



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

January 4, 1991

The Honorable Alan K. Polley  
Cochise County Attorney  
P.O. Drawer CA  
Bisbee, Arizona 85603

Re: I91-006 (R90-145)

Dear Mr. Polley:

Pursuant to A.R.S. § 15-253(B), we have reviewed your October 19, 1990 opinion letter to Tom Morgan, Superintendent of Douglas Unified School District, regarding eligibility of students to participate in extracurricular activities. In 1988, the Legislature directed the State Board of Education (State Board) to prescribe minimum statewide requirements for students in grade 6 (if part of a middle school) and grades 7 through 12 to be eligible to participate in extracurricular activities. A.R.S. § 15-705. In turn, the State Board prescribed minimum requirements in A.A.C. R7-2-808, and according to that rule, a student must earn a passing grade in each course in which the student is enrolled to be eligible to participate. A.A.C. R7-2-808(2)(a).

The grading interval for purposes of this rule shall not be longer than nine weeks duration. It shall occur at equal intervals throughout the year.

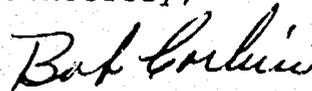
A.A.C. R7-2-808(2)(a)(ii) (emphasis added). School districts must maintain schools for a period of not less than 175 school days or its equivalent (A.R.S. § 15-341(A)(2)), and generally a school year is composed of two semesters of about 18 weeks each. Thus, a grading interval which may be no longer than nine weeks for purposes of determining eligibility for extracurricular participation, is a shorter grading period than a semester.

We concur, therefore, with your conclusion that pursuant to A.A.C. R7-2-808, a student's semester grade may not be used in lieu of the grade for the final grading interval of a semester to determine eligibility for extracurricular activities during the first grading interval of the succeeding semester.

The Honorable Alan K. Polley  
Page 2

We revise that portion of your opinion in which you conclude that an administrative exception to the above rule exists for students who are promoted from the eighth grade. Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion to interpret the statute, and courts must follow the statute as written. Consolidated Roofing & Supply Co., Inc. v. Grimm, 140 Ariz. 452, 457, 682 P.2d 457, 462 (App. 1984). The same principles of construction that apply to statutes apply to rules prescribed by an administrative body. Marlar v. State, 136 Ariz. 404, 410, 666 P.2d 504, 510 (App. 1983). The language of R7-2-808(2) regarding grading intervals used to determine eligibility is unambiguous; consequently, we may not look to an administrative interpretation to support an eighth grade promotion exception. Thus, we conclude that pursuant to R7-2-808(2), promotion from the eighth grade may not be used in lieu of a final grading interval grade to determine eligibility for extracurricular participation during the first grading interval of the ninth grade.

Sincerely,



BOB CORBIN  
Attorney General

BC/LSP/pnw



OFFICE OF THE  
**Cochise County Attorney**

P.O. DRAWER CA  
BISBEE, ARIZONA 85603  
(902) 432-5471 EXT. 260

ALAN K. POLLEY  
COCHISE COUNTY ATTORNEY

October 19, 1990

The Honorable Robert K. Corbin  
Arizona Attorney General  
1275 W. Washington  
Phoenix, AZ 85007

*R90-145  
Parale*

Re: Request for Review of Legal Opinion  
pursuant to A.R.S. §15-253

Dear Mr. Corbin:

Enclosed for your review pursuant to A.R.S. §15-253, is a formal legal opinion prepared at the request of Douglas Unified School District No. 27.

Should any additional information be required, please advise me, and I will respond accordingly.

Thank you for your consideration of this matter.

Sincerely,

ALAN K. POLLEY  
Cochise County Attorney

*P. Wilk*

By: Paula N. Wilk  
Chief Civil Deputy County Attorney

PNW/tc

Enclosure

xc: Mr. Tom Morgan, Superintendent, Douglas Unified School  
District No. 27

*10/22*



OFFICE OF THE  
Cochise County Attorney

P.O. DRAWER CA  
BISBEE, ARIZONA 85603  
(602) 432-5471 EXT. 280

ALAN K. POLLEY  
COCHISE COUNTY ATTORNEY

October 19, 1990

Mr. Tom Morgan, Superintendent  
Douglas Unified School District  
P.O. Drawer 1237  
Douglas, AZ 85608-1237

Re: Determination of eligibility under "No pass, no play,"  
A.A.C. R7-2-808

Dear Mr. Morgan:

This responds to your request for a formal legal opinion regarding eligibility to participate in extracurricular activities.

Question: Can the semester grade be used in lieu of the grade for the final grading period of a semester to determine eligibility for extracurricular activities during the first grading period of the succeeding semester?

Answer: No, subject to the State Department of Education's interpretation that a student who graduates from eighth grade may participate in extracurricular activities during the first grading period of ninth grade.

Explanation: State Board of Education Rule A.A.C. R7-2-808 provides that to be eligible to participate in extracurricular activities, a student must earn a passing grade in each course in which the student is enrolled. A.A.C. R7-2-808.2.a. The grading interval may not be longer than nine weeks in duration. It is to occur at equal intervals throughout the year. A.A.C. R7-2-808.2.a.ii.

Using the semester grade to determine eligibility for the initial grading period of the succeeding semester violates this directive in two respects. First, a semester is longer than nine weeks, the maximum interval allowed for a grading period under the rule. Second, a semester is longer than a grading period; thus, a semester and a grading period are not equal intervals as the rule requires.

Apparently, the State Department of Education has informally interpreted A.A.C. R7-2-808 to allow students a fresh start upon

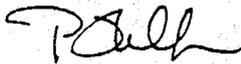
Tom Morgan  
October 19, 1990  
Page two . . .

graduation. Given that eighth grade graduation occurs only once, that treating entering high school students as eligible for extracurricular activities is consistent with recognition of graduation as an academic achievement and that this interpretation is consistent throughout the state, using graduation from eighth grade to determine eligibility for the first grading period of high school does not appear to contravene the underlying purpose of A.A.C. R7-2-808 or present a legal issue.

Pursuant to your request, this opinion is being forwarded to the Arizona Attorney General for review pursuant to A.R.S. §15-253.

Sincerely,

ALAN K. POLLEY  
Cochise County Attorney



By: Paula Wilk  
Chief Civil Deputy County Attorney

PNW/tc

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

January 4, 1991

The Honorable Alan K. Polley  
Cochise County Attorney  
P.O. Drawer CA  
Bisbee, Arizona 85603

Re: I91-006 (R90-145)

Dear Mr. Polley:

Pursuant to A.R.S. § 15-253(B), we have reviewed your October 19, 1990 opinion letter to Tom Morgan, Superintendent of Douglas Unified School District, regarding eligibility of students to participate in extracurricular activities. In 1988, the Legislature directed the State Board of Education (State Board) to prescribe minimum statewide requirements for students in grade 6 (if part of a middle school) and grades 7 through 12 to be eligible to participate in extracurricular activities. A.R.S. § 15-705. In turn, the State Board prescribed minimum requirements in A.A.C. R7-2-808, and according to that rule, a student must earn a passing grade in each course in which the student is enrolled to be eligible to participate. A.A.C. R7-2-808(2)(a).

The grading interval for purposes of this rule shall not be longer than nine weeks duration. It shall occur at equal intervals throughout the year.

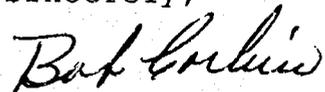
A.A.C. R7-2-808(2)(a)(ii) (emphasis added). School districts must maintain schools for a period of not less than 175 school days or its equivalent (A.R.S. § 15-341(A)(2)), and generally a school year is composed of two semesters of about 18 weeks each. Thus, a grading interval which may be no longer than nine weeks for purposes of determining eligibility for extracurricular participation, is a shorter grading period than a semester.

We concur, therefore, with your conclusion that pursuant to A.A.C. R7-2-808, a student's semester grade may not be used in lieu of the grade for the final grading interval of a semester to determine eligibility for extracurricular activities during the first grading interval of the succeeding semester.

The Honorable Alan K. Polley  
Page 2

We revise that portion of your opinion in which you conclude that an administrative exception to the above rule exists for students who are promoted from the eighth grade. Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion to interpret the statute, and courts must follow the statute as written. Consolidated Roofing & Supply Co., Inc. v. Grimm, 140 Ariz. 452, 457, 682 P.2d 457, 462 (App. 1984). The same principles of construction that apply to statutes apply to rules prescribed by an administrative body. Marlar v. State, 136 Ariz. 404, 410, 666 P.2d 504, 510 (App. 1983). The language of R7-2-808(2) regarding grading intervals used to determine eligibility is unambiguous; consequently, we may not look to an administrative interpretation to support an eighth grade promotion exception. Thus, we conclude that pursuant to R7-2-808(2), promotion from the eighth grade may not be used in lieu of a final grading interval grade to determine eligibility for extracurricular participation during the first grading interval of the ninth grade.

Sincerely,



BOB CORBIN  
Attorney General

BC/LSP/pnw



OFFICE OF THE  
**Cochise County Attorney**

P.O. DRAWER CA  
BISBEE, ARIZONA 85603  
(802) 432-5471 EXT. 260

ALAN K. POLLEY  
COCHISE COUNTY ATTORNEY

October 19, 1990

The Honorable Robert K. Corbin  
Arizona Attorney General  
1275 W. Washington  
Phoenix, AZ 85007

*R90-145  
Parale*

Re: Request for Review of Legal Opinion  
pursuant to A.R.S. §15-253

Dear Mr. Corbin:

Enclosed for your review pursuant to A.R.S. §15-253, is a formal legal opinion prepared at the request of Douglas Unified School District No. 27.

Should any additional information be required, please advise me, and I will respond accordingly.

Thank you for your consideration of this matter.

Sincerely,

ALAN K. POLLEY  
Cochise County Attorney

*P. Wilk*

By: Paula N. Wilk  
Chief Civil Deputy County Attorney

PNW/tc

Enclosure

xc: Mr. Tom Morgan, Superintendent, Douglas Unified School  
District No. 27

*10/22*



OFFICE OF THE  
**Cochise County Attorney**

ALAN K. POLLEY  
COCHISE COUNTY ATTORNEY

P.O. DRAWER CA  
BISBEE, ARIZONA 85603  
(602) 432-5471 EXT. 260

October 19, 1990

Mr. Tom Morgan, Superintendent  
Douglas Unified School District  
P.O. Drawer 1237  
Douglas, AZ 85608-1237

Re: Determination of eligibility under "No pass, no play,"  
A.A.C. R7-2-808

Dear Mr. Morgan:

This responds to your request for a formal legal opinion regarding eligibility to participate in extracurricular activities.

Question: Can the semester grade be used in lieu of the grade for the final grading period of a semester to determine eligibility for extracurricular activities during the first grading period of the succeeding semester?

Answer: No, subject to the State Department of Education's interpretation that a student who graduates from eighth grade may participate in extracurricular activities during the first grading period of ninth grade.

Explanation: State Board of Education Rule A.A.C. R7-2-808 provides that to be eligible to participate in extracurricular activities, a student must earn a passing grade in each course in which the student is enrolled. A.A.C. R7-2-808.2.a. The grading interval may not be longer than nine weeks in duration. It is to occur at equal intervals throughout the year. A.A.C. R7-2-808.2.a.ii.

Using the semester grade to determine eligibility for the initial grading period of the succeeding semester violates this directive in two respects. First, a semester is longer than nine weeks, the maximum interval allowed for a grading period under the rule. Second, a semester is longer than a grading period; thus, a semester and a grading period are not equal intervals as the rule requires.

Apparently, the State Department of Education has informally interpreted A.A.C. R7-2-808 to allow students a fresh start upon

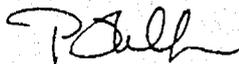
Tom Morgan  
October 19, 1990  
Page two . . .

graduation. Given that eighth grade graduation occurs only once, that treating entering high school students as eligible for extracurricular activities is consistent with recognition of graduation as an academic achievement and that this interpretation is consistent throughout the state, using graduation from eighth grade to determine eligibility for the first grading period of high school does not appear to contravene the underlying purpose of A.A.C. R7-2-808 or present a legal issue.

Pursuant to your request, this opinion is being forwarded to the Arizona Attorney General for review pursuant to A.R.S. §15-253.

Sincerely,

ALAN K. POLLEY  
Cochise County Attorney



By: Paula Wilk  
Chief Civil Deputy County Attorney

PNW/tc