

Genius Civil



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

November 3, 1978

Mr. Blair D. Benjamin
Advisor to the Board
Arizona Board of Regents
Education Building
1535 West Jefferson
Phoenix, Arizona 85007

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ARIZONA ATTORNEY GENERAL

Re: I78-249 (R78-303)

Dear Mr. Benjamin:

You have requested the opinion of this Office as to whether the Board of Regents may permit the student liaison to offer motions or to second motions during Board of Regents meetings. We are of the opinion that the student liaison may offer motions, second motions, and otherwise exercise all rights and privileges of a board member except the right to vote and the right to attend executive sessions when excluded from such sessions by a two-thirds vote of the Board.

The Thirty-third Legislature, in its second regular session, enacted Chapter 11 providing for the appointment by the Governor of a student liaison to the Arizona Board of Regents. The measure states:

The student liaison shall not be a voting member but may otherwise exercise all rights and privileges of a board member, except that the board may upon a two-thirds vote of the members exclude the student liaison from executive session.

In construing this language to determine whether the student liaison is entitled to propose and second motions, we are duty bound to ascertain the intent of the Legislature and to construe the act in light of the purposes it seeks to promote. State v. Allred, 102 Ariz. 102, 425 P.2d 572 (1967). Thus we have reviewed the historical context of the enactment and have learned that the question of student participation on the governing boards of colleges and universities has been considered by the Congress and by our State Legislature on several occasions prior to the enactment of Chapter 11.

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In 1972 the Congress declared a policy of encouraging participation by students on governing boards of colleges and universities. In recognition of the changing nature of the universities' students and functions, Congress amended the Higher Education Act of 1976 by enacting 20 U.S.C.A. § 1144a stating: "It is the sense of the Congress that the governing boards of institutions of higher education should give consideration to student participation on such boards." Senator Harris, who proposed the legislation, explained that while the amendment is not of a mandatory nature, it is intended to be a clear signal to students and universities "that the Congress shares the view that students have a right to participate in decisions which most affect their lives." Congressional Record - Senate, 92nd Congress, 2nd Session, Volume 118, Part 5 at page 5406, February 24, 1972.

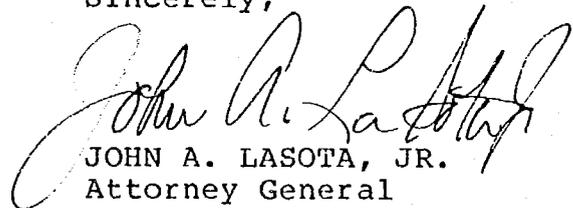
While some state legislatures provided for student representation on higher educational governing boards before the congressional policy was adopted, others took such action thereafter. For example, Massachusetts has provided for a fully franchised student representative on the University of Massachusetts Board of Trustees since 1969; a second student position was created by a 1971 amendment. M.G.L.A. c.15§ 20. The governing board of the Colorado state colleges and the University of Northern Colorado was expanded in 1976 to include an elected student member, specifying that "[t]he elected office shall be advisory, without the right to vote." C.R.S. § 23-50-102 (1976).

Our State Legislature has now acted to provide for student representation and participation on the State Board of Regents. While Chapter 11 does not go as far as the Massachusetts law which places no restrictions on the student member's rights and privileges, it is not as restrictive as the Colorado legislation which provides that the position is wholly "advisory."

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In light of the national policy favoring student participation in the decisions affecting universities that has been recognized by congressional enactment, and in light of the statutory language chosen, (viz, "may . . . otherwise exercise all rights and privileges of a board member") this Office concludes that the student liaison has the right to propose and second motions during Board of Regents meetings.¹

Sincerely,



JOHN A. LASOTA, JR.
Attorney General

1. Legislation to create the position of student regent was introduced in 1977. The Senate Education Committee minutes for that year report the committee questioning of John Ridgeway, the executive director of the Arizona Students' Association who testified in favor of the bill. Mr. Ridgeway indicated that the purpose of the legislation was to provide a formal channel for student input to the Board of Regents. He recognized the impact of designating the student liaison as a non-voting member as allowing for the exclusion of the student from executive sessions.