

SAGARINO - Originator
HAGGERTY }
LEVERANT } Concurred
KENNEDY }

LAW LIBRARY

ARIZONA ATTORNEY GENERAL

December 5, 1962
Letter Opinion No. 62-3-L

REQUESTED BY : Hon. W. W. "Skipper" Dick
State Superintendent of Public Instruction

QUESTION: What is the proper procedure to be followed by the various school districts of Arizona in discarding textbooks that are no longer being used in the classroom because they are no longer on the list of State Adopted Textbooks or still on the list of State Adopted Textbooks but unfit for continued use or rebinding?

CONCLUSION: (1) Trade in the obsolete books when purchasing new textbooks from the multiple list, and/or (2) sell the books.

To answer your question it is necessary to examine some of the statutes governing textbooks. Regarding the powers of the state board of education, subsection 18 of A.R.S. §15-102 reads as follows:

"Prescribe textbooks for the common schools, and shall prepare a list of three textbooks for each grade and each subject taught in the common schools for the selection by the school district of one book from such list for each student. The books so selected shall be purchased by the school district direct from the publisher as provided in this title. Textbooks selected pursuant to the provisions of this title shall not be changed during the next five years."

Subsection (A) (2) of A.R.S. §15-442 states, in part, that the board of trustees shall:

"Enforce the courses of study and select all textbooks used in the schools from the multiple lists determined and authorized by the state board of education pursuant to paragraph 18 of §15-102 and purchase the same from the publishers under contracts negotiated by the state board as provided in this title."

Subsection (A) of A.R.S. §15-1103 says, in part:

"The state board of education shall enter into contracts with publishers for the purchase by the school districts of the textbooks desired from the lists selected by the state board."

Section 15-1107, A.R.S., is recited, in part, as follows:

"All textbooks now in the possession of the common school districts and those purchased by districts as provided by this title shall be and remain the property of the school districts."

There is no express statutory procedure respecting the discarding of textbooks that are no longer being used in the classroom. Pursuant to A.R.S. §15-1107, cited above, the textbooks that are now in the possession of the common school districts remain the property of the school districts. A school district has power to hold and convey property for the use and benefit of the district, A.R.S. §15-435. The legislature has required the board of trustees to maintain its schools for not less than eight months in each particular year, A.R.S. §15-442 (A) (1), and has extended to the board of trustees of the school districts the management and control of school property within its district, including the powers to purchase furniture, apparatus, equipment, library books and supplies for the use of the schools within its jurisdiction (A.R.S. §15-445). Also, pursuant to §15-445, A.R.S. the school board is authorized to rent, furnish, repair and insure the school property of the district, and to make in the name of the district conveyances of property belonging to the district. These are some of the general powers that the legislature has conferred upon the school board of trustees in the operation of the schools within the territorial boundaries of the school district.

Although, as stated above, there is no express power stated in the statutes for a board of trustees to dispose of obsolete textbooks, it is clear within the school board's general powers that it could trade the particular textbooks for the new textbooks purchased from the multiple list as established by the state board of education. In that particular instance the textbooks would become the property of the publisher who would have authority to dispose of them as the publisher saw fit. In addition to the power to trade the discarded textbooks on the purchase of new textbooks from the multiple list, the school board would have power to dispose of them by sale. This rule is stated in 78 C.J.S. Schools, §267, page 1247:

"A school board may sell personal property belonging to the district when it believes that such action is necessary for the best interests of the district."

Letter Opinion
No. 62-3-L

Hon. W.W. "Skipper" Dick
State Superintendent of Public Instruction

Page 3
December 5, 1961

Therefore, our conclusion is that a school district may, if it so desires, (1) trade in the obsolete books when it purchases new textbooks from the multiple list as prescribed by the state board of education pursuant to A.R.S. §15-102 (18); and/or (2) sell the books if the school board believes that this would be in the best interests of the school district.

ROBERT W. PICKRELL
The Attorney General

FRANK SAGARINO
Assistant Attorney General

FS:lmh

Letter Opinion
No. 62-3-L