



Ginger
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

May 1, 1981

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ARIZONA ATTORNEY GENERAL

INTERAGENCY

The Honorable Stan Turley
Arizona State Senate
State Capitol, Senate Wing
Phoenix, Arizona 85007

Re: I81-059(R81-054)

Dear Senator Turley:

We are writing in response to your letter of April 2, 1981, in which you requested an opinion regarding the legality of discussing school board employee contract matters in executive session.

We recently addressed that issue in Ariz. Atty. Gen. Ops. 180-146 and 181-058, copies of which are attached for your information. If, after reading those opinions, you have additional questions, please feel free to contact us.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:clp

Attachment



Savage
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert K. Corbin

August 7, 1980

Mr. John H. Grace
Coconino County Attorney
Coconino County Court House
Flagstaff, Arizona 86001

Re: I80-146 (R80-132)

Dear Mr. Grace:

We have reviewed your June 9, 1980 concurrence of an opinion written by the law firm of Mangum, Wall, Stoops & Warden. The questions addressed in that opinion were:

1. May the Board of Education of the Flagstaff School District consider in open meeting the issue of a "Master Agreement" between itself and the Flagstaff Education Association?

2. If a "Master Agreement" is entered into between the Flagstaff School Board and the Flagstaff Education Association, what matters may the negotiating team discuss with the Flagstaff School Board in executive session of the Board?

3. Can any matters other than those contained in the answer to question No. 2 above be discussed by the Flagstaff School Board with the Board's negotiating team in executive session?

We concur with the opinion that the Board of Education must consider the issue a master agreement between itself and Flagstaff Education Association in open meeting pursuant to A.R.S. § 38-431 et seq. We also concur with the conclusions that the Board of Education may meet with its negotiating team in executive session to discuss salary schedules or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives as provided in A.R.S. § 38-431.03, and that the

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discussions of the Board of Education with its negotiating team in executive session should be limited to that topic. We note, however, that the Board of Education may meet in executive session for other purposes.^{1/}

The balance of the opinion following the answers to these specific questions consisted of a legal analysis of the various provisions of a proposed agreement between the Flagstaff Education Association and the Board of Education of the Flagstaff School District. It has been the long-standing policy of this office to decline to comment on specific employment policies adopted by school district boards. (See

^{1/}A.R.S. § 38-431, which is applicable to boards of education provides that a board may hold an executive session for the following purposes only:

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that with the exception of salary discussions, an officer, appointee or employee may demand that such discussion or consideration occur at a public meeting.
2. Discussion or consideration of records exempt by law from public inspection.
3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
4. Discussions or consultations with representatives of employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives.
5. Discussion, consultation, or consideration for international and interstate negotiations.

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Ariz. Atty. Gen. Op. No. I80-039.) We therefore express no comment on the proposed agreement between the Flagstaff School District and the Flagstaff Education Association.

Sincerely,



BOB CORBIN
Attorney General

BC/eb



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

May 1, 1981

INTERAGENCY

The Honorable Juanita Harelson
Arizona House of Representatives
State Capitol, House Wing
Phoenix, Arizona 85007

Re: 181-058(R81-050)

Dear Representative Harelson:

You have asked whether, under the Arizona Open Meeting Law, school boards may discuss budget matters in executive session. The apparent rationale for allowing budget matters to be discussed in executive session is that they impact upon teacher negotiations and, therefore, are within the scope of A.R.S. § 38-431.03, which excepts certain discussions from the Open Meeting Law. We think that all budget matters must be discussed in open meetings, except for the limited purposes described below.

The Arizona Open Meeting Law requires all public bodies, including school boards, to conduct their business in public meetings, for which proper public notice has been given. The Open Meeting Law, however, allows public bodies to discuss five specific types of matters in closed executive sessions. A.R.S. § 38-431.03. None of the statutorily authorized executive sessions deal specifically with budget matters. A.R.S. § 38-431.03.A.1 deals with the discussion or consideration of certain personnel matters, including salaries, with respect to a public officer, appointee, or employee of any public body. This provision is limited to discussions relating to an individual employee, and not with respect to all or a class of all employees. Thus, it is not applicable to budget discussions.

A.R.S. § 38-431.03.A.4 authorizes an executive session for the purpose of

Discussions or consultations with representatives of employee organizations regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives.

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Although the language of this provision is somewhat ambiguous, in our opinion it authorizes a public body to meet in an executive session only to consult and discuss the described matters with representatives of employee organizations and with the public body's representatives in order that the public body may review its position on such matters and instruct its designated representatives on how they should deal with the employee organizations in negotiations. Ariz. Atty. Gen. Op. I80-146.

We recognize that a school board simply may not be able to discuss salaries and fringe benefits without also discussing some other budgetary matters, such as budget limitations. Therefore, as long as the discussion of other budget matters is limited strictly to budget matters absolutely necessary for the board to give instructions to its negotiators respecting salaries and fringe benefits, it may take place in an executive session properly convened under A.R.S. § 38-431.03.A.4. Otherwise the discussion of budget matters must take place in a public meeting. All doubts should, of course, be resolved in favor of a public meeting.^{1/}

Sincerely,



ROBERT K. CORBIN

RKC:PMM:ca

1. We note that a violation of the Open Meeting Law is subject to several sanctions: All business transacted during a meeting in violation of the Law is void (A.R.S. § 38-431.05); any person violating the Law is guilty of a Class 3 misdemeanor (A.R.S. § 38-431.06); any person affected by a legal action of the Board may seek a judicial determination with respect to the propriety of the Board's actions, and if successful, may obtain appropriate equitable relief and attorney's fees.