



Ginger
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

April 30 1982

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ARIZONA ATTORNEY GENERAL

Mr. Richard F. Albrecht
Deputy Mohave County Attorney
Kingman, Arizona 86401

Re: 182-055 (R82-043)

Dear Mr. Albrecht:

Pursuant to A.R.S. § 15-253.B, we decline to review your opinion dated March 19, 1982, to the Superintendent of the Mohave County Union High School District concerning whether a school board must determine whether to hold a formal hearing when a student has been suspended by a school official.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:CWL:ta

MOHAVE COUNTY ATTORNEY

MOHAVE COUNTY COURTHOUSE • KINGMAN • ARIZONA 86401



WILLIAM J. EKSTROM, JR.
County Attorney

March 19, 1982

EDUCATION OPINION

ISSUE NO LATER THAN

5-27-82

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R82-043

John Lingenfelter, M.D.
President, Board of Trustees
Mohave County Union High School District No. 30
323 Gold
Kingman, Arizona 86401

Richard Dawson
Superintendent
Mohave County Union High Schools District No. 30
323 Gold
Kingman, Arizona 86401

RE: Authority to Suspend Pupils Board
Actions in Disciplinary Proceedings

Gentlemen:

This letter is to inform you of the changes in Arizona law which became effective in January of 1981 concerning the involvement of the board of trustees in pupil disciplinary proceedings. I am also writing in an attempt to avoid potential litigation in the matter of John Motshagen, a student who was suspended from Mohave High School in April of 1981. Prior A.R.S. provisions concerning student suspensions provided that power to suspend a student from school was vested in the "superintendent, principal, or other school officials granted this power by the board of trustees", all cases of suspension were to be for good cause and were to be reported within five days. This statute, however, did not address what, if any, action was to be taken by the Board of Trustees upon their being notified.

Effective January 23 of 1981, the provision was broadened to its present form (A.R.S. §15-843) which provides:

"In all action concerning the discipline, suspension or expulsion of a pupil or pupils, the governing board of a school district shall:

1. Decide, in executive session, whether a hearing is necessary.
2. Give written notice, at least five working days prior to the hearing, to all pupils subject to the proposed action and their parents or legal guardians of the board's decision to hold the hearing in executive session, the date, time and place of the hearing and the rights of the parents or legal guardians of an emancipated pupil subject to the proposed action to indicate their objection to the board's decision to have an executive session. Such objection shall be made in writing to the governing board."

Mr. Motshagen's attorney contends that the suspension of his client did not comply with the dictates of the legislature set forth in A.R.S. §15-843, in that the board of trustees were not informed within the requisite five days nor did they make a determination as to whether or not a hearing was necessary. The United States Supreme Court in Goss v. Lopez, 419 U.S. 565, 95 S. Ct. 729, 42 2 Ed. 2d 725 (1975) determined that a 10 day suspension imposed by the school authorities without formal hearing before the board was not improper if the student was given oral or written notice of the charges, explanation of the evidence against him and an opportunity to present his side of the story if he denied the charges. Hence, under Goss a hearing before the Board of Trustees may not have been necessary if these rudimentary precautions were taken. However, under Arizona statute it is incumbent upon the board of trustees that the suspension be reviewed and a determination actually made by them as to whether or not a more formal hearing should take place.

John Motshagen, through his attorney, has alleged that work missed during his suspension led directly to his failure of a psychology class which prevented his graduation from Mohave High School. However, Mr. Motshagen has since that time completed work at Mohave Community College which could be substituted for the one semester credit he is now lacking towards graduation. Mr. Motshagen's attorney has indicated a willingness to make application to the board of trustees for a diploma based upon the college credits earned.

I believe this would be the most equitable and simplest means
of resolving the matter.

Sincerely,

WILLIAM J. EKSTROM, JR.
Mohave County Attorney

Richard F. Albrecht
RICHARD F. ALRBECHT
Deputy County Attorney

RFA:kjh