



LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Attorney General
1275 WEST WASHINGTON
Phoenix, Arizona 85007

Robert R. Corbin

March 7, 1984

Ms. Janis Sandler
Udall, Shumway, Blackhurst,
Allen, Lyons & Davis, P.C.
Attorneys at Law
30 West First Street
Mesa, AZ 85201

Re: I84- 032 (R83-176)

Dear Ms. Sandler:

We have reviewed your opinion dated November 28, 1983, to the Mesa Unified School District concerning student activities funds in which you responded to the following questions:

1. May a student organization participate in a joint project with a PTO or PTA organization to raise funds, dividing the proceeds between the two organizations, or must all funds which involve student efforts be allocated to student activities funds?

2. May student activities funds be used for activities such as an artist-in-residence or science camps which are entertainment but have educational overtones?

Your opinion is revised as follows:

With regard to the first question, we note initially that the statutes do not specifically address joint projects such as those addressed in your letter. We believe that the determination of whether a student organization can participate in a project with a non-student organization should be made by the school administration which should determine what proportion

Ms. Janis Sandler
March 7, 1984
Page 2

of the total project will consist of student efforts. As to money generated by such a project, A.R.S. § 15-1121 provides in part that "[a]ll monies raised . . . by the efforts of students in pursuance of or in connection with all activities of student organizations, clubs, school plays or other student entertainment other than [auxiliary operations funds] are student activities monies." Thus, of the total funds raised by a joint project, only these funds attributable to the efforts of the students are student activities funds. We therefore conclude that students and other groups may participate in joint projects with the proceeds being allocated proportionately between the two based upon the proportion of effort devoted by each participating organization.

With respect to the second question, A.R.S. §§ 15-1121 and 15-1122 do not limit the purpose for which the student activities funds may be spent. Students may therefore use the funds for educational activities or programs. Ariz. Atty. Gen. Ops. I83-030 and I58-13.

The Uniform System of Financial Records § VII-C-1(10) is consistent with our opinion. We believe that provision was intended only to prohibit student activities funds from being used to pay previously incurred district expenses and was not intended to prevent those funds from being used to supplement the educational programs of the district as long as that decision is made by the students without any coercion from district personnel.^{1/}

Sincerely,



BOB CORBIN
Attorney General

BC/VBW/pd

1. We note that statements you attributed to Ariz. Atty. Gen. Op. I82-054 were not made by the Attorney General, but were made in the opinion which we declined to review pursuant to A.R.S. § 15-253. In addition, Ariz. Atty. Gen. Op. 58-101 does not stand for the proposition that student activities funds may not be used for travel expenses for school personnel or for private parties. That opinion addresses the reimbursement of travel expenses of school superintendents and principals by the school district in light of A.R.S. § 15-444 (now A.R.S. § 15-342) which pertains to the power of governing boards to expend money for travel expenses.

LAW OFFICES

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P. C.

30 WEST FIRST STREET
MESA, ARIZONA 85201

TELEPHONE
AREA CODE 602
834-7200

DAVID K. UDALL
MERLE M. ALLEN, JR.
DALE R. SHUMWAY
DENNIS P. BLACKHURST
JOHN H. LYONS
CHARLES E. DAVIS
BARRY C. DICKERSON
STEVEN H. EVERTS
CLARK R. RICHTER
GREGORY L. MILES
PETER W. TAYLOR
JANIS SANDLER

December 8, 1983

R83- 176

Robert K. Corbin
Attorney General
1275 West Washington
Phoenix, Arizona 85007

Dear Mr. Corbin:

Our firm has been retained to provide legal services to the Mesa Unified School District #4 for the 1983-1984 fiscal year. Pursuant to that agreement, at the School District's request, we rendered the enclosed Opinion Letter, which we are at this time submitting to you for your review, under A.R.S. §15-253.B. If you have any questions to clarify this matter, please do not hesitate to contact the undersigned. Thank you very much for your anticipated cooperation.

Very truly yours,

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P.C.

By Janis Sandler

Janis Sandler

JRS:jv
Enclosure
cc: Cliff Nugent

LAW OFFICES

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P.C.

30 WEST FIRST STREET
MESA, ARIZONA 85201

TELEPHONE
AREA CODE 602
834-7200

DAVID K. UDALL
MERLE M. ALLEN, JR.
DALE R. SHUMWAY
DENNIS P. BLACKHURST
JOHN H. LYONS
CHARLES E. DAVIS
BARRY C. DICKERSON
STEVEN H. EVERTS
CLARK R. RICHTER
GREGORY L. MILES
PETER W. TAYLOR
JANIS SANDLER

November 28, 1983

Mr. Cliff Nugent
Internal Auditor
Mesa Public Schools
549 North Stapley Drive
Mesa, Arizona 85203

Re: Student Activities Funds

Dear Mr. Nugent:

This letter is written in response to your request for a legal opinion on the following questions:

1. May a student organization participate in a joint project with a PTO or PTA organization to raise funds, dividing the proceeds between the two organizations, or must all funds which involve student efforts be allocated to student activities funds?
2. May student activities funds be used for activities such as an artist-in-residence or science camps which are entertainment but have educational overtones?

It is our opinion that student organizations and PTOs or PTAs may participate in joint projects with the proceeds being allocated proportionately between the two groups based upon a negotiated percentage. Please see the body of this letter for further discussion of this issue.

It is our opinion that certain activities, which are essentially entertainment but have educational overtones, may be funded from student activities monies. Please refer to the body of this letter for discussion of this issue as it relates to the two specific examples cited above.

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Two

I. JOINT PROJECTS BETWEEN STUDENT ORGANIZATIONS AND PARENT-
TEACHER ORGANIZATIONS

A. Statutory Background and Attorney General Opinions

Student activities funds are regulated pursuant to
A.R.S. §§15-1121 et seq. [Formerly A.R.S. §§15-1271 et seq.]

A.R.S. §15-1121 defines student activities monies:

"All monies raised with the approval of the governing board of a school district by the efforts of students in pursuance of or in connection with all activities of student organizations, clubs, school plays or other student entertainment other than funds specified in §§15-1125 and 15-1126 are student activities monies."

Monies raised in connection with school bookstores and athletic activities are deemed to be auxiliary operations funds and are covered in §§15-1125 and 15-1126.

The Attorney General in Opinion No. I80-229 (R80-240) discusses the purpose of the above statutes:

". . . these statutes appear to define a fund of monies which are raised by students in connection with their activities and which therefore must involve student decision making with respect to their expenditures.

Thus, it appears that the purpose of these statutes is to permit limited participation of student organizations in decisions to expend monies raised by these organizations."

The opinion went on to conclude that District funds could be used to support student participation in a Student Council Convention and a model United Nations.

After approving the method of raising the funds, the District may provide guidelines on the dispersal of those funds,

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P. C.

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Three

but not dictate how they will be used. This concept is summarized in Attorney General Opinion No. 66-24-C:

"As pointed out in an Attorney General's Opinion in 1958, No. 58-13, a reading of the several sections of the law on student activities money indicates the legislature intended a certain autonomy for student activities funds. The opinion looks to the law of California regarding student activities. Quoting Volume 14, opinion of California Attorney General 210, the Opinion quotes as follows:

'We think it clear, however, that the above legislation indicates that student body organizations are to be treated as separate entities from School Districts. School Districts, through their governing boards, are to exercise a guiding control over them, but, save for certain approvals and general regulations, the organizations are comparably free to function and 'conduct activities on behalf of the students.'"

Attorney General Opinion No. 182-054 (R82-040) concluded that student activities funds could only be expended for activities of student organizations, clubs, school plays, or other student entertainment. The Opinion points out that the statute (A.R.S. §15-1121) has no provision which allows student activities funds to be donated to a non-student organization, and concludes that student activities funds cannot be used to support a lawsuit brought by a parental organization against the District governing board.

B. Joint Ventures with Parent-Teacher Organizations

The major issue confronting the District at this time appears to be: may the parent-teacher organizations and the student organizations both retain monies raised through joint

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P.C.

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Four

efforts? Since "student efforts" are involved, does this automatically relegate all funds raised by joint efforts to student activities funds?

Even though the statute states that all monies raised by the efforts of students in pursuant of or in connection with all activities of student organizations are student activities monies, it is our opinion that monies raised in conjunction with another organization, could be divided appropriately between the two groups, based upon a negotiated agreement which reflects the efforts expended by both groups. To contract with the parent-teacher organization to sell certain products is analogous to the same student organizations contracting with the manufacturer or distributor of a product, whereby the students are allowed to retain a certain percentage of the funds which they raise. Basically, the parent-teacher organization is becoming the middleman, and being compensated for the efforts expended, as opposed to receiving a gift from the student organization, which is prohibited.

In determining the proper apportionment, it is suggested that the student organization contract with the parent-teacher organization for a percentage of the monies raised which represents the students' efforts. Through this experience, the student organization should learn something about contract negotiations and arrive at a fair return for the efforts the students are expending. Any cost attributable to a joint project, should also probably be shared proportionately.

A suggested way of handling the funds which are raised, in order to prevent any comingling and to insure proper allocation and to avoid the appearance of a donation, would be to have the parent-teacher organization collect the funds and account for and distribute the funds collected. It is suggested that a volunteer accountant could be retained by the parent-teacher organization to handle the bookkeeping, to insure that the funds are properly distributed.

In this manner, the students would be rewarded for their efforts and the parent-teacher organizations would be allowed to raise funds in the manner of their choice, with appropriate reimbursement for their efforts.

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Five

The student organizations adult sponsor or supervisor would remain responsible for insuring that the funds were then received by the students and expended in an appropriate manner, as well as monitoring overreaching by a zealous parent-teacher organization. It would be wise to have the student organization receive a statement from the accountant reflecting his records. If the sponsor should ever feel that the parent-teacher organization was exploiting the students, appropriate measures should be taken. As discussed above, while the District may not exercise total control over the student activities monies, it may set reasonable guidelines.

II. THE PROPER USE OF STUDENT ACTIVITIES FUNDS

As pointed out in the above discussion of the Arizona statutes, the statutes appear to define a fund of monies which are raised by students in connection with their activities and their efforts, and which, therefore, must involve student decision-making with respect to their expenditures. Evidently, the statutes were enacted in response to Districts which had been telling the students how to spend the money that they raised or directing the monies into general District funds. Interpreting the language used in the statute, our Attorney General has recently concluded that student activities funds can only be expended for ". . . activities of student organizations, clubs, school plays, or other student entertainment." (I82-054)

The statute does not contain any direct language which indicates the purpose for which monies may be expended. However, two Attorney General Opinions provide the following guidelines: The funds may not be used for travel expenses for superintendents, principals, teachers or other private persons. (Aty.Gen.Op.No. 58-101); nor for attorney's fees incurred by a parent organization; but can be used for "student entertainment." (Aty.Gen.Op.No. I82-054) In addition, the Uniform System of Financial Records from the Arizona Department of Education states that student activities monies must not be used to defray any District expense. (U.S.F.R.VIII-C-1, No. 10) This has been interpreted by an official with the District to include instructional supplies and all other

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Six

expenditures that are normal to the education of the child. This has evidently lead to an unwritten guideline which could be described as education versus entertainment: it if has educational undertones it is prohibited, but if it is entertainment, it is allowed. Unfortunately, many of the proposed activities have characteristics which are both educational and entertaining, leaving the District with many unanswered questions.

It is suggested that perhaps a more functional guideline would be the following:

Student activity funds may be expended on an activity that is basically entertaining, not for credit, optional, extracurricular, and the funds are available on an equitable basis to all students for that activity.

Just because an educational benefit may also flow from the entertaining, non-credit, extracurricular activity, that co-existing educational benefit should not necessarily prohibit the proposed activity. Each factual situation should be thoroughly considered in its own right.

Unfortunately this is a gray area of the law, with a dearth of case law in the area, and only a few Attorney General Opinions which provide a few sketchy guidelines. Perhaps the following examples will provide some guidance.

One of the activities which has previously been funded by student activities funds and which is now in question is science camp trips. Applying the above guidelines, if the trips are extracurricular, not for credit, entirely optional, and the available funds would be allocated proportionately among all students who wish to participate, we feel there is no strong argument as to why student activities funds could not be used for this activity even though instruction is given during the trip.

We see this situation being very analagous to the factual situation addressed in Attorney General Opinion I80-229 (R82-240). In that Opinion, funds from auxiliary operations were allowed to be expended for any activity in which the

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Seven

District could expend school monies. Therefore, the question was raised whether the auxiliary operations monies could be used to support student participation in the Student Council Convention and a model United Nations. The Opinion described these as "student activities" in a broad sense, but did not prohibit District funds from being a source of funding for these activities. The Opinion concluded that just because A.R.S. §§15-1121 and 1122 addressed the funding of student activities, that did not make it improper for a School District governing board to expend other funds for the support of legitimate school-related student activities which were deemed to fulfill an educational function of the School District. The Opinion classified these two activities as being extra-curricular activities. The Opinion still expressed the belief that authority to expend school funds for non-credit extra-curricular activities is implicit in the District board's authority to maintain the schools and provide for the supervision of non-instructional activities for its students.

It is our understanding that an "artist-in-residence" program can vary from an occasional visit by an artist as a guest to a more complex situation wherein an artist stays in the District, perhaps in particular schools, and may even have a contract with the District. The word "artist" is also subject to many variations which may or may not be relevant. We suggest you apply each factual situation to the above guideline, set forth on page six of this letter. Obviously, the less the artist is entangled with the District per se, the more apt the program will be eligible for student funding. Without more specific facts, it is difficult to give a definite opinion about an "artist-in-residence" program. If a particular situation arises which you feel involves a close decision, please send us a statement of the facts, and we will be glad to give you our opinion.

If the District keeps the underlying statutory purpose in mind when formulating a policy and incorporates the proposed guideline, the District should be on solid ground when attempting to determine whether a certain activity could be funded from the student activities monies.

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Eight

III. FORMULATING A NEW POLICY

The current District policy appears to be ". . . if principals, teachers, staff and/or students at a school participate during normal school hours on school days on a fund raising project," then it is deemed to be a student activity project. We suggest it would be a good idea to update this policy which has evidently not been revised since 1979, incorporating some of the suggestions in this letter.

The District's policy appears to be a blending of two different, but related, principles:

1. The District does not feel it is appropriate for principals, teachers, staff or students to participate in any manner on a fund raising project during normal school hours.
2. Funds raised through students' efforts are student activities funds, as defined in A.R.S. §15-1121.

Number one seems to reflect a District policy that students and staff are at school during the normal school day to learn and perform their educational duties, and not to raise money. Number two appears to reflect the statutes discussed previously which defines student activities funds as those being raised through students' efforts.

The blending of the two ideas has evidently led to some confusion in the parent-teacher organizations as reflected in the memorandum circulated by Rick Fuller, President of the Crisman PTO. In a new policy statement, it might be wise to discuss the two principles separately, explaining their influence on the general policy statement. Through this method, the District can perhaps avoid confusion in the future, and have a more functional guideline for groups and the District to follow.

IV. SUMMARY

In light of the current confusion regarding the District's policy for student activities funds, it is suggested that the District revise and update its policy statement in this area.

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P. C.

Mr. Cliff Nugent
Mesa Public Schools
November 28, 1983
Page Nine

In order to clarify some of the confusion which has resulted from the previous policy statement, the new policy statement should probably address three different ideas or areas:

1. The use of faculty and students during normal school hours for fund raising projects is against school policy, because that is regarded as instructional/educational time.
2. The statutory background which defines student activities monies as being those raised through students' efforts.
3. Guideline to help determine what activities can be funded from student activities monies.

The District may wish to incorporate a section on joint fund raising projects between student organizations and the parent-teacher organizations. The District should be involved in that process through its student organization sponsor. The sponsor's function, among others, should be to insure that the students' efforts are being appropriately rewarded when parent-teacher organizations propose to compensate student efforts in their projects.

If the District focuses on the purpose of the statute, which is to allow students some autonomy with respect to funds raised through their efforts as opposed to the District, its employees, or outside groups dictating the use of those funds (whether the influence is overt or subtle), the District should be able to formulate a functional policy in the area of student activities monies.

We have attempted to address several of the issues which are currently facing the District with regard to student activities funds. If you have any questions, please feel free to call our office to discuss any of the points we have raised in this letter.

Very truly yours,

UDALL, SHUMWAY, BLACKHURST,
ALLEN, LYONS & DAVIS, P. C.

By Janis Sandler
Janis Sandler

JRS:jv