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Robert R. Corbin

October 29, 1982

Mr. Douglas R. Norton
Auditor General
State of Arizona
111 West Monroe, Ste. 600
Phoenix, Arizona 85007

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Re: 182-116 (R82-144)

Dear Mr. Norton:

This is in response to your question concerning the authority of a community college district to form a nonprofit corporation. It is our opinion that a community college district does not have such authority.

A political subdivision has only those powers expressly granted it by the legislature, e.g., School District No. 69 of Maricopa County v. Altherr, 10 Ariz. App. 333, 458 P.2d 537 (1969); Cabrillo Community College District v. California Junior College Ass'n., 44 Cal. App.3d 367, 118 Cal. Rptr. 708 (1975). A.R.S. § 15-1444 describes the powers and duties of a community college district board. Nothing in the statute, however, expressly or even impliedly, authorizes the district to form corporations. Thus, our conclusion must be that the district does not have authority to form the foundation in question.

In addition, the Arizona Constitution in Article 9, § 7, prohibits a subdivision of the state from becoming a shareholder in any corporation.^{1/} Even though the nonprofit

1. This section provides:

Section 7. Neither the State, nor any county, city, town, municipality, or other subdivision of the State shall ever give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation, except as to such ownerships as may accrue to the State by operation or provision of law.

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corporation in question here does not have shareholders, we believe the intent of that portion of this constitutional provision is to prohibit the action here in question.

If, however, a nonprofit incorporated foundation was lawfully formed apart from the college, the college could contract with the foundation in the same manner it could contract with any other entity. The legality of a particular transaction would depend on the individual facts of the situation.

Sincerely,



BOB CORBIN
Attorney General

BC/VBW/bl