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ARIZONA ATTORNEY GENERAL

August 20, 1984

Michelle K. O'Hair
Deputy Navajo County Attorney
Navajo County Governmental Complex
Holbrook, Arizona 86025

Re: 184-113 (R84-122)

Dear Ms. O'Hair:

We have reviewed the opinions expressed in your memorandum of July 2, 1984, to Carol Cain, Navajo County Elections Director, concerning the applicability of A.R.S. § 38-541 *et seq.* to persons running for positions on a local school governing board.¹ We revise your opinion as follows.

As you note in your opinion, as a result of legislation which became effective August 3, 1984, all candidates for the office of school district governing board member must file a statement of contributions and expenditures with the County School Superintendent as provided by A.R.S. § 16-913. A.R.S. § 15-424.G. enacted by Ch. 59, § 3, 1984 Ariz. Sess. Laws (2nd Reg. Sess.)

A.R.S. § 38-542 requires that every public officer file with the Secretary of State a verified financial disclosure covering the preceding calendar year. However, that statute is inapplicable to the issues raised in your memorandum

1. It is our understanding that you have forwarded this memorandum to our office pursuant to A.R.S. § 15-253.B. since this opinion relates to "school matters".

Michelle K. O'Hair
August 20, 1984
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since a candidate for a school district governing board is not a "public officer" as defined by A.R.S. § 38-541.8 which is "a member of the legislature and any Judge of the Court of Appeals or the Superior Court, or a person holding an elective office the constituency of which embraces the entire geographical limits of this state ..." Even if persons running for positions on a local school governing board "hold elective office," they do not have "a constituency embracing the entire geographical limits of the State." See e.g. Armer v. Superior Ct. of Ariz., in & for Cty. of Pima, 112 Ariz. 478, 543 P.2d 1107 (1975).

As you pointed out in your opinion, after election to a local school governing board, each member is subject to the conflict of interest provisions of A.R.S. § 38-501 et seq. However, the exemptions applicable to school board members in A.R.S. § 38-503 should be noted.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:TLM:pd



Navajo County Attorney

July 2, 1984

R84- 122

DALE K. PATTON JR.
COUNTY ATTORNEY

MEMORANDUM

NAVAJO COUNTY ATTORNEY
OPINION #CAS-008

TO: CAROL CAIN
ELECTIONS DIRECTOR

FROM: MICHELLE K. O'HAIR *MO*
DEPUTY COUNTY ATTORNEY

RE: FINANCIAL DISCLOSURE STATEMENTS

The question presented is whether or not persons who run for positions on a school district governing board are subject to the financial disclosure requirements of A.R.S. §38-541 et seq. It is the opinion of this office that they are.

A.R.S. §38-542 A states that ". . . every public officer. . . shall file. . ." financial disclosure statements. Members of school district governing boards are public officers within the meaning of the statutes. See Op. Atty. Gen. No. 60-59. A.R.S. §38-101 defines "public officer" as "the incumbent of any office, member of any board or commission, or his deputy or assistant. . ."

"Office" is also defined in A.R.S. §38-101 as being any office, board or commission of the State, or any political subdivision thereof, the salary or compensation of the incumbent or members of which is paid from a fund raised by taxation or by public revenue."

School districts were first thought to be political subdivisions of the county. Sorensen v. Superior Court, 31 Ariz. 421, 254 P. 230 (1927). This interpretation could place board members under the mandates of A.R.S. §38-545, which, in essence, states that counties shall adopt standards of financial disclosure for local public officers consistent with A.R.S. §38-542. "Local public

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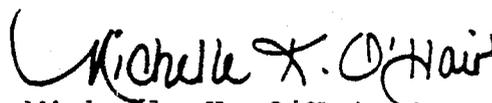
Carol Cain
Elections Director
July 2, 1984

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officer" is defined as "a person holding an elective office of an incorporated city or town or a county". A.R.S. §38-541(6).

However, a later decision entitled Amphitheater Unified School District #10 v. Harte, 128 Ariz. 233, 624 P.2d 1281 (1981) classified school districts as political subdivisions of the State. This classification clearly puts members of school district governing boards under the mandates of the financial disclosure requirements of A.R.S. §38-542.

As a matter of note, school district governing board members are subject to the conflict of interest statutes (A.R.S. §38-501 et seq.) and beginning August 3, 1984 will be required to submit statements of campaign contributions and expenditures after elections (A.R.S. §16-913).


Michelle K. O'Hair
Deputy County Attorney

MKO:m

cc: Mr. Jim Reidhead
Superintendent of Schools

Office of the Attorney General