



Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

October 19 , 1979

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**ARIZONA ATTORNEY GENERAL**

John R. Mayfield, Esq.  
Deputy County Attorney  
Maricopa County Attorney's Office  
101 W. Jefferson St., Suite 400  
Phoenix, Arizona 85003

Re: I79-265 (R79-261)

Dear Mr. Mayfield:

We have reviewed your opinion of September 18, 1979, to the Phoenix Union High School System concerning the District's responsibility with regard to the issuance of graduation diplomas and the following is a revision of that opinion.

The following questions were asked by Dr. Patrick B. Henderson, Superintendent of the Phoenix Union High School System:

1. May a school district withhold the diploma of a high school student who has met all the requirements for graduation but who, for personal reasons, chooses to delay accepting the diploma until the following year?

2. May the district withhold the diploma of a high school student who has completed all required courses and the minimum number of units for graduation, but has not yet met the requirements for a special program such as a vocational course? What about a student enrolled in a special education program for exceptional children?

As pointed out in your opinion, the State Board of Education has authority to determine the minimum number of credits necessary for graduation from high school. A.R.S. § 15-102. 19. The board of education of a high school district may prescribe a course of study for its students which requires

John R. Mayfield  
October 19, 1979  
Page 2

more than the minimum number of credits necessary for graduation than that set by the State Board of Education. This course of study is subject to the approval of the State Board of Education. A.R.S. § 15-545<sup>1/</sup>

Neither A.R.S. § 15-545 nor the Rules of the State Board of Education address whether a student may delay graduation when the student has completed the necessary credits for graduation. Your opinion cites several cases which hold that a diploma must be given to a student who has completed graduation requirements when the student demands it. See, e.g., Clark v. Board of Education, 51 Ohio Misc. 71, 367 N.E.2d 69 (1977). However, we have found no cases dealing with a student's decision to voluntarily delay accepting a diploma.

There is no statutory limitation on the number of classes that a high school student may take prior to graduation.<sup>2/</sup> Similarly, neither the Arizona statutes nor the Rules and Regulations of the State Board of Education require a student to receive a graduation diploma if the student chooses to delay graduation. We therefore believe that the board of trustees of a high school district has the discretion pursuant to its authority to prescribe courses of study to delay graduation for a student who has requested such a delay. The district may, of

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<sup>1/</sup> We are informed by the Arizona State Department of Education that most high school districts in Arizona require more than the minimum 16 units for graduation established by the State Board of Education. See A.C.R.R. R7-2-302. The Phoenix Union High School District, for example, requires 20 units of credit for graduation.

<sup>2/</sup> If a student wishes to delay graduation in order to take courses and accrue credits beyond the minimum graduation requirements, a student can do so simply by delaying the completion of a required course, for example, American History, until taking the desired electives. It does not appear to serve any educational purpose to deny a student who has completed the required courses the right to take elective courses while permitting a student who delays taking a required course to accrue additional credits in elective courses.

John R. Mayfield  
October 19, 1979  
Page 3

course, establish guidelines to assist it in making decisions in individual cases.<sup>3/</sup>

As you have pointed out in your opinion, handicapped students are entitled to an appropriate public education through age 21 if they would benefit from continued participation in a special education program. 20 U.S.C. § 1412(2)(B). Therefore, with respect to a special education student, if the student has not achieved the instructional objectives of his or her individualized educational program, but has met the other requirements of graduation, the school district is obligated to educate the student until the student achieves the goals of his individualized program or the date of his 22nd birthday, whichever occurs first.

Sincerely,



BOB CORBIN  
Attorney General

BC/mm

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<sup>3/</sup> The letter from the Superintendent of the Phoenix Union High School District indicates that the particular circumstances which prompted his request involved the following: An accelerated student who had completed graduation requirements, but intended to take a year's foreign study prior to enrollment in college, wished to delay her high school graduation for purposes of college entrance requirements; students who had met graduation requirements wished to remain enrolled in high school in order to complete a vocational program in which they were enrolled; and the parents of a special education student wish that student to remain in public school until age 22.

CHARLES E. HYDER  
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RODGER A. GOLSTON CHIEF DEPUTY

LARRY CRONIN ADMINISTRATIVE DEPUTY

September 18, 1979

R79- 261

11-27-79

Mr. Patrick B. Henderson  
Superintendent  
Phoenix Union High School System  
2526 West Osborn Road  
Phoenix, AZ 85017

School Opinion No. 79-19

Dear Mr. Henderson:

This letter is in answer to your request for an opinion on the following questions:

1. May a school district withhold the diploma of a high school student who has met all the requirements for graduation but who, for personal reasons, chooses to delay accepting the diploma until the following year?
2. May the district withhold the diploma of a high school student who has completed all required courses and the minimum number of units for graduation, but has not yet met the requirements for a special program such as a vocational course? What about a student enrolled in a special education program for exceptional children?

Answers

1. No.
2. See Discussion.

DISCUSSION

Pursuant to A.R.S. §15-545, the Board of Education of a high school district is to prescribe the course of study for students, subject to approval by the state board of education. The state board of education determines the number of credits necessary for graduation from high school. A.R.S. §15-102.19. School

boards have only the authority granted by statute. School District No. One of Pima County v. Lohr, 17 Ariz. App. 438, 498 P2d 512 (1972). Once a student has achieved the required number of credits necessary for graduation, the district must graduate and issue a diploma for that student. Valentine v. Independent School District, 87 Iowa 555, 174 NW 334 (1919) 6 A.L.R. 1525; Clark v. Board of Ed. Hamilton Loc. Sch. Dist., 51 Ohio Misc. 71, 367 NE2d 69 (1977). As there is no statutory provision which would permit the delay in graduation of an otherwise qualified student, the district has no discretion but to graduate a qualified student once district and state graduation requirements have been met.

Insofar as students who are enrolled in other programs, such as cosmetology or Licensed Practical Nursing, the same analysis would apply. Once the students have acquired the required number of credits for graduation, they are entitled to be graduated and the district must graduate them. If they have not completed other elective or vocational training programs prior to their graduation, they could complete these courses, however, they would lose their status as students upon graduation and would have to abide by the district's policies concerning non-students enrolled in such courses. Once a student is graduated, ADM funds would cease for that student. A.R.S. §15-1212.c.5.(b)(ii).

Students enrolled in special education courses for exceptional children are required to have an individualized education program. 20 USC §1401(19). Handicapped students are entitled to an appropriate public education to age twenty-one, 20 USC §1412(2)(B), if they would benefit from continued participation in a special education program. Therefore, insofar as special education children are concerned, if the child has not achieved the instructional objectives of his or her individualized educational program, but has met the other requirements for graduation, it would appear that graduation could be delayed until the student achieves the goals of his individualized program or the date of his twenty-second birthday, whichever occurs first.

A copy of this opinion and the additional materials furnished with your opinion request are being sent to the Attorney General for his concurrence, revision or non-review.

Very truly yours,

CHARLES F. HYDER  
MARICOPA COUNTY ATTORNEY

*John R. Mayfield*

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Deputy County Attorney

APPROVED AND RELEASED:

*Albert Firestein*

Albert Firestein  
Chief, Civil Bureau