



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

July 8, 1990

The Honorable Stephen D. Neely
Pima County Attorney
ATTN: Jo Ann Sheperd
Deputy County Attorney
32 N. Stone, Suite 1500
Tucson, Arizona 85701-1412

Re: I90-059 (R90-048)

Dear Mr. Neely:

Pursuant to A.R.S. § 15-253(B), we have reviewed your opinion to Leslie A. Follett, Associate to the Superintendent, Amphitheater Public Schools, in which you conclude that a school board (Board) must provide free textbooks and materials to high school pupils for the six units of elective courses which the pupils must complete for graduation. We revise your opinion to conclude that "required" textbooks, which school boards must furnish without charge, means textbooks required for any course approved for credit and available as part of a student's "course of study," whether or not the course is necessary to complete a pupil's minimum requirements for graduation.

A.R.S. § 15-722 provides that a Board must prescribe the basic textbook and approve all supplemental books used in each high school course as part of the school's course of study:

A. The governing board shall approve for high schools the course of study, the basic textbook for each course and all units recommended for credit under each general subject title prior to implementation of such course.

B. If any course does not include a basic textbook, the governing board shall approve all supplemental books used in such course prior to usage.

C. If any course includes a basic textbook and uses supplemental books or instructional computer software, the governing board may approve all supplemental books and instructional computer software used in such course prior to usage.

D. If the course includes a basic text and uses supplemental books which have not been approved by the governing board at the time of approval of the course, a teacher may use such supplemental books at any time during the school year. Use of such supplemental books shall be brought to the attention of the governing board during the school year in which they are added for ratification.

E. The governing board shall prescribe up to five textbooks for each course and the teacher, with the consent of the governing board, may use any one of the prescribed textbooks for the purposes of his course.

As part of each Board's authority to prescribe the course of study for the high schools, A.R.S. § 15-723(B) requires each Board to "furnish free required textbooks and related printed subject matter materials in the high schools" Additionally, A.R.S. § 15-724(B) provides that a Board "may charge a reasonable rental fee for use of nonrequired textbooks, nonrelated subject matter materials and supplementary books by registered high school pupils." The power of each Board to prescribe the course of study and the basic textbooks for each course in the high schools must be read together with the Board's duty to furnish free required textbooks and the Board's authority to charge a reasonable rental fee for nonrequired textbooks. See School District No. 3 of Maricopa County v. B. B. Dailey, 106 Ariz. 124, 126, 471 P.2d 736, 738 (1970) (statutes relating to one subject must be read together to determine the relationship of one to the other). This rule of construction is used to determine the Legislature's intent in enacting the statute. Id.

The "course of study" which each Board must approve pursuant to section 15-722 is the "list of required and optional subjects to be taught in the schools." A.R.S. § 15-101(5). Because section 15-722 also requires each Board to prescribe the basic textbook and to approve all supplementary materials in the

"course of study" in the high schools, each Board therefore is required to prescribe and approve the textbooks for all high school courses, whether required for graduation or optional. Additionally, sections 15-723(B) and 15-724(B) make no distinction between required and non-required courses in determining which textbooks and materials a Board must furnish free of charge or for a reasonable fee. Rather, the statutes provide for free textbooks and related materials if the books and materials are required in the high schools. We are bound by the intention of the Legislature as expressed in the language of the statute. Kriz v. Buckeye Petroleum Co., Inc., 145 Ariz. 374, 377, 701 P.2d 1182, 1185 (1985). Therefore, because the statutes make no distinction between required and optional courses in the provision of free textbooks, we must conclude that the Legislature intended no such distinction. Consequently, we conclude that free books and materials must be provided pursuant to A.R.S. §§ 15-723 and 15-724 if the books and materials are required as part of a course of study in the high school, whether or not the course is optional.

To the extent that previous opinions of this office may be read to mean that Boards must provide free textbooks for required courses only, those opinions are modified in accordance with this opinion. See Ariz. Att'y Gen. Ops. I90-032, I89-106 and I87-114.

Sincerely,



BOB CORBIN
Attorney General

LSP/df



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Pima County Attorney
Civil Division

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STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

OPINION NO. 90- 7

TO: Leslie A. Follett
Associate to Superintendent
Amphitheater Public Schools

FROM: JoAnn Sheperd
Deputy County Attorney

DATE: April 6, 1990

RE: REQUEST FOR LEGAL OPINION

R90- 048

QUESTION PRESENTED

Can fees be charged to cover the cost of materials, supplies or activities associated with the six units of elective courses required for high school graduation?

ANSWER

No.

DISCUSSION

You informed this office that six units out of a total of twenty units required for high school graduation in your district are chosen by each student from a "wide range of electives".

I believe that this question is answered by Atty. Gen. Op. No. I89-106 (see attached copy), which states as follows:

"We conclude that no statutory authority exists for school districts to charge for materials connected with the general operation and maintenance of their schools. Student fees may be charged only for non-required materials, courses or activities." (Emphasis added).

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April 6, 1990
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Although students may choose their elective courses, they are still required to complete six units of such electives in order to graduate. Those six units are therefore, for the purpose of this opinion, "required" courses for which fees may not be charged.

A copy of this opinion has been sent to the Attorney General for his review, pursuant to A.R.S. §15-253(B).

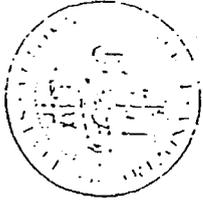
Respectfully submitted

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

By: JoAnn Sheperd
JoAnn Sheperd
Deputy County Attorney

Approved:

David G. Dingeldine
David G. Dingeldine
Chief Civil Deputy County Attorney



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert A. Corbin

December 13, 1989

The Honorable Manuel Pena, Jr.
Arizona State Senator
State Capitol - Senate Wing
Phoenix, Arizona 85007

Re: 189-106 (R39-120)

Dear Senator Pena:

You have requested an opinion concerning the power of school district governing boards to charge their students fees^{1/} for certain student supplies. You have asked: (1) whether the boards may charge students a fee for general supplies which appear to be a part of general maintenance and operation expenses of the schools; (2) the general guidelines by which the boards may charge student fees consistent with Arizona statutes; and (3) the consequences for a student's failure to pay the general supply fee.

We conclude that no statutory authority exists for school districts to charge for materials connected with the general operation and maintenance of their schools. Student fees may be charged only for non-required materials, courses or activities.

School boards have only the authority granted by statute, and that authority must be exercised in the manner permitted by statute. Cambell v. Harris, 131 Ariz. 109, 638 P.2d 1355 (App. 1981).

1. Your opinion request refers to fees for items such as toilet paper, paper towels, testing materials, video tapes and other general supplies as well as art, music, shop, drafting, mathematics and home economics supplies.

Each school district governing board has a general duty to maintain the schools it establishes. A.R.S. § 15-341(A)(2) requires that a governing board shall maintain the schools established by it for the attendance of each pupil for a period of not less than one hundred seventy-five school days per year. A.R.S. § 15-341(A)(5) provides that the board shall manage and control the school property within the district. A.R.S. § 15-341(A)(6) provides that the governing board shall acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools, and A.R.S. § 15-341(A)(8) requires the board to furnish, repair and insure the school property of the district.

A.R.S. §§ 15-723 and -724 deal with what may or may not be charged for school materials. Section 15-723 provides as follows:

A. Free textbooks, subject matter materials and supplementary books shall be furnished in common schools and all state welfare institutions maintaining educational facilities, subject to § 15-727 [concerning proper care of school materials].

B. Governing boards shall furnish free required textbooks and related printed subject matter materials in the high schools, subject to § 15-727.

A.R.S. § 15-724 provides:

A. The governing board may include in its proposed school district budget finances required for the purchase of textbooks, subject matter materials and supplementary books for the use of registered high school pupils.

B. The governing board may charge a reasonable rental fee for the use of nonrequired textbooks, nonrelated subject matter materials and supplementary books by registered high school pupils.

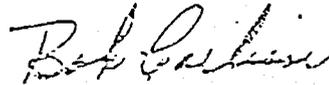
A.R.S. § 15-728 provides that governing boards may sell high school textbooks at cost and A.R.S. § 15-727 permits the boards to charge pupils for costs of damaged or lost textbooks.

The Honorable Manuel Pena, Jr.
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Additionally, A.R.S. § § 15-624 and -625 permit school districts to charge tuition to nonresident district students. However, none of the above mentioned statutes nor the statutes prescribing the general powers of school boards, A.R.S. § § 15-341 and -342, provide boards the power to charge fees to students for the general maintenance or operating expenses of district schools. Therefore, we conclude that school boards may not charge such fees.²

Because we have concluded that school district governing boards may not charge general maintenance fees, we need not specify guidelines for charging the fees or the consequences for failure to pay such fees in response to your second and third questions.

Sincerely,



BOB CORBIN
Attorney General

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²To the extent that Opinion 187-114 may be read to allow charging for items that are connected with the general operation and maintenance of the schools, it is hereby modified.