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Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert K. Corbin

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ARIZONA ATTORNEY GENERAL

May 1, 1981

INTERAGENCY
The Honorable Jim Mack
Arizona State Senate
State Capitol, Senate Wing
Phoenix, Arizona 85007

Re: I81-060(R81-060)

Dear Senator Mack:

We are writing in response to your letter of April 10, 1981, in which you asked whether school board discussions involving curriculum changes may take place in executive session.

We addressed a related question in Ariz.Atty.Gen. Op. I81-058, a copy of which is attached for your information, which implicitly answers your question. Applying the standard set forth in that opinion, we think that as a general rule, curriculum discussions must take place at public meeting.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:clp

Attachment

Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert K. Corbin

May 1, 1981

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

Re: I81-058(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.

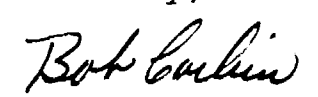
A.R.S. § 38-431.03.A.4 authorizes an executive session for the purpose of

> 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.

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

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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.