

**95-005**

**OPINIONS CITED IN 95-005**  
I88-095

**STATUTES CITED IN**

ARS 15-253  
ARS 15-341(A)(2)  
ARS 15-342(4)  
ARS 15-1141 thru -1143  
ARS 15-1142(4)



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February 16, 1995

Janis S. Merrill  
UDALL, SHUMWAY, BLACKHURST,  
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30 West First Street  
Mesa, Arizona 85201-6695

Re: I95-005 (R94-61)

Dear Ms. Merrill:

Pursuant to Arizona Revised Statutes Annotated (A.R.S.) § 15-253, we revise your opinion to Mr. Tom Wynn, Assistant Superintendent, Crane Elementary School District. In your opinion, you concluded that the District "may lawfully charge students to participate in 'intersession enrichment classes' as it is currently organized or as part of a community school program." We disagree with your conclusion that the District may charge for these classes even if they do not meet the requirements of the community school program.

The District offered intersession enrichment classes to students during a three-week intersession between September 26 and October 14, 1994. The District intends to offer them again during future intersession periods throughout the school year. The District does not otherwise conduct classes during intersession. You have noted in your opinion that the intersession enrichment classes are not part of the "regular school curriculum." Additionally, you state that "no credit is offered for the classes, and the offerings are not duplicative of regular classes offered at the District." "Daily activities" of these classes include reading, math, physical movement activities, art, and writing. Students attending the classes are "grouped in multi-age classrooms (K-3 or 4-8) with certified teachers." Apparently, the District has not offered the classes as part of a community school program pursuant to A.R.S. §§ 15-1141 through -1143.

A governing board shall "[m]aintain the schools established by it for the attendance of each pupil for a period of not less than one hundred seventy-five school days, or its equivalent as approved by the superintendent of public instruction . . . ." A.R.S.

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§ 15-341(A)(2). A governing board may, however, "[m]aintain such special schools during vacation as deemed necessary for the benefit of the pupils of the school district." A.R.S. § 15-342(4). Thus, the Legislature has expressly authorized a governing board to offer classes such as the intersession program. There is no express authority to charge a fee for these classes.

The supreme court found In the Matter of the Estate of Arizona Southwest Bank, 41 Ariz. 507, 19 P.2d 1063 (1933), that a school district was not authorized to charge pupils fees to attend summer school, stating that "nowhere in the statute are trustees authorized or given the power to collect funds for the support of high schools in their districts, except a small tuition fee from nonresidents, or to require the payment of money by the pupils of their districts, for any purpose." Id. at 512, 19 P.2d at 1065. The court based its holding on a statutory provision<sup>1</sup> that allowed school districts to maintain special schools during the vacation as necessary for the pupils of the district, and held that the statute "authorizes in addition special vacation schools for the pupils of the district and implies in the language used and the context that this shall be done with funds coming from the same source as those with which the regular term is maintained." 41 Ariz. at 513, 19 P.2d at 1065.

School districts have only the authority granted to them by statute. School District No. 1 v. Lohr, 17 Ariz. App. 439, 440, 498 P.2d 513, 514 (1972). Because the Legislature allows school districts to maintain special schools during vacation but has not authorized the district to charge fees for those special schools, we conclude that the Crane Elementary School District may not lawfully charge students to participate in its intersession enrichment classes program as that program is currently organized.

The District may, however, offer the classes as part of a community school program. The Legislature has defined such a program to mean:

[T]he involvement of people in the development of an educationally oriented community. The community school serves the purposes of academic and skill development for all citizens, furnishes supervised recreational and avocational instruction, supplies remedial and supplemental education, furnishes meeting places for community groups and provides facilities for the dissemination of a variety of community related services, including extended day resource

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<sup>1</sup>Section 1025, Arizona Revised Code (1928).

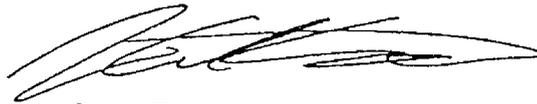
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programs as defined in A.R.S. § 15-1105.<sup>2</sup>

A.R.S. § 15-1141(3).

A governing board of any school district may establish tuition and fee charges for community school programs. A.R.S. § 15-1142(4). A school district may establish a community school program that offers and charges fees for courses that are the same or comparable to courses taught during the school district's standard day. Ariz. Att'y Gen. Op. I88-095. Accordingly, the Crane Elementary School District may offer its intersession classes as a community school program and establish tuition and fee charges for such a program provided that it complies with the requirements of A.R.S. §§ 15-1141 through -1143.

Sincerely,



Grant Woods  
Attorney General

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<sup>2</sup>Extended day resource programs are defined as: "[A]ctivities offered on school property before or after school or at times when school is not customarily in session for children who are of the age required for kindergarten programs and grades one through eight. The program may be offered for children who are of the age required for a kindergarten program or for one grade or for any combination of kindergarten programs and grades. Activities may include physical conditioning, tutoring, supervised homework or arts activities." A.R.S. § 15-1105(E)