



*Genine*  
Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

March 5, 1980

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**ARIZONA ATTORNEY GENERAL**

Russell H. Burdick, Jr., Esq.  
Deputy County Attorney  
Apache County Attorney's Office  
P.O. Box 637  
St. Johns, AZ 85036

Re: I80-030 (R80-035)

Dear Mr. Burdick:

Pursuant to A.R.S. § 15-122(B), we decline to review your January 31, 1980 opinion addressed to the Superintendent of Round Valley Consolidated School District No. 10, analyzing the effect the conflict of interest statute will have on a board member who is employed by the Apache County High School District. We believe A.R.S. § 15-436(B), shielding the board from personal liability when relying upon the Attorney General's written opinion, applies equally to board action taken in reliance on a County Attorney's opinion which we have declined to review pursuant to A.R.S. § 15-122(B).

Sincerely,

*Bob Corbin*

BOB CORBIN  
Attorney General

BC/mm

STEPHEN G. UDALL  
COUNTY ATTORNEY

OFFICE OF

APACHE COUNTY ATTORNEY

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EXTENSIONS 31 & 36

RUSSELL H. BURDICK, JR.  
CHIEF DEPUTY

*Rec'd 2-14-80 pc*  
*POLLARD*

January 31, 1980

R80- 035

ATLANTA, GEORGIA  
PHOENIX, ARIZONA

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RECEIVED

EDUCATION OPINION  
ISSUE NO LATER THAN  
4-14-80

Dr. Robert J. McKenzie  
Superintendent  
Round Valley Consolidated  
School District No. 10  
P.O. Box 610  
Springerville, AZ 85938

Re: Board Member Employed by Apache County  
High School District No. 90

Dear Dr. McKenzie:

You have requested an opinion analyzing the effect the conflict of interest statute will have on a board member who is employed by the Apache County High School District. As you know, on July 1, 1980, the Apache County High School District No. 90 will be dissolved and a new high school district in Round Valley will be created. Assuming that your board member will be employed by the Round Valley High School District, the question is to what extent may that board member participate as a member of the elementary board in making decisions which will affect the high school district.

As I have pointed out earlier, the board of the elementary district will on July 1 also become the board of the high school district. Therefore, the individual on your board, who is employed by the high school district, must on that date either resign as a member of the board or resign from his position with the school district. Such provision is required by A.R.S. §15-209 which states that:

"No employee of a . . . school district may hold membership on a board of trustees or board of education of a school district by which such employee is employed."

Your board member should submit his resignation on or before June 30, 1980, with that date as the effective date. There is nothing that will prevent your board member from resigning on an earlier date, however, that is the last date on which he may properly serve as a member of the board.

January 31, 1980  
Dr. Robert J. McKenzie  
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Because your board will of necessity, have to consider items concerning the Round Valley High School District prior to July 1, 1980, the Arizona conflict of interest statute might come into play. See A.R.S. §38-501 et seq.

Pursuant to A.R.S. §38-503, your board member should make known, in public record, the conflict which may exist. In other words, he must state that he is an employee of the high school district. A.R.S. §38-509 requires that the disclosure be kept in a special file for public inspection. After making the disclosure your board member should refrain from participating in any manner as a board member in any decision which may affect his employment.

The only safe position that can be taken is that your board member should not participate in any discussion concerning the Round Valley High School District.

This will not prevent your board member from acting as a member of the elementary board. The Round Valley Consolidated Elementary School District No. 10 and the Round Valley High School District are two separate legal entities. Any discussion concerning the school districts should be kept separate, including policy, budgetary, curriculum and administrative matters.

Violation of the conflict of interest statute may result in criminal penalties. See A.R.S. §38-510.

You have asked whether there are any potential legal ramifications for other board members because of the conflict of interest of one member of your board. To the extent that other members of your board can be considered accomplices in violating the conflict of interest statute, they could be liable for the same criminal penalties. See A.R.S. §13-301 which defines accomplice.

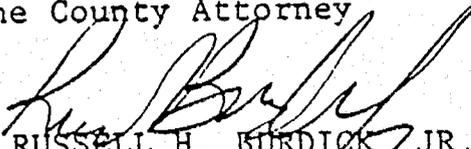
Since I am sure that the members of your board will be very careful in avoiding entanglement with the conflict of interest statute, you will have no problems. If I can be of any further help on this matter, please contact me.

This opinion is being forwarded to the Attorney General for his review.

Sincerely,

STEPHEN G. UDALL  
Apache County Attorney

BY:

  
RUSSELL H. BURDICK JR.  
Deputy County Attorney

RHB:lm  
cc; Attorney General