

W. J. Faw
8/26/52

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ARIZONA ATTORNEY GENERAL

August 23, 1952
Op. No. 52-245

Gilbert L. Cady, Comptroller
Arizona State College
Tempe, Arizona

Dear Mr. Cady:

This will acknowledge your letter of August 13, 1952, in which you state:

"We have been approached by the First Federal Building and Loan relative to our placing with them, as a depository, certain of our collections on our Student Union Campaign.

As you know, we consider all moneys that come into the hands of the college as state funds and I imagine, technically, we should deposit them with the Treasurer. However, we have invested these donations either in government bonds or government securities of some nature.

Now my question is. Would it be legally possible for us to place any funds in this agency? These funds, of course, are under the complete control of the Board of Regents and since the actual spending of the money probably will not occur in the next two years, it had been deemed advisable by them to make certain investments in government securities during this interim period."

and request an opinion from this office relative to the legality of placing certain funds collected on your Student Union Campaign with the First Federal Building and Loan as a depository.

Section 54-1346 ACA 1939, as amended, reads as follows:

"Moneys of board.--(a) No moneys derived from the sale of bonds of the board or otherwise borrowed by the board under the

provisions of this act (BB 15-1342--15-1352), shall be required to be paid into the state treasury but shall be deposited by the treasurer or other fiscal officer of the board in a separate bank account or accounts in such bank or banks or trust company or trust companies as may be designated by the board and all deposits of such moneys shall, if required by the board, be secured by obligations of the United States of America, of a market value equal at all times to the amount of the deposit; and all banks and trust companies are hereby authorized to give such security. Such money shall be disbursed as may be directed by the board and in accordance with the terms of any agreements with the holder or holders of any bonds. This section shall not be construed as limiting the power of the board to agree in connection with the issuance of any of its bonds as to the custody and disposition of the moneys received from the sale of such bonds or the income and revenue of the board or institution pledged and assigned to or in trust for the benefit of the holder or holders thereof.

(b) No moneys derived by the board by way of gift intended solely toward the construction, equipping and furnishing of such project shall be required to be paid into the state treasury but shall be deposited by the treasurer or other fiscal officer of the board in a separate bank account or accounts, in such bank or banks or trust company or trust companies as may be designated by the board and all deposits of such moneys shall, if required by the board, be secured by obligations of the United States of America, of a market value equal at all time to the amount of the deposit; and all banks and trust companies are hereby authorized to give such security. Such money shall be disbursed as may be directed by the board toward costs of constructing, equipping and furnishing such project."

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Arizona State College - Tempe

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Paragraph (b) of the above quoted section provides that, notwithstanding the moneys referred to by you are state funds, such moneys shall not be required to be paid into the state treasury but shall be deposited by the treasurer, or other fiscal officer of the board, in a separate bank account or accounts, in such bank or banks, or trust company or trust companies, as may be designated by the board.

It is therefore the opinion of this office that the donations received on your Student Union Campaign may legally be placed with the First Federal Building and Loan as a depository, as these funds are under the complete control of the Board of Regents; Providing the First Federal Building and Loan first complies with the provisions of Section 10-303 ACA 1939, as amended, requiring the depository to furnish bond, securities, or safekeeping receipt, in order that such funds may be properly safeguarded.

Very truly yours,

FRED O. WILSON
Attorney General

NEWMAN W. WHITE
Assistant Attorney General

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