

November 12, 1953
Letter Opinion No. 53-142-L

The Honorable Ruth Kuntz
House of Representatives
State of Arizona
Phoenix, Arizona

Dear Mrs. Kuntz:

Embodied herein is our opinion relative to the questions contained in your request. The first question restated was: "Can a school district legally dispense with classes on school board or bond election days?"

The Arizona Constitution provides by Article 11, Section 6, A.C.A. 1939, that a free school shall be maintained by every school district for at least six months in each year:

"§ 6. (Minimum school term)--The university and all other state educational institutions shall be open to students of both sexes, and the instruction furnished shall be as nearly free as possible.

The legislature shall provide for a system of common schools by which a free school shall be established and maintained in every school district for at least six months in each year, which school shall be open to all pupils between the ages of six and twenty-one years."

This provision establishes a minimum time period, which cannot be reduced without first amending the Constitution.

The Arizona Legislature has extended this minimum requirement. Arizona Code Annotated, 1939, Section 54-430:

"54-430. Duration of school--Grouping of pupils--Vacation schools.--Board of Trustees shall maintain the schools established by them for a period of not less than eight (8) months during each school year, and if the funds of the district are sufficient, they shall maintain them for a longer period, and, as far as practicable,

with equal rights and privileges. They may segregate groups of pupils and may maintain special schools during the vacation as necessary for the pupils of the district. (Laws 1912, ch. 77, § 54, p. 364; R. S. 1913, § 2750; rev., R. C. 1928, § 1025.)"

It appears from this statute that the Legislature requires the Board of Trustees of a school district to maintain schools for a period of at least eight (8) months and longer if the school district's funds are sufficient to do so. The same Board of Trustees is empowered by the Legislature to prescribe and enforce rules not inconsistent with law, Section 54-416, A.C.A. 1939, as amended, subsection 2:

"54-416. Powers and duties of board of trustees-- * * * *

2. The board shall prescribe and enforce rules not inconsistent with law or those prescribed by the state board of education for their own government and the government of the schools. They may segregate groups of pupils."

Although that portion of this statute dealing with segregation has been declared unconstitutional by the Superior Court of Maricopa County, it is our opinion that the Board of Trustees still legally has the power to prescribe rules to dispense with classes on school board or bond election days, since there is no law to the contrary and the board is the governing authority of the school district.

Your second question stated as follows: "A flat grant of \$100,000 per year is appropriated to Junior College districts. Can this fund become a part of the total funds of a combined High School and Junior College District, or must it be used exclusively for the Junior College, under a separate account?"

The Legislature has established a procedure for dispersing state aid to Junior Colleges, Section 54-712, A.C.A. 1939, as amended:

"54-712. Procedure for disbursing state aid-- Appropriations for state aid to junior colleges shall be made to the state superintendent of public instruction. At the beginning of each quarter of the fiscal year the superintendent shall present to the state auditor, on behalf of each college for which an appropriation is made, a claim

for one-fourth of the annual amount thereof, assigned to the county treasurer of the county in which the college is maintained. The state auditor shall draw his warrant in payment of the claim and the county treasurer shall place the proceeds thereof to the credit of the fund for the support and maintenance of the junior college, to be expended as provided by law. (Code 1939, § 54-712, as added by Laws 1943, ch. 20, § 1, p. 25.)"

Consequently, by the provisions of this statute, state aid must be credited to the fund for the support and maintenance of the Junior College in question.

In examining the budget for the office of the Superintendent of Public Instruction under the 42nd fiscal year, we find what is known as a "line" appropriation for two Junior Colleges. Under the Arizona Code Annotated, 1939, as amended, Section 10-925, it provides, in part:

"10-925. Allotting appropriations to classes and objects.-- * * * No allotment or expenditure shall be made for an object not within the purpose of the appropriation, and nothing in this act shall be construed to authorize the expenditure of an appropriation for a purpose other than for which it was made."

It is apparent from the preceding code sections that the \$100,000 appropriation to Junior Colleges must be used exclusively for the maintenance of the said colleges and must be kept in a separate account.

We hope that this opinion will be of assistance to you and should you wish further information please feel free to call upon us.

Very truly yours,

JOHN R. ELLIOTT
Special Assistant to
the Attorney General

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