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STATE CAPITOL
PHOENIX, ARIZONA

October 19, 1967

DEPARTMENT OF LAW LETTER OPINION NO. 67-37-L (114)

REQUESTED BY: THE HONORABLE ROBERT K. CORBIN
Maricopa County Attorney

QUESTION: Is it lawful for a school district to sell property at other than a public auction, or to trade in cars and other equipment on present call for bids?

ANSWER: Yes, as qualified.

The authority of the Board of Trustees to sell property belonging to the school district is found in §15-445 A.R.S.:

"A. Board of Trustees shall:

- 1 - Manage and control the school property within its district. * * *
- 5 - Make in the name of the district conveyances of property belonging to the district and sold by the Board."

Property devoted to a public use can be disposed of only by express authority and a general power or disposition has been held to be restricted to property not needed for the use of public schools. A disposition of school property must be consistent with good business judgment and sound business principles and the Board may not convey such property without consideration. 78 C.J.S. 1201

In the absence of a statutory requirement the school authorities are under no duty to let contracts pursuant to competitive bidding. 78 C.J.S. 1259

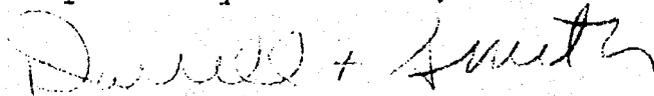
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In the case of the Prescott Community Hospital vs. Prescott School District No. 1 of Yavapai County, 57 Ariz. 492, 115 P.2d 160, the Supreme Court of Arizona held that any disposition of school property must be for the benefit of the district and not a gift to other parties.

Inasmuch as the Board of Trustees has power to sell property of the District and there is no state requirement for obtaining bids on the sale of school property, a school district may sell property at other than a public auction or may trade in cars and other equipment as part of a call for bids. However, the Board must apply good business judgment and sound business principles in the disposition of school property and in a given situation the application of such business judgment could require the Board to sell at public auction. Parenthetically, as a general rule it is usually more prudent to dispose of public property by public auction.

Attorney General Opinion 67-33-L was based on a different statutory requirement applicable only to the disposal of personal property belonging to the county or any of its departments or agencies, and it does not apply to school districts.

Respectfully submitted,



DARRELL F. SMITH
The Attorney General

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