



Singer
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert K. Corbin

August 28, 1981

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ARIZONA ATTORNEY GENERAL

INTERAGENCY
The Honorable Jane Dee Hull
Arizona State Representative
State Capitol, House Wing
Phoenix, AZ 85007

Re: I81- 097 (R81-082)

Dear Representative Hull:

This is in response to your letter dated May 22, 1981, in which you asked for an opinion interpreting recent legislative amendments regarding career education programs. A.R.S. §§ 15-791 and 15-792, which were added by Section 2 of Chapter 308, Laws, 1981, 1st Regular Session, define career education and prescribe the related powers and duties of governing boards of school districts and the State Board of Education. Simultaneously, Chapter 308 added career education to the category of programs for which school districts are allocated additional state aid. This was accomplished by expanding the definition of Group A programs found in A.R.S. § 15-901.B.7 to include career education. Also the Chapter adjusted the A.R.S. § 15-943 formula for computing state aid to school districts, which increased the additional aid.¹ You have asked us whether school districts must spend the increased aid only on career education programs. You have also asked us what special budget restrictions, if any, are applicable to school districts providing career education programs.

1. A.R.S. § 15-901.B.7, as amended by Chapter 308, Laws 1981, 1st Regular Session, reads as follows:

"Group A" means educational programs for career education, learning disabled, seriously emotionally handicapped, educable mentally handicapped, remedial education, speech handicapped, homebound, bilingual and gifted students.

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The fact that the Legislature increased the base support level simultaneously with expanding the definition of Group A programs to include career education does not require that the increase in funds must be spent for career education. To imply such a requirement is contrary to the discretionary language found in A.R.S. § 15-792.A, indicating that school districts may provide career education, but are not required to do so. According to the funding formula found in § 15-943, a district receives the additional State aid provided by Chapter 308 whether or not it provides a career education program. In addition, such a restriction is inconsistent with the major revisions to the school financing system created by Chapter 9, Laws, 2nd Special Session, 1980, which provides at § 1 as follows:

The Legislature intends by this act to increase the authority and responsibility of local school boards in determining how revenues will be utilized Each year a revenue control limit for operational expenses will be established for each district taking into account general maintenance and operation cost, special education, vocational education, teacher experience, operational expenditures for pupil transportation and the size of the school district With the exception of capital outlay the proposed funding concept is a block grant system which will provide revenues to school districts for operating expenses. Under the single fund concept each school district will be responsible for allocating funds to educational programs within the school district. This is in contrast to the existing system where revenues for specific programs are allocated to schools by the state. Accordingly, the responsibility and authority for establishing program priorities as well as for seeking more efficient and effective means of educating students will rest with the locally elected school board.

Notwithstanding the fact that a school district has considerable discretion in choosing whether to provide career education, should it decide to do so, it must provide that program for Grades 6 through 8 in accordance with statutory

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requirements and State Board of Education standards. (See A.R.S. §§ 15-791 and 15-792, and A.C.R.R. R7-2-501.^{2/}) That program must also be included within the special education program section of the budget format prescribed in the Uniform System of Financial Records (U.S.F.R.) by the Superintendent of Public Instruction and the Auditor General. See A.R.S. §§ 15-902.G, 15-271, and 15-272.^{3/}

Once a district has adopted its budget, it cannot expend monies in excess of amounts specified within a subsection of the maintenance and operation budget unless it complies with the provisions of A.R.S. § 15-905.F. That section provides as follows:

F. The governing board may authorize the expenditure of monies budgeted within the maintenance and operation section of the budget for any subsection or category within the section in excess of an amount specified in the adopted budget only by action taken at a public meeting of the governing board and if the expenditures for all subsections do not exceed the total maintenance and operation budget.

Therefore, a school district could not expend monies that are designated for special program services to increase the expenditure for regular educational services unless it does so by action of the school board at a public meeting. However,

2. This opinion should not be construed to prohibit a school district from offering career-oriented training to students in grades other than sixth, seventh and eighth. In that event, however, budgetary support of the program would be reflected in the regular program subsection of the maintenance and operation budget. (See U.S.F.R. §§ 2.C and 2.T, Exhibit 6.)

3. Included within this subsection of the maintenance and operation section of the school district budget are those special programs that are defined as either Group A or Group B. (See A.R.S. §§ 15-901.B.7 and 8 and U.S.F.R. § 2.C). The special education program budget subsection is designated as Schedule 002 of the school district annual budget format prescribed by the State Board of Education and the Auditor General. See U.S.F.R. § 2.C.

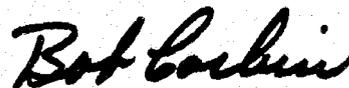
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there are no such restrictions placed upon spending within the maintenance and operation subsection categories. A.R.S. § 15-903.B.1. For example, a school district could apply funds budgeted for career education programs to a program for the seriously emotionally handicapped without complying with A.R.S. § 15-905.A.

A district is also subject to compliance review by the Auditor General to determine whether the district spent funds in accordance with its adopted budget as specified in the U.S.F.R. An additional accountability measure is provided in A.R.S. § 15-904, which requires that beginning in 1981, each school district must publish an annual report, including disclosure of budgeted and actual expenditures for each budget category by October 1 for the preceding fiscal year.

In summary, the increase in the base support level for each school district as a result of Chapter 308 may be used for other than career education programs. If the district chooses to provide a career education program, then it must budget for this within the special education project subsection of the maintenance and operation budget, and such funds could not be used to increase the regular education programs unless such action was authorized by the school board at a public meeting. In addition, the program must be provided for Grades 6 through 8, and the funds budgeted must be accounted for in accordance with the Uniform System of Financial Records subject to review by the Auditor General, and be included in the school district's published annual financial report.

Sincerely,



BOB CORBIN
Attorney General

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