

April 11, 1933.

Mr. E. W. Montgomery,
Superintendent,
Phoenix Union High Schools
and Junior College,
Phoenix, Arizona.

Dear Mr. Montgomery:

The Attorney General has received your letter of April 7th, in which you have requested his opinion upon the following questions:

- (1) Will you please give me your opinion concerning the question of operating summer school upon a tuition basis?
- (2) Please give me your opinion on the matter of charging tuition in the night school for students from 14 to 21 years of age?

In reply to your first question, it is the opinion of the Attorney General that summer schools may be operated on a tuition basis provided that the operation of such a school incurs no expense on the part of the school district. If any part of the operation expense of a summer school is paid by money received from state, county or district taxation, the school must be open to pupils of the district under the age of 21 years, free of charge. The provisions of Section 1025, R.C.A. 1928, contemplate the maintenance of summer schools for pupils of the district, and imply that this shall be done with funds coming from the same source as those with which the regular school term is maintained.

In the Matter of the Estate of Arizona Southwest Bank, et al. vs. Board of Education of Tucson High School District - Decided by Supreme Court March 21, 1933, not yet reported.

This, in effect, means that if there is a surplus on hand at the end of the regular school term such funds may be used to conduct a summer school, in which event the students of the district, under the age of 21 years, would have to be admitted free of charge.

In reply to your second question, it is the opinion of the Attorney General that pursuant to the

33-140

#2--E. W. Montgomery.

provisions of Section 4 of Chapter 67, Session Laws of 1933, night schools may be established by the Board of Education of a high school or union high school, or the board of trustees of a common school, and that such night schools must be open to students between the ages of 14 and 21 years free of charge. Such schools must be supported from county and district taxation and cannot receive any state apportionment under the provisions of Section 1089, R.C.A. 1928, as amended by Chapter 67, Session Laws of 1933.

Very truly yours,

Attorney General,

By

Assistant Attorney General.

JRM:MD

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