

January 30, 1961

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ARIZONA ATTORNEY GENERAL**

Mr. Lloyd Fernandez
Greenlee County Attorney
Clifton, Arizona

Dear Mr. Fernandez:

This will acknowledge your letter of January 17, 1961, in which you request an opinion as to whether the Board of Education of a High School District is authorized to suspend any student who receives failing grades in one-half (50% or more) of the total number of subjects he is enrolled in during a school semester for the period of the next succeeding semester.

In answering that question there are a number of provisions in the Arizona Revised Statutes that relate to this problem.

A.R.S. §15-321, commonly referred to as the Compulsory School Attendance Law, provides for sending children to public schools, between the ages of eight and sixteen. It further includes six instances where a child may be excused by the Board of Trustees from attending school. A.R.S. §15-204 authorizes the suspension of pupils for good cause by a superintendent or principal. A.R.S. §15-442 states the general powers and duties of the Board of Trustees of the School District, with B1 providing specifically for the expulsion of pupils for misconduct.

The Board of Trustees or the Board of Education is the governing body of the School District. (A.R.S. §15-431 and §15-541). In this capacity it may make rules in regard to the operation of the schools within the district. (A.R.S. §15-441). They must be reasonable in nature and related to the purpose that they intend to accomplish. The exact problem of suspension of students for scholastic failure is stated in 86 ALR, at page 485, which is quoted as follows:

"The right to drop a student from the roll of a public educational institution for failure to maintain the scholastic standard required by reasonable rules adopted by officers having authority to adopt them has been sustained in the only cases in which the question has been raised and has been determined."

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The Supreme Judicial Court of Massachusetts, in Barnard v. Shelburne, 102 NE 1095, upheld a rule adopted by a school committee to the effect that pupils standing below 60 per cent in two or more subjects shall be demoted one grade, and when this deficiency occurred in the freshman class, the delinquent was dropped from the school roll. The language of the Court at page 1096 is quoted as follows:

"The right of every child to attend the public schools is subject to such reasonable regulations as to qualifications of pupils to be admitted and retained in the respective schools as the school committee shall prescribe."

Our Supreme Court in State of Arizona v. Davis, 58 Ariz. 444, stated:

"The compulsory school law of Arizona provides that those having charge of a child between the ages of eight and sixteen shall send such child to a public school, which we understand to mean to send them with instructions to obey all the proper rules and regulations of the school."

Thus, in analyzing the above quotations school boards have discretionary powers over the operation of school districts as long as those powers are reasonably exercised.

This office is of the opinion that a school board may adopt reasonable rules of suspension and that the policy adopted by the Board of Education suspending a student who fails in one-half, (50% or more) of his subjects for a period of one semester falls within the bounds of reasonableness.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General

FRANK SAGARINO
Assistant Attorney General

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