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ATTORNEY GENERAL

September 9, 1996

The Honorable Gary Richardson
Arizona Senate
State Capitol Complex
1700 West Washington
Phoenix, Arizona 85007-2890

Re: I96-010 (R96-016)

Dear Senator Richardson:

You have requested an opinion on whether, pursuant to A.R.S. § 15-843(B)(3), a school district governing board ("governing board") must prescribe a rule that establishes procedures outlining the circumstances in which students may use reasonable physical force in self-defense. You report that some governing boards have interpreted the requirement in A.R.S. § 15-843(B)(3), that their rules establish "procedures for the reasonable use of physical force in self-defense, defense of others and defense of property," to apply only to school personnel. We conclude that A.R.S. § 15-843(B)(3) requires governing boards to prescribe rules for the discipline, suspension, and expulsion of students that include procedures for a student's use of reasonable physical force in self-defense, defense of others, and defense of property. Rules for use of physical force only by school personnel, and not students, do not satisfy the legislative mandate of A.R.S. § 15-843(B)(3).

Background

In 1983, the Legislature amended A.R.S. § 15-843 to require governing boards to generally prescribe rules for the discipline, suspension, and expulsion of pupils, and mandated that school principals distribute a copy of these rules to parents when they enroll their children in school and inform students of the rules at the beginning of each school year or, in the case of transfer students, when they enroll.

In 1984, the Legislature again amended A.R.S. § 15-843 and required governing boards to adopt specific rules for discipline, suspension, and expulsion of pupils. The governing boards must address the following topics in the rules:

1. Penalties for excessive pupil absenteeism including failure in a subject, failure to pass a grade, suspension or expulsion.
2. Procedures for the use of corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force in self-defense, defense of others and defense of property.
4. Procedures for dealing with pupils who have committed or are believed to have committed a crime.

1984 Ariz. Sess. Laws, Ch. 393, § 2. In addition, the governing boards must consult with teachers and parents of the school district in prescribing the rules, support and assist teachers in implementing and enforcing the rules, and develop procedures that allow teachers to recommend suspension or expulsion of students and enable teachers to temporarily remove disruptive students from class. Id.

The legislative history on this amendment indicates that it was sought by the Arizona Education Association ("AEA") and appeared to result from a widespread concern about lack of discipline in the schools. *Meeting on H.B. 2413 Before the House Committee on Human Resources*, 36th Arizona Legislature, 2nd Reg. Sess. 4 (March 6, 1984). The President of the AEA advised the Committee that student discipline was the number one concern of parents. Id. at 5. Committee members wanted the bill to provide consistency in the areas in which governing boards establish procedures for discipline and to permit the governing boards to establish the specific criteria in each of the mandated areas after receiving advice from teachers. Id. at 4-5.

The Legislature has continued to amend A.R.S. § 15-843. The current version of that statute, entitled "Pupil disciplinary proceedings," provides in part:

The governing board of any school district shall, in consultation with the teachers and parents of the school district, prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall include at least the following:

1. Penalties for excessive pupil absenteeism including failure in a subject, failure to pass a grade, suspension or expulsion.

2. Procedures for the use of corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force in self-defense, defense of others and defense of property.
4. Procedures for dealing with pupils who have committed or are believed to have committed a crime.
5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.
6. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.
7. Procedures for appeal of the recommendation of the hearing officer or officers designated by the board as provided in subsection F at the time the board considers the recommendation.

1996 Ariz. Sess. Laws, ch. 284, § 41.

Analysis

A fundamental goal of statutory construction is to determine the Legislature's intent. *Mail Boxes v. Industrial Comm'n*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). We presume that when enacting legislation the Legislature says what it means. *Padilla v. Industrial Comm'n*, 113 Ariz. 104, 106, 546 P.2d 1135, 1137 (1976). Thus, the best and most reliable index of a statute's meaning is its language. *Janson v. Christensen*, 167 Ariz. 470, 471, 808 P.2d 1222, 1223 (1991). In cases where the language is plain and unambiguous, courts generally must follow the text as written. *Mid Kansas Fed. Sav. & Loan Ass'n v. Dynamic Dev. Corp.*, 167 Ariz. 122, 128, 804 P.2d 1310, 1316 (1991).

Here, the legislative directive to governing boards states in relevant part:

B. The governing board of any school district shall, in consultation with the teachers and parents of the school district, prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall include at least the following:

• • •
3. Procedures for the reasonable use of physical force in self-defense, defense of others and defense of property.

A.R.S. § 15-843(B)(3) (emphasis added). The legislative directive to governing boards requires that they prescribe rules for the discipline, suspension, and expulsion of students that shall include procedures for the reasonable use of physical force in self-defense, defense of others, and defense of property. Implicit in the legislative requirement that governing boards establish procedures for the reasonable use of force is the presumption that the unreasonable use of force will subject a student to disciplinary action. A rule applicable only to school staff does not satisfy the legislative mandate.¹

We believe the legislative mandate is clear. The Legislature has required minimum rules establishing criteria and procedures for imposing disciplinary action against students. *See Ariz. Att'y Gen. Op. 186-044* (noting that excessive absenteeism along with other transgressions established by a governing board, pursuant to A.R.S. § 815-843(B), provide grounds for expulsion of students from school). The Legislature also required the principal of each school to provide a copy of these rules to the parents of each pupil when the pupil is enrolled in school and to notify all students of the rules at the beginning of the school year or, for transfer students, when they enroll. Whether a student may use reasonable physical force for self-defense and what standards will be employed to evaluate a student's conduct is a standard germane to student discipline that should be set by the governing board in rules and be made known to teachers, parents, and students. By requiring these procedures, the Legislature ensured consistency in the scope of disciplinary rules among the districts and notification to parents and students of the standards that would be used to judge a student's conduct prior to the imposition of discipline or suspension or expulsion from school.

We understand that, because of the varying requirements of the statute, some school districts could have interpreted A.R.S. § 15-843(B)(3) to apply only to the conduct of teachers in self-defense, defense of others, and defense of property. Nevertheless, we recommend that governing boards without rules specifying circumstances under which

¹ Pursuant to A.R.S. §§ 15-341(A)(1) (requiring the governing board to prescribe and enforce rules for the governance of the schools) and 15-341(A)(24) (requiring the governing board to prescribe and enforce disciplinary action against a teacher who violates policies of the board but which is not grounds for dismissal of the teacher or revocation of the teacher's certification), the governing board is free to prescribe rules and policies that authorize teachers and school staff to use reasonable physical force in self-defense, defense of others, and defense of property.

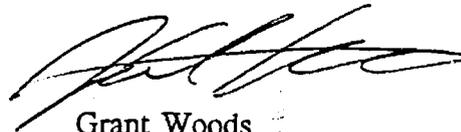
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students may use reasonable physical force in self-defense, defense of others, and defense of property adopt such rules according to the procedure prescribed in A.R.S. § 15-843(B).

Conclusion

Pursuant to A.R.S. § 15-843(B)(3), governing boards must adopt rules that establish procedures for the reasonable use of physical force in self-defense, defense of others, and defense of property for use in student discipline, suspension, or expulsion. Rules related to a teacher's use of self-defense, without also setting criteria for a student's use of reasonable force in self-defense, do not comply with the legislative directive in A.R.S. § 15-843(B)(3).

Sincerely,



Grant Woods
Attorney General