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ARIZONA ATTORNEY GENERAL

January 2, 1959
Opinion No. 59-20

REQUESTED BY: The Honorable John Mickelson
State Senator-Elect

OPINION BY: ROBERT MORRISON, The Attorney General

QUESTION: May a legislator, during his term of
office, serve as a board member of the
Eastern Arizona Junior College?

CONCLUSION: Yes.

Article 4, Part 2, Section 5, of the Arizona Constitution, deals with the subject of ineligibility of members of the legislature for other public offices. The last sentence of that section, however, exempts certain public employees and offices, and reads as follows:

" . . . This prohibition shall not extend to
the office of school trustee . . . "

A.R.S. § 15-621 reads, in part, as follows:

"The governing body of a union or county
junior college district shall be a junior
college board composed of five members. . . "

A.R.S. § 15-624 deals with the powers of the junior college board, and reads, in part, as follows:

"Except as otherwise provided, the powers and
duties of the junior college board shall be
as prescribed by law for high school boards of
education."

A.R.S. § 15-545 deals with the powers and duties of the board of education of a high school, and reads, in part, as follows:

"The board of education of a high school shall,
for the management of the high school, have
all the powers and duties vested in common
school trustees."

Obviously, the character of the high school board of education and the junior college board are alike.

The question then is: Is a board member of either a junior college board or the board of education of a high school a trustee within the meaning of the constitutional exemption quoted above?

In Hancock v. Board of Education of the City of Santa Barbara,
74 Pac. 44, the Court said at page 46:

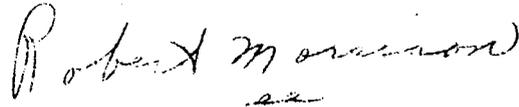
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"Although the present governing body is called a 'board of education', yet it is in fact a board of trustees, and the term 'board of education' is simply another name for board of trustees."

It is apparent that Article 4, Part 2, Section 5 of the Arizona Constitution, was concerned with the character of the duties in providing the exemption rather than the name of the office or employment.

Therefore, it is the opinion of this office that members of the junior college board come within the definition of trustees and are exempt from the prohibition of Article 4, Part 2, Section 5 of the Arizona Constitution, and that a legislator may serve as a member of the junior college board.



ROBERT MORRISON
The Attorney General