendent.

Six case study districts reported that either the board of education or the board and superintendent together employed counsel. In four other districts the board chose to make the selection without assistance from their executive officer, the superintendent. Three of these four districts had replaced counsel for "political" reasons. None had had a written policy describing the administrative organization in relation to local counsel at the time the terminations took place.

The questionnaire data revealed that about 15% of the state's school districts employed counsel on the basis of the superintendent's or board's action in either case without the participation of the other.

Criterion XIII. The termination of relations with local legal counsel, if necessary, should be by the board of education upon the recommendation of the superintendent.

The question was asked in this study, "Do you feel that you, as superintendent, could recommend to the board that you change school attorneys without causing friction?" Only 55.7% of the superintendents in the state responded affirmatively. Eleven per cent simply said "No!" The rest either didn't know, or failed to respond.

Among the case study districts, two superintendents felt they could not change counsel without causing friction with the board. A third superintendent thought he could, "for cause." The three districts mentioned here were all cases where the board had arbitrarily released one attorney and employed another without involving the superintendent. It is apparent that a serious situation exists in Michigan in regard to the relationship of attorneys, superintendents and boards of education.

Criterion XIII. The local legal counsel should be expected to prepare architectural and construction contracts.

Criterion XIV. The local legal counsel should be expected to review for approval architectural and construction contracts and performance bonds.

Criterion XV. The local legal counsel should be expected to attend bid openings for new construction.

Criterion XVI. The local legal counsel should be expected to attend board meetings when construction contracts are to be let.

Criterion XVII. The local legal counsel should be expected to review final payment certificates and documents for contractors.

Criterion XVIII. The local legal counsel should be expected to negotiate on behalf of the board of education for the purchase or sale of property.

Criterion XIX. The local legal counsel should be expected to perform condemnation proceedings and other court services as may be required by the school district.

The seven criteria listed above, XIII, XIV, XV, XVI, XVII, XVIII, and XIX, all deal with various duties that should be expected

of counsel. As explained previously, this is an area that was not pursued because of the need for further limitations to the investigation. Nevertheless, these criteria are offered as an important contribution of this study.

Criterion XX. The local legal counsel should not participate in school board discussions of purely educational matters.

One school district in the case study section of this research reported that board members call the local counsel to discuss educational matters! Considering that only six of the ten case study districts employed counsel, this district represents one-sixth, or nearly 17% of the districts in the study. The questionnaire returns revealed that in nearly 10% of all the school districts in Michigan local legal counsel participate in educational policy matters! It would be too easy to point a finger at the attorneys for this unfortunate circumstance. Would a well written description of the attorney's role in relation to the board and administrative staff eliminate the condition described above? It is a major conclusion of this study that such a policy would at least be of significant aid in the attempt to move toward a better administration of this vital relationship.

Criterion XXI. Qualified advice on general legal problems arising from the day-to-day operation of the school district should be available from State Departments of Education.

Byrnes suggested such advice in relation to bond issue proceedings. Seven of the case study superintendents also agreed with this criterion. At the same time, the experts and practicing school administrators strongly objected to school districts having to seek legal



advice from city attorneys or county prosecutors. The matter of staffing State Departments of Education with qualified legal counsel for assistance to school districts needs careful consideration

The conclusions reached in this study in relation to the central questions and hypotheses are:

1. No accepted pattern for the establishment of the school attorney in the local school organizational plan existed in Michigan prior to this study.
2. Failure of Michigan school officials to pay careful attention to sound administrative procedures in the establishment of the attorney-superintendent-board relationship has created difficulties in that relationship in a significant number of school districts.
3. Criteria exist which can be isolated and applied to the problem of establishing an attorney in the organizational plan of local school districts on a sound basis. These criteria have been isolated in this study. Michigan school districts do not meet most of the criteria.
4. There is a tremendous disparity between Michigan school districts in the amount paid for comparable legal services in connection with school bond issues.

IMPLICATIONS FOR EDUCATIONAL LEADERS

Some implications of this investigation have been suggested. Others will be pin-pointed here because of their importance to school officials. Where further research seems advisable it will be mentioned here also.

This dissertation has thus far made no claim to national application. Even though experts from California to New Jersey and Florida to Michigan were used, the study was aimed in particular at conditions in Michigan. This author feels sure that many of the conditions found in Michigan are not unique to that state, however. There is evidence cited in the chapter devoted to the literature search that supports this statement. There can be little doubt that the criteria isolated here for the first time by the panel of experts has wide applicability over the country.

The most important implications of this research seem to be:

1. There is a need to impress upon school board members the necessity for qualified local legal counsel in their school districts. The unanimous agreement of experts in the field and near unanimous agreement of superintendents as well, that legal counsel is required to keep the complex operation of a school district on safe grounds testifies to strength of their conviction. Communication through school board associations may be the best way to facilitate this end.



2. There appears to be a great need for the adoption of administrative policies by school boards. The dearth of policies governing the relationship of the attorney to the board and superintendent is only one aspect of this need for policies. A perhaps greater problem lies in the fundamental two-way relationship of board and superintendent. It is suggested that a third party cannot be successfully introduced into a relationship that is already inadequately defined. Further research would be of value in this whole area.
3. School officials must be made aware of the tremendous disparity in fees paid to local legal counsel for bond issue services. Periodic publication by the State Departments of Education of fees paid to counsel might be one way to do this. School board associations and associations of school administrators may be of value in communicating this information also. Other studies have suggested that fees be paid on a time and expense basis or an amount not to exceed .125% on bond issues of \$2,000,000 or more. The experts in this study were not able to reach agreement on the method of payment. They were strongly agreed though, that boards of education should have a written agreement on fees from attorneys prior to any services being rendered.

Carefully detailed research on the precise duties of local counsel and bondings attorneys for bond issues of different sizes and the time and expenses involved would be of value. In the absence of that research the author would suggest that local legal counsel fees should approximate those paid bonding attorneys for similar services.

4. State Departments of Education should immediately give consideration to the experts' suggestion that they employ both special bonding attorneys and local legal counsel for assistance to school officials. The assistance might be in two forms, 1) authoritative legal advice given directly to school officials upon request, and 2) establishment of training sessions for those lawyers who wish to gain greater understanding of school and municipal bond law to better serve local school districts. Additional research would be helpful in clearly defining the role of these attorneys in relation to attorneys employed by local school districts.

BIBLIOGRAPHY

- Allen, Paul M. "The Administration Process: A Comparative Study of Education and Business Administration." Ph.D. dissertation, The University of Nebraska, 1956.
- American Association of School Administrators. American School Buildings. Twenty-seventh Yearbook, Washington, 1959.
- Black, Henry Campbell. Black's Law Dictionary. St. Paul: West Publishing Co., 1933.
- Byrnes, Frederick J. "Fees of Local Legal Counsels for Service Related to School Bond Proceedings in the New York Metropolitan Area." Unpublished Ed.D. dissertation, Advanced School of Education, Teachers' College, Columbia University, 1956.
- Garber, Lee O. "Hiring an Attorney," Nations Schools, 60: 59-60, July, 1957.
- Garber, Lee O. (ed.) Law and the School Business Manager. Danville, Illinois: Interstate Printers and Publishers, Inc., 1957.
- Gilbaugh, John W. The School Board Policy Guide. San Francisco: Fearson, 1956.
- Good, Carter V. and Scates, Douglas E. Methods of Research: Educational, Psychological, Sociological. New York: Appleton-Century-Crafts, Inc., 1954.
- Goodier, Floyd T. and Miller, William A. Administration of Town and Village Schools. St. Louis, Missouri: Webster Publishing Co., 1938.
- Griender, Calvin and Rosenstengel, William E. Public School Administration. New York: Ronald Press Co., 1954.
- Griffiths, Daniel E. Human Relations in School Administration. New York: Appleton-Century-Crafts, Inc., 1956.
- Hagman, Harlan L. The Administration of American Public Schools. New York: McGraw-Hill Book Co., 1951.
- Hagood, Margaret J. and Price, Daniel O. Statistics for Sociologists. New York: Henry Holt and Co., 1952.

- Hamilton, Robert R. and Mort, Paul R. The Law and Public Education: with Cases. Chicago: The Foundation Press, 1941.
- Hodges, Henry G. Management-Principles and Practical Problems. Boston: Houghton Mifflin Co., 1956.
- Holden, Paul E., Fish, Lounsbury S. and Smith, Hubert L. Top Management Organization and Control. New York: McGraw-Hill Book Co., Inc., 1951.
- Huggett, Albert J. Practical School Administration. Champaign: The Garrard Press, 1950.
- Merton, Robert K. and Kendall, Patricia L. "The Focused Interview." American Journal of Sociology, 51:54 (May 1, 1956).
- Michigan School Code of 1955
- Moehlman, Arthur B. and Newlon, Jesse H. Public School Plant Program. New York: Rand McNally and Co., 1929.
- Moore, Franklin G. Manufacturing Management. Homewood, Illinois: Richard D. Irwin, Inc., 1953
- Owens, Richard N. Management of Industrial Enterprise. Homewood, Illinois: Richard D. Irwin, Inc., 1953.
- Parten, Mildred. Surveys, Polls, Samples. New York: Harper & Bros., 1950.
- Payne, Stanley L. The Art of Asking Questions. Princeton: Princeton University Press, 1951.
- Peterson, Elmore and Plowman, E. Grosvenor. Business Organization and Management. Homewood, Illinois: Richard D. Irwin, Inc., 1953.
- Reeder, Ward G. The Fundamentals of Public School Administration. New York: Macmillan Co., 1951.
- Rosenstengel, William E. and Eastmond, Jefferson K. School Finance, Its Theory and Practice. New York: Ronald Press Co., 1957.
- Rowland, Floyd H. Business Planning and Control. New York: Harper and Bros., 1947.
- Tian, Henry H. (ed.) School Business Administration. New York: Ronald Press Co., 1956.
- Urwick, L. The Elements of Administration. New York: Harper and Bros., 1943.
- Van Miller and Spalding, Willard B. The Public Administration of American Schools. Yonkers-on-Hudson, New York: World Book Co., 1952.



Wahlquist, John T. and Arnold, William E. The Administration of Public Education. New York: The Ronald Press Co., 1952.

Webster's Collegiate Dictionary. Fifth Edition. Springfield: G. and C. Merriam Co., 1947.

Weber, Oscar F. Problems in Public School Administration. New York: The Century Co., 1930.



APPENDIX A

THE QUESTIONNAIRE

May 9, 1957

Dear Superintendent:

We have been receiving an increasing number of inquiries from school administrators and school board members regarding the proper role and function of the school attorney. Naturally, to answer these questions intelligently we have to go to people like you for help.

We, therefore, have designed the following brief questionnaire to determine: (1) amount and method of payment for school attorneys, (2) current practices of school districts having successful relations with school attorneys, (3) problem areas in working with school attorneys.

A complete report of the findings, in publication form, will be sent free of charge to all superintendents participating in the study. Needless to say your reply will be held in strict confidence.

Your cooperation in this problem is appreciated.

Sincerely

William H. Roe

QUESTIONNAIRE

Please check the items that apply. Check one or more of the indicated responses if necessary.

1. What is the total number of students enrolled in the public schools of your district?
 Number of students
2. Do you employ a school attorney on a regular basis?
162 Yes
265 No
 6 No Response
3. Is your attorney a local resident?
162 Yes
206 No
 65 No Response
4. On what basis is your attorney employed?
228 Fee
 13 Salary Amount
124 Retainer
 68 No Response
5. Do you employ a separate and specialized attorney for advice and counsel on bond issues, elections and similar specialized activities?
287 Yes
124 No
 22 No Response



6. If your bond attorney is paid on a percentage basis (percent of total issue) what is the percentage?
- 33 1/2
- 350 No Response
7. Who participated in the selection of your attorney?
- 60 Board only
- 5 Superintendent only
- 343 Superintendent and board
- 25 No Response
8. Does attorney attend board meetings?
- 39 Regularly
- 296 Only when asked
- 64 Never
- 34 No Response
9. Do you feel that you, as superintendent, could recommend to the board that you change school attorneys without causing friction?
- 241 Yes
- 48 No
- 106 Don't know
- 38 No Response
10. Has your attorney ever given his unqualified opinion in matters that you would consider strictly educational rather than legal?
- 42 Yes
- 303 No
- 46 Don't know
- 42 No Response

11. Is your board ever influenced in strictly educational matters by the opinion of your attorney?

35 Yes

290 No

54 Don't know

54 No Response

12. From whom do instructions to your attorney originate?

179 Superintendent

74 School board

6 Other (specify) Business Manager in all cases except one; instructed by president of board.

138 Superintendent & Board

13. To whom does the attorney most frequently report regarding progress on legal work?

304 Superintendent

37 School board

9 Other (specify) Business Manager in all cases except one reported to secretary of board.

14. (a) Is your attorney also employed by another school district?

255 Yes

38 Don't know

85 No

55 No Response

(b) Is this

138 an advantage

7 a disadvantage

173 not important

15. Do you have some comments or specific problems that would be useful in establishing criteria for a good working relationship between superintendent, school boards and school attorneys?

66 Commented

355 No comments

APPENDIX B

VERBATIM RESPONSES
TO QUESTION FIFTEEN
ON THE QUESTIONNAIRE



VERBATIM TRANSCRIPT OF ANSWERS TO QUESTION FIFTEEN

1. "A school board should not attempt to act on its own interpretation of law; that can lead to complications."
2. "Even though we might request an oral opinion we request the same opinion in writing and return an answer in writing."
3. "I believe that a superintendent should rely a great deal on legal opinion in areas where he has doubt about the legal implications. In the main, he should consult with his board about his desire for an interpretation and, if approved, his board should authorize him to clarify the matter with the proper legal authorities. A legal opinion in advance is preferable to risking an indifferent violation or disregard for the law. As a general rule, the superintendent should be sufficiently informed about new laws and different applications of the old laws to the extent that he can advise the board of the need for legal advice and if they agree, he should be authorized to seek such advice in the name of the board and district as their agent."
4. "I should state that I am new in Michigan and do not know Michigan law as it applies to regular districts in the public school system. Also, my experience prior to Michigan has involved smaller school districts. We were always in a position to operate within the limits of general opinions coming from the office of the attorneys general except when we sought an interpretation from an attorney in the district when there was doubt. This was generally a gratis opinion and since we have had no bonds to issue and no parcels of land to acquire, nor any legal actions brought against us, there are still some experiences in store for me."
5. "I was employed in the Flint area before accepting the position I now hold. While there I observed a school attorney take over many functions which the Board, Superintendent and Staff should have made decisions on. In this case, Board policy was needed to show what the role and limits of the attorney should have been within the total administrative structure of the school. I like an attorney's advice but certainly don't want him to appear as an unofficial Superintendent of schools."
6. "I have yet to consult an attorney in school matters, although I have felt the need many times."
7. "Excellent system here. Close working relationship between Superintendent and attorney. We confer first so we have a united front to the board. Most attorneys are not as familiar with school law as Superintendent while Superintendent needs help of school attorney for common law on such things as leases, liability, elections, etc."

8. "It would be helpful to be able to consult one more frequently, without worrying about the cost."
9. "Perhaps most of the problems could stem from the boards relationship with the Superintendent. The Superintendent in my opinion should be the individual who directly makes first contacts and reports to the board meeting in order to have first hand information. The Superintendent should however know in advance his thinking and what answers he may have. Legal matters are one item. Educational matters and philosophy are another."
10. "Have well established that his work is not in realm of administration but confined to legal questions. Opinions should be offered at meetings only when asked for or where there is free discussion of a legal problem. Superintendent and board should not contradict the attorney's opinion when asked for. Should be understood boards action may be in contradiction of attorney's opinion but board is free to so act. Generally speaking attorney's responsibility stops once his legal opinion has been given. Attorney should not be asked to do certain minor things with which any administrator by nature of his work is familiar."
11. "Superintendent should handle contacts but must be completely frank with the board and present adverse opinions readily. The average Superintendent knows more school law than the average village or city attorney but he needs the authority of the attorney to support his position in legal matters."
12. "I talked our attorney into attending board meetings several years ago. He developed interest and then proficiency."
13. "With the reactions of communities as a whole, Board of Education can hardly afford not to have a good attorney understanding school law."
14. "The schools of Washtenaw County tried to work out a plan for retaining an attorney by several schools to make it worth his time to study school law. Under the present plan each district has a separate attorney and each must give considerable time and effort to study before an opinion can be rendered. It would be very helpful if a superintendent could pick up the phone and receive a quick answer to some legal questions."
15. "I feel that the school attorney is an important member of our staff, always at hand when needed, never inflicting unwanted advice."
16. "Understanding of an experience with school law. If possible experience sometime as a board member."
17. "Get an attorney who is "school minded" and who seeks or at least wants school contacts."

18. "Use only recognized bonding attorneys for bond issues. Employment of attorney for other purposes should be based upon local conditions. Definite mechanics should be determined before attorney is hired."
19. "Too often attorneys take a strictly technical position on matters. Their social viewpoint is lacking. They see violations of the school code in almost every action. They impede progress."
20. "He is for advice on legal matters and not on whole agenda. Act as an advisor when asked and not on educational. Let the board make decisions without comment unless it is a legal problem."
21. "He should speak up any time he feels the board may be bordering on possible illegality in any problems."
22. "We do not ask, or want, our attorney to be present or directly help to sell the taxpayers on the necessity for new buildings."
23. "I feel (purely personal) that few attorneys are really acquainted with school law."
24. "Our school employs a local attorney and also uses the services of for bonding and elections, etc. We find that this works very well since the local man is well informed on matters such as abstracts, deeds, titles and other matters of common law while the other man is a specialist in school law. I personally do not feel that it is necessary for a school lawyer to attend all board meetings or to offer any opinions on school matters unless the matter is an opinion of law and his advice is sought."
25. "We have used an attorney for specific purposes only. Advise securing one experienced in school problems. May be just as well if retained by several schools so as to make it worth his while to keep up on school legislation and able to advise on common problems."
26. "There are some attorneys whom I have heard of, that get rather far afield in Educational matters, especially reorganizations."
27. "In registered school districts, a general election procedure established by the attorney is helpful, with the current changes added by the attorney as they occur."
28. "We work with of Lansing. He has worked for us on two bond issues and has been available to us on other legal matters, pertaining to education. He is not on a retainer basis."
29. "Attorney to act only in advisory capacity, needs the same as any other consultant."

30. "Relationship between board and attorney should be through the Superintendent only."
31. "Keep attorney posted on all school routine matters of policy and administration."
32. "We have a definite policy that only the Superintendent may refer matters for opinion to our attorney. To be sure, the board can refer, and does, matters to be studied by him."
33. "Find the "right" man - non-political, school minded, high integrity, able student, wide acquaintance, neither power or money minded, personable, far."
34. "There is need to clarify distinctly the province that the Superintendent and the attorney each prevail in, and to insure that neither invades the other's area. Meetings prior to board meetings to clarify thinking of both on given issues will do much to establish rapport."
35. "Select highest qualified man possible, establish channels and relationships before final decision."
36. "Yes - Attorneys should give legal advise only and perform duties related to his profession--Superintendents likewise--Boards likewise."
37. "I believe the individual involved is the big difference."
38. "Restrict to legal aspects of problems only."
39. "Too frequent use of an attorney hinders the district. Everything becomes a legal question. It ultimately creates a job for an attorney, where one should not exist."
40. "We have an excellent relationship. If the attorney were local, sat at the board table, and was in politics it could be unfortunate."
41. "The department of Public Instruction should have a corps of attorneys who could give advice and help to the hundreds of school districts. Why should these districts be forced to spend thousands of dollars for advice when one attorney could draw up forms (in hundreds of similar instances) for districts. Years ago the department answered legal questions and Boards of Education frequently could get the necessary help and information for bonding, etc. Today when hundreds of districts are annexed - one procedure should suffice for most of such districts. Today when we ask for such help we are told to have our attorney make the contact or inquiry. The legal hierarchy or fraternity is too strong. The fees charged districts today are frequently unreasonable. For

41. (Continued) instance in my thirty-six years as Superintendent, it was not necessary for any of my boards of education to hire a lawyer for any reason until a very few years ago."
42. "We employ different attorneys to handle different things. This past year we have used three attorneys."
43. "Use only those who specialize in school problems if possible."
44. "Eliminate use of local attorneys. Have state supply opinions and direction through a Department of Public Instruction Attorney. Let Boards hire own bonding attorneys."
45. "The attorney employed should be familiar with the Michigan School Code. All legal questions and papers should be called to the attention of the attorney. This makes for better cooperation between Board of Education, Superintendent and Attorney."
46. "No. 11 Has only occurred once or twice and the point raised was considered by the board."
47. "Attorney to be accountable to the Board of Education though responsibility of arriving at solutions or recommendations presented to the board should I believe involve a working together of attorney and superintendent, who is the board's executive officer. Superintendent should rely on attorney in legal end of problems. Interpretation educationally, possibly a joint effort with some of staff involved."
48. "We have felt that having a well known attorney is an advantage especially when in court regarding tax cases such as we have been."
49. "Much of the work done by the attorney has to be done first by the Superintendent - Research, etc."
50. "Perhaps a recommendation could be made that in bond procedures a bond attorney should have some specification as registration to be acceptable."
51. "We have no problem, whatsoever, in the employment of a school attorney for specialized jobs. He is a local resident, sticks to his assignment and doesn't concern himself unduly with educational affairs. This is a tremendous help to us and to the board."
52. "No just get along."
53. "I think boards and superintendents should work together on problems and decisions rendered by the attorneys to be most effective. Very little legal advice has been used in the past several years by our school."

54. "In the three years I have been Superintendent here we have not used the services of a lawyer. We get opinions from the Prosecuting Attorney."
55. "We attempt to retain an attorney who deals considerably with school problems and is familiar with tax anticipation and bonding procedures."
56. "It is very possible that difficulty could arise when the school attorney is present at all board meetings. He could influence the board regarding matters which are not within his jurisdiction."
57. "We had a regular attorney until the current year when we felt that we could get along without one as very little work was required of him. We felt that we could get the same advice from our County Prosecutor, The Department of Public Instruction, or from our County Superintendent."
58. "I believe school attorneys should have some official in the State Department of Public Instruction whom they may contact, if need for such contact should arise."
59. "Since I became Superintendent, I have had very little experience working with an attorney. However, in the past the board of education has had some dealings with attorneys, chiefly the county prosecuting attorney."
60. "The feeling of the present board is that this has not often proven satisfactory."
61. "In a few matters of legal concern, the information received was not accurate."
62. "At the present time we are studying the feasibility of an extended building program. If this comes about, we will seek legal help. Our problem will be to find competent help."
63. "Direction of services of attorney should always be channeled through Superintendent and reports back to the board likewise."
64. "I find that most attorneys know very little about school law. Because of my long experience we seldom call for his help. A less experienced administrator should have frequent use for an attorney."
65. "The average attorney knows very little about school law and does not have time to specialize."
66. "Our board authorizes the Superintendent to obtain legal advice from the school attorney, the attorney reports to the Superintendent, the Superintendent reports to the Board except when the Superintendent feels that the Attorney should attend a meeting and explain directly to the board."

APPENDIX C

STATEMENTS FOR ISOLATING
CRITERIA RELATIVE TO SCHOOL ATTORNEYS

AN INQUIRY INTO THE FINANCIAL AND ADMINISTRATIVE
 RELATIONSHIP BETWEEN SCHOOL ATTORNEYS, SCHOOL
 SUPERINTENDENTS AND BOARDS OF EDUCATION
 IN MICHIGAN

STATEMENTS FOR ISOLATING CRITERIA RELATIVE TO SCHOOL ATTORNEYS

The following statements are intended to isolate criteria for use in the establishment of school attorneys in the administrative organization of school districts. These statements are set up to cover both the special bonding attorney or municipal bond law specialist and the local legal counsel who performs general legal services for the school district.

Please show the extent to which you agree or disagree with each of the statements below by placing a check (✓) in one of the four blanks which follows each item. When multiple items are listed as in number one below, please indicate the extent to which you agree or disagree with each item. You are invited to comment on each item if you wish to clarify your response.

A. SPECIAL BONDING ATTORNEY

	<u>Strongly</u> <u>Agree</u>	Tend to <u>Agree</u>	Tend to <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
1. Qualified legal assistance on bond issue proceedings should be employed by school districts, depending on the				
(a) size of the school district	_____	_____	_____	_____
(b) superintendent's knowledge of school law	_____	_____	_____	_____
(c) size of bond issue	_____	_____	_____	_____
(d) by all school districts	_____	_____	_____	_____
(e) other factors (specify)	_____	_____	_____	_____

Comments: _____

	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
2. Qualified legal assistance on bond issue proceedings should be employed by school districts of:				
(a) less than 499 students	_____	_____	_____	_____
(b) from 500 to 999 students	_____	_____	_____	_____
(c) from 1000 to 2999 students	_____	_____	_____	_____
(d) from 3000 to 5999 students	_____	_____	_____	_____
(e) from 6000 to 9999 students	_____	_____	_____	_____
(f) over 10,000 students	_____	_____	_____	_____
(g) all school districts	_____	_____	_____	_____

Comments: _____

3. Advice on legal matters involved in school bond issue election proceedings should be rendered by:				
(a) The school superintendent	_____	_____	_____	_____
(b) An attorney on the board of education	_____	_____	_____	_____
(c) The school district's legal counsel	_____	_____	_____	_____
(d) A school law specialist	_____	_____	_____	_____
(e) A municipal bond law specialist	_____	_____	_____	_____
(f) Other (specify)	_____	_____	_____	_____

Comments: _____

4. The financial arrangements with a bonding attorney should be spelled out in written form and agreed upon by both parties in advance of actual services.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

5. The administrative relationship of the bonding attorney to the board of education and administrative staff should be written in the bylaws or policies of the board of education.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____



	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
--	---------------------------------	--	---	------------------------------------

6. The administrative relationship between the bonding attorney and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.

_____	_____	_____	_____
-------	-------	-------	-------

Comments: _____

7. The bonding attorney should generally receive instructions from the:

(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Local counsel	_____	_____	_____	_____
(e) Other (specify)	_____	_____	_____	_____

Comments: _____

8. The bonding attorney should generally report to the:

(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Local legal counsel	_____	_____	_____	_____
(e) Other (Specify)	_____	_____	_____	_____

Comments: _____

9. Bonding attorney fees should be based upon:

(a) An annual retainer	_____	_____	_____	_____
(b) Percentage of the bond issue	_____	_____	_____	_____
(c) A sliding percentage scale	_____	_____	_____	_____
(d) Time and expenses	_____	_____	_____	_____
(e) Other (specify)	_____	_____	_____	_____

Comments: _____

- | | <u>Strongly
Agree</u> | <u>Tend
to
Agree</u> | <u>Tend
to
Disagree</u> | <u>Strongly
Disagree</u> |
|--|---------------------------|------------------------------|---------------------------------|------------------------------|
| 10. The special bonding attorney should be expected to attend public meetings held to discuss the bond issue proposals. | _____ | _____ | _____ | _____ |
| Comments: _____ | | | | |
| 11. The special bonding attorney should be expected to attend school board meetings where the bond issue proposals are being determined. | _____ | _____ | _____ | _____ |
| Comments: _____ | | | | |
| 12. The special bonding attorney should be expected to attend the board meeting at which bids for the bonds are being opened. | _____ | _____ | _____ | _____ |
| Comments: _____ | | | | |
| 13. The bonding attorney should be expected to prepare the bond circular for potential bond buyers. | _____ | _____ | _____ | _____ |
| Comments: _____ | | | | |
| 14. The bonding attorney or his firm should be qualified to render an approving opinion on the bond issue. | _____ | _____ | _____ | _____ |
| Comments: _____ | | | | |
| 15. The bonding attorney should arrange for the signing and delivery of bonds. | _____ | _____ | _____ | _____ |
| Comments: _____ | | | | |

	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
16. The selection of a bonding attorney should be made by the:				
(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Other (specify)	_____	_____	_____	_____

Comments: _____

17. The termination of relations with a bonding attorney, if necessary, should be initiated by the:				
(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Other (specify)	_____	_____	_____	_____

Comments: _____

18. The bonding attorney should be expected to participate in discussions at school board meetings of purely educational matters that are involved in bond issue proposals.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

19. The board of education should be influenced by the bonding attorney on educational matters that are involved in bond issue proposals.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

20. Qualified legal advice on school bond issue elections should be available from:				
(a) State Departments of Education	_____	_____	_____	_____
(b) County offices of Education	_____	_____	_____	_____
(c) County Government offices	_____	_____	_____	_____
(d) City Government offices	_____	_____	_____	_____
(e) Other (specify)	_____	_____	_____	_____

Comments: _____

	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
B. <u>LOCAL LEGAL COUNSEL</u>				
1. Qualified legal advice should be "on call" for general legal problems arising in the operation of the school district, depending on the				
(a) size of school district	_____	_____	_____	_____
(b) community setting (rural, urban, suburban)	_____	_____	_____	_____
(c) superintendent's knowledge of school law	_____	_____	_____	_____
(d) number of legal problems arising	_____	_____	_____	_____
(e) "on call" for all school districts	_____	_____	_____	_____
(f) other factors (specify)	_____	_____	_____	_____

Comments: _____

2. Qualified legal advice should be "on call" for general legal problems arising in the operation of school districts of				
(a) less than 499 students	_____	_____	_____	_____
(b) from 500 to 999 students	_____	_____	_____	_____
(c) from 1000 to 2999 students	_____	_____	_____	_____
(d) from 3000 to 5999 students	_____	_____	_____	_____
(e) from 6000 to 9999 students	_____	_____	_____	_____
(f) over 10,000 students	_____	_____	_____	_____
(g) all school districts	_____	_____	_____	_____

Comments: _____

3. General legal advice should be provided school districts by:				
(a) The school superintendent	_____	_____	_____	_____
(b) An attorney on the board of education	_____	_____	_____	_____
(c) A local attorney	_____	_____	_____	_____
(d) A school law specialist	_____	_____	_____	_____
(e) Other (specify)	_____	_____	_____	_____

Comments: _____

	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
4. The financial arrangements with the local legal counsel should be spelled out in written form and agreed upon by both parties in advance of actual services.	_____	_____	_____	_____

Comments: _____

5. The administrative relationship of the local counsel to the board of education and staff should be written in the bylaws or policies of the board of education.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

6. The administrative relationship of the local legal counsel and the board of education and administrative staff should be agreed upon by both parties in advance of actual services.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

7. The local legal counsel should generally receive instructions from the:				
(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Other (specify)	_____	_____	_____	_____

Comments: _____

8. The local legal counsel should generally report to the:				
(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Other (specify)	_____	_____	_____	_____

Comments: _____

	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
9. Local legal counsel fees for routine services should be based upon:				
(a) An annual retainer	_____	_____	_____	_____
(b) Time and expense	_____	_____	_____	_____
(c) Other (specify)	_____	_____	_____	_____

Comments: _____

10. If local counsel is on retainer, legal activities involving unusual time and expense by the attorney should be reimbursed above the retainer.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

11. The local legal counsel should serve as liaison between the school district and bonding attorney for bond issue election proceedings.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

12. The local legal counsel should attend school board meetings:				
(a) Every meeting	_____	_____	_____	_____
(b) On request	_____	_____	_____	_____

Comments: _____

13. The local legal counsel should be expected to attend public meetings on request.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

14. The selection of a legal counsel should be made by the:				
(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Other (specify)	_____	_____	_____	_____

Comments: _____



	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
15. The termination of relations with local legal counsel, if necessary, should be initiated by the:				
(a) Superintendent	_____	_____	_____	_____
(b) Board of Education	_____	_____	_____	_____
(c) Supt. and Board jointly	_____	_____	_____	_____
(d) Other (specify)	_____	_____	_____	_____

Comments: _____

16. The local legal counsel should be expected to supervise the annual school election proceedings if a bond issue is not involved.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

17. The local legal counsel should be expected to prepare architectural and construction contracts.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

18. The local legal counsel should be expected to review for approval architectural and construction contracts and performance bonds.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

19. The local legal counsel should be expected to attend bid openings for new construction.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

20. The local legal counsel should be expected to attend board meetings when construction contracts are to be let.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

	<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
21. The local legal counsel should be expected to review final payment certificates and documents for contractors.	_____	_____	_____	_____

Comments: _____

22. The local legal counsel should be expected to negotiate on behalf of the board of education for the purchase or sale of property.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

23. The local legal counsel should be expected to try condemnation cases when necessary.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

24. The local legal counsel should be expected to perform other court services as may be required by the school district.	_____	_____	_____	_____
---	-------	-------	-------	-------

Comments: _____

25. The local legal counsel should be expected to participate in discussions at school board meetings of purely education matters.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

26. The board of education should be influenced by the local legal counsel on educational matters.	_____	_____	_____	_____
--	-------	-------	-------	-------

Comments: _____

<u>Strongly</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Agree</u>	<u>Tend</u> <u>to</u> <u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
---------------------------------	--	---	------------------------------------

27. Qualified advice on general legal problems arising from the day-to-day operation of the school district should be available from:

- | | | | | |
|------------------------------------|-------|-------|-------|-------|
| (a) State Departments of Education | _____ | _____ | _____ | _____ |
| (b) County offices of education | _____ | _____ | _____ | _____ |
| (c) County government offices | _____ | _____ | _____ | _____ |
| (d) City government offices | _____ | _____ | _____ | _____ |
| (e) Other (specify) | _____ | _____ | _____ | _____ |

Comments: _____

APPENDIX D

JURY OF EXPERTS



JURY OF EXPERTS

Dr. Lee O. Garber, Professor of Education and Director of Educational Service Bureau, University of Pennsylvania.

Dr. Warren E. Gauerke, Professor of Education, Emory University.

Dr. Howard Jones, Professor of Education, University of Michigan.

Dr. Lloyd E. McCann, Professor of Education, University of Arizona.

Dr. Marion A. McGhehey, Associate Professor of Education, Indiana University; Executive Secretary, Indiana School Boards Association.

Dr. Charles M. Micken, Superintendent of Schools, Atlantic Highlands, New Jersey.

Dr. Edgar L. Morphet, Professor of Education, University of California.

Dr. Glenn C. Parker, Superintendent of Schools, Marietta, Ohio.

Dr. William H. Roe, Professor of Education, Michigan State University.

Dr. Roger M. Shaw, Professor of Education, Kent State University.

Dr. Merle T. Strom, Associate Professor of Education, Ball State Teachers College.



APPENDIX E

THE STRUCTURED INTERVIEW SCHEDULE

STRUCTURED INTERVIEW SCHEDULE

AN INQUIRY INTO THE FINANCIAL AND ADMINISTRATIVE
RELATIONSHIP BETWEEN SCHOOL ATTORNEYS, SCHOOL
SUPERINTENDENTS, AND BOARDS OF EDUCATION
IN MICHIGAN

Introduction

This study is concerned with both the local legal counsel and the special bonding attorney and the financial and administrative relationship they have with the superintendents and boards of education. The special bonding attorney is defined as an attorney who specializes in municipal bond law. The local legal counsel is an attorney who provides general legal advice to school officials. This particular part of the study is designed to acquire important information about existing conditions in relation to the area under study. Ten school districts, including yours, were selected for case study analysis. The questions will attempt to seek answers that reveal not only the present situation, but how and why school officials act in such a way.

Your candid answers to the questions can help superintendents and boards of education in this important area of attorney-superintendent-board relationship. You can be sure that the information given in this interview will be held in strict confidence.

Date of Interview _____ Interviewer _____

A. Informational data.

- 1.1 Name of school district. _____
- 1.2 Person being interviewed. _____
- 1.3 Total enrollment (September, 1953). _____
- 1.4 Years superintendent in this system. _____
- 1.5 Total years superintendent. _____
- 1.6 Type of school - community. _____
- 1.7 Geographic location in State. _____
- 1.9 Class of district. _____
- 1.0 How much training in school law have you had? _____
- 1.01 Who is the person in your school district who deals most often with legal advisors? _____

B. Bond Issues

Many school districts are finding it necessary to have bond issue elections to raise funds for school construction. There are a variety of ways of paying special bonding attorneys and local legal counsel just as there are many ways of working with them to achieve the goal of a legally executed bond issue election. This series of questions will center on these two areas, the fees paid to attorneys and the administrative or working relationship you have with them.

- 1.0 Have you had a bond issue election in the past five years, or do you anticipate one in the next two years? Yes ___ No ___
- INTERVIEWER: In case of pending bond issue, solicit information only if most of the financial and administrative arrangements are known at present. If the answer to 1.0 is "no" skip to question 3.0.
- 1.1 Please list them with the amount of the issue and the appropriate date of initiation.

<u>Issue No.</u>	<u>Amount of Issue</u>	<u>Date</u>
1	_____	_____
2	_____	_____
3	_____	_____
4	_____	_____

INTERVIEWER: Complete this section for each individual bond issue listed under 1.1.

I am going to move now from the general interview schedule to a series of questions about each specific bond issue. Would you please help with these questions about _____ Bond Issue first?
(year)

Then we'll take the others in order.

Bond Issue No. _____ Amount of issue \$ _____ Date initiated _____

- 2.0 Did you employ a special bonding attorney for this issue?
Yes ___ No ___

INTERVIEWER: If answer is "no", skip down to 2.7.

- 2.3 Who was the bonding attorney? _____
 2.4 What was his total fee? _____
 2.41 How was his fee determined? (Flat rate? Time and expense?
 percentage? other? _____
 If percentage or time, what percent _____, or what hourly
 rate? _____
 2.42 Were expenses such as travel, telephone, clerical, etc.
 included in his fee? Yes ___ No ___
 2.5 Was he or his firm qualified to give a legal opinion on the
 bonds? Yes ___ No ___
 If so, was the legal opinion on the bonds a part of his
 fee? Yes ___ No ___
 2.6 Did the board execute a formal contract with the bonding
 attorney in advance of his services? Yes ___ No ___
 2.61 If not, was there a written agreement covering the financial
 arrangement with the bonding attorney? Yes ___ No ___
 2.62 If not, was there an oral agreement, etc. Yes ___ No ___
 2.63 Was the employment of the bonding attorney recorded in the
 official minutes of the district? Yes ___ No ___
 2.64 If so, did the motion include the fee arrangement?
 Yes ___ No ___

Some school districts use their local legal counsel in connection with bond issues as well as for general legal advice. The following several questions apply only to the use of the local legal counsel for this particular bond issue.

- 2.7 Was local legal counsel involved in the bond issue proceedings?
Yes ___ No ___

INTERVIEWER: If answer is "no" skip to C.

- 2.8 Who was the local legal counsel? _____
 2.9 Did he assist the school bonding attorney, or did he serve
 as bonding attorney? _____
 2.91 What was his total fee? \$ _____
 2.92 How was his fee determined? Flat rate? _____ Time and ex-
 penses? _____ Percentage of issue? _____ Part of regular
 retainer? _____ Other? _____
 2.93 Were expenses such as travel, telephone, clerical included
 in his fee? Yes ___ No ___
 2.94 Was the bonding attorney's fee included in the local legal
 counsel's fee? Yes ___ No ___
 2.101 Did the Board execute a formal contract with the local legal
 counsel in advance of services for this bond issue?
 Yes ___ No ___
 2.102 If not, was there a special written agreement covering the
 financial arrangement with the local counsel?
 Yes ___ No ___

- 4.3 Do you mind telling me please, how much is your local
counsel's fee, or retainer, or salary? _____
- 4.4 Are expenses such as travel, telephone, clerical included
in his fee ____, retainer ____, salary ____? Yes ___ No ___
- 4.5 Are all of his legal activities on your behalf included in
this amount, or does he receive additional compensation
for unusual activities such as trying court cases,
property negotiations, etc. ___ included, _____ added
compensation?
If extra, compensation is given for unusual duties, on
what basis is it computed? _____
-
- 5.0 Are the administrative relationships between the special
bonding attorney, the superintendent and the board of
education in written form? Yes ___ No ___
The local legal counsel? Yes ___ No ___
- 5.1 Are the administrative relationships between the special
bonding attorney, the superintendent and the board of
education in chart form? Yes ___ No ___
The local legal counsel? Yes ___ No ___
- 5.2 If they are written, are they in the Board's policy book?
Special bonding attorney? Yes ___ No ___
Local legal counsel? Yes ___ No ___
- 5.3 If they are in chart form is the administrative chart in
the board's policy book?
Special bonding attorney? Yes ___ No ___
Local legal counsel? Yes ___ No ___
- 5.4 Has the special bonding attorney seen the written statement
or chart describing his relationship to the board and
superintendent? Yes ___ No ___
- 6.0 Who participated in the selection of your special bonding
attorney? Board only? ___ Superintendent only? _____
Board and Superintendent? _____
Of your local legal counsel? _____
Board only ___ Superintendent only? _____ Board and
Superintendent? _____.
- 7.0 Is the special bonding attorney a local resident? Yes ___ No ___
- 8.0 Why was your particular special bonding attorney chosen over
others? _____
-
-
- Your local counsel? _____
-
-

APPENDIX F

TABULAR DATA PERTAINING
TO CASE STUDY DISTRICTS

TABLE 13

CASE STUDY DATE PERTAINING TO THE FINANCIAL
ARRANGEMENTS WITH SPECIAL BONDING ATTORNEYS

	A	B	C	D	E	F	G	H	I	J
1.0	Most recent bond issue?	1953	1955	1956	1959	1959	1953	1954	1956	1958
1.1	Amount of issue?*	\$150	\$30	\$65	\$1525	\$3500	\$4500	\$7250	\$10000	\$4950
2.0	Employ bonding attorney?	yes	yes	yes	yes	yes	yes	yes	yes	yes
2.4	Total fee?	\$700	\$300	Don't know	\$2975	\$3500	\$4339	\$7250	\$10000	\$4950
2.41	How fee determined?	Don't know	Don't know	Age	Age	.1%	Age	.1%	Flat rate	.1%
2.42	Expenses included?	yes	yes	yes	yes	no	yes	yes	yes	no
2.5	Justified to write opinion?	yes	no	yes	yes	yes	yes	yes	yes	yes
2.6	Formal contract?	no	no	no	no	no	no	no	no	no
2.61	Written fee agreement?	no	no	no	no	no	no	no	no	no
2.62	Oral fee agreement?	Gen. est.	Don't know	Don't know	yes	yes	yes	yes	yes	yes
2.63	Recorded in Minutes?	yes	no	no	yes	no	yes	no	no	yes
2.64	Minutes include fee?	no	no	no	no	no	yes	no	no	yes

* Figures given in thousands.

Source: Structured Interview Schedule. The numbers and phrases on the left correspond to the numbered questions on the Interview Schedule.

TABLE 14

CASE STUDY DATA PERTAINING TO EMPLOYMENT
OF SPECIAL BONDING ATTORNEYS

	A	B	C	D	E	F	G	H	I	J
5.0 Administrative arrangements in written form?	no	no	no	no	no	no	yes	no	no	no
5.1 Chart form?	no	no	no	no	no	no	no	no	no	no
5.2 Written in Board Policy Book?	no	no	no	no	no	no	yes	no	no	no
5.3 Chart in Policy Book?	no	no	no	no	no	no	no	no	no	no
5.4 Has attorney seen written or charted relationship?	-	-	-	-	-	-	yes	-	-	-
6.0 Who selected Bonding Attorney?	Supt.	know	Don't know	Board	Don't know	Board	Bd. Supt.	Board	Board	Bd. Supt.
7.0 Is Bonding Attorney local resident?	no	no	no	no	no	no	no	no	no	no
8.1 Is he a specialist?	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
8.2 Employed by another District?	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes

TABLE 14 - (Continued)

	A	B	C	D	E	F	G	H	I	J
9.0	yes	yes	yes	yes	yes	no	yes	yes, for cause	yes	yes
10.0	no	no	no	no	no	no	no	no	no	no
10.1	no	no	no	no	no	no	no	no	no	no
11.0	Supt.	Supt.	Supt.	Supt.	Bd. & Supt.	Supt.	Supt.	Supt.	Local Counsel	Asst. Supt. Bus.
11.1	Supt.	Supt.	Supt.	Supt.	Bd. or jntly.	Supt.	Supt.	Supt.	Local Counsel	Asst. Supt. Bus.
17.0	no	no	no	no	yes	no	yes	no	no	yes
18.0	no	no	no	no	no	no	no	no	no	no

Source: Structured Interview Schedule. The numbers and phrases on the left correspond to the numbered questions on the Interview Schedule.

TABLE 15

CASE STUDY DATA PERTAINING TO THE FINANCIAL ARRANGEMENTS
WITH LOCAL LEGAL COUNSEL

	A	B	C	E	E	F	G	H	I	J
4.0 Does district employ counsel?	no	no	no	no	yes	yes	yes	yes	yes	yes
4.1 How fee determined?	-	-	-	-	Flat rate	Ann. retrnr. rate	Time & Exp.	Flat rate	Monthly Sal.	Ann. retrnr.
4.2 What percentage or hourly rate?	-	-	-	-	As Billed	-	Don't know	Approx. \$25 per call	-	-
4.3 What retainer?	-	-	-	-	-	\$150	-	-	\$500 per mo. + Ct. costs	\$2500
4.4 Expenses included?	-	-	-	-	-	no	-	yes	-	yes
4.5 Retainer fee include unusual activities?	-	-	-	-	-	no	-	-	Yes, Court except actual ances Ct.costs extra	Appear- ances extra
4.6 If not, how is extra fee computed?	-	-	-	-	As Billed	As Billed	Time & Exp.	As Billed	-	Time & Exp.

Source: Structured Interview Schedule. The numbers and phrases on the left correspond to the numbered questions on the Interview Schedule.



TABLE 16

CASE STUDY DATA PERTAINING TO EMPLOYMENT
OF LOCAL LEGAL COUNSEL

	A	B	C	D	E	F	G	H	I	J
5.0	Administrative arrangements in written form?	no	no	no	yes	no	yes	no	no	no
5.1	Chart form?	no	no	no	no	no	no	no	no	no
5.2	Written in Board policy book?	no	no	no	yes	no	yes	no	no	no
5.3	Chart in policy book?	no	no	no	no	no	no	no	no	no
5.4	Has counsel seen written or charted relationship?	-	-	-	yes	-	yes	-	-	-
6.0	Who selected local counsel?	-	-	-	Board	Board	Bd. & Supt.	Board	Board	Bd. & Supt.
7.0	Is counsel local resident?	-	-	-	yes	yes	yes	yes	yes	yes
8.1	Is he a specialist?	-	-	-	no	yes	no	no	yes	no
9.2	Employed by another district?	-	-	-	yes	yes	no	yes	yes	no

TABLE 16 - (Continued)

	A	B	C	D	E	F	G	H	I	J
9.0	Could you recommend change in counsel?	-	-	-	yes, for cause	no	yes	no	yes	yes
10.0	Counsel ever give opinion on educational matters?	-	-	-	no	yes	no	no	no	no
10.1	Board ever influenced?	-	-	-	no	yes	no	no	no	no
11.0	Where instructions originate?	Supt.	Supt.	Supt.	Bd. & Supt. jntly.	Supt.	Supt. & Bus. Adm.	Supt.	Supt. & Bd.	Pres. & Sec. of Bd., Supt. & Asst.
11.1	Counsel reports to whom?	Supt.	Supt.	Supt.	Supt. or jntly.	Supt.	Supt. & Bus. Adm.	Supt.	Board	Person req. advice
12.0	If no counsel, source of legal advice?	County Prosecutor	no	no	Bond	Bond	Attorney	Attorney	-	-
12.1	Satisfied with that arrangement?	no	no	no	no	-	-	-	-	-
14.0	Should D.P.I. employ counsel for school districts?	yes	no	yes	no	yes	no	yes	yes	yes

TABLE 16 - (Continued)

	A	B	C	D	E	F	G	H	I	J
15.0 Should County Boards of Education?	yes	no	no	no	yes	no	no	no	no	no
16.0 Any other source of legal assistance that should be made available?	no	no	no	no	State Atty. Gen.	no	Local Bar Assoc.	no	State Atty. Gen.	Several Dists. Unite for asst.

Source: Structured Interview Schedule. The numbers and phrases on the left correspond to the numbered questions on the Interview Schedule.

7

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