

May 25, 1949

Mr. F. Lewis Ingraham
Yuma County Attorney
Yuma County Courthouse
Yuma, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Ingraham:

Wilson

We have your letter of May 21, 1949 regarding school problems in your County especially those in the Wellton-Mohawk area. We wish to begin by more or less clearing up the factual situation regarding the action of the State Board of Education.

First, we find the petitions read as follows:

"We, the citizens and residents of Wellton, Yuma County, Arizona school district number 24, in accordance with instructions contained in section 54-901 of the School Laws of Arizona, do hereby respectfully petition your honorable board to sever our district from the Yuma Union High School District, and hereby petition you to permit us to form another high school district to care for the higher education of our children."

There are several petitions from each of the school districts that read the same as the above. You will note that this petition asked the State Board to let them form a district. Then the State Board in compliance with that request among other things said:

"The State Board thoroughly studied and discussed every angle with relation to the establishment of a new high school in the Wellton-Mohawk area and came to a favorable conclusion. Mr. Hickerson moved that inasmuch as the State Board of Education finds the petition presented within all legal requirements that the petition be approved as requested. The motion was seconded by Mr. Morrow and passed unanimously."

This matter was then brought to this office and the petitions were looked over, also this minute entry, and it was decided that the State Board did not do anything in the way of forming a district; in fact, this office agrees with you that the State Board did not have authority to form a district because the district had within its own boundaries prerequisite to organize a high school or a union high school district without the State Board having anything to do with it. We further state that parties from the Wellton

Mohawk district were in the office with the State Superintendent and they were informed to follow the procedure suggested by your office. No doubt they will be in to see you very shortly for further help in organizing their union high school district. We are glad that you see this procedure very much as we do. We are enclosing herewith two opinions previously written by this office that will answer several of your questions and especially your last one regarding House Bill 55 which will be Chapter 44 of the 1949 Session Laws of Arizona.

Your third question:

"Can an elementary school district rent part or all of its school building to a high school district?"

We fail to find any inhibition to this with the exception of what is contained in our opinion of April 26, 1949 regarding the establishment and maintenance of a school in the district; however, a number of districts are doing similarly to what you suggest and no one complains about it because it is for the universal good of the district.

Your fourth question:

"Can an elementary school district assess and use school taxes to pay the room and board of pupils in its district who must live in another town in order to attend high school?"

We fail to find any law that authorizes such procedure even though the high school district may transport its students.

Your fifth question:

"Can one elementary school district arrange to rent a part of another elementary school district building and transport its pupils to the adjoining district in order to rent its school house to a high school district?"

We fail to find any law that specifically authorizes this procedure. If all concerned, including the county school superintendent, were agreeable to this procedure you perhaps would not encounter any trouble.

Your second question:

"Provided that the proper procedure is followed and a new high school district is formed, does Section 54-407 apply; or, does 54-407 apply only to grammar school districts where one district is divided?"

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There is no question but what this section was written to apply to common school districts, but we do not follow you in your reasoning regarding the point you make that this high school district is not formed by the subdivision of an old one. It is our understanding that a portion of your proposed new high school district is now within the Yuma Union High School District. If this is true, then in a measure you have a subdivision of an old district although it is a dividing of a union high school district. The other part of your reasoning is sound enough.

It appears to us from a reading of 54-907 and other portions providing for high schools and union high schools that we have this:

"For the management of high schools, the board shall have all the powers and duties vested in school trustees."

This would reasonably refer to the opening of a high school in a new high school district within the six months period as provided by 54-407 as one of the duties of the high school board.

We will be pleased to assist you further in the organizing of your district and the working out of the various problems that may arise any time you call on us.

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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