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ARIZONA ATTORNEY GENERAL

January 22, 1985

The Honorable Robert J. McClendon
Arizona House of Representatives
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I85-008 (R84-206)

Dear Representative McClendon:

You have asked whether a county attorney may represent community college governing boards. For the reasons set forth below, we conclude that the pertinent Arizona law does not authorize county attorneys to represent community college districts.

The powers and duties of the county attorney are set forth in A.R.S. § 11-532. Nowhere in that statute is the county attorney expressly authorized to represent community college governing boards. We interpret this absence of express authority to mean that the legislature did not intend to allow the county attorney to represent community college districts.

It is a fundamental rule of statutory construction that we may not read something into a statute which is not within the manifest intention of the legislature as gathered from the statute itself. See e.g. State ex rel. Smith v. Bohannon, 101 Ariz. 520, 524, 421 P.2d 877 (1966). Similarly, a statute may not be extended to matters not falling within its express provisions. City of Phoenix v. Donofrio, 99 Ariz. 130, 133, 407 P.2d 91 (1965).

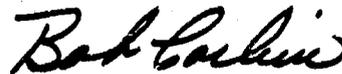
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college district governing board members and community college district finance involve the county school superintendent and the county board of supervisors, those statutes do not likewise authorize county attorney representation of the community college districts. See e.g. A.R.S. §§ 15-1403, 15-1441 et seq.

Finally, A.R.S. § 15-1444.A.5 provides that the community college district governing board may employ those persons it deems necessary. While this provision permits the board to retain in-house counsel, it does not empower the county attorney to represent the board.

This opinion overrules Ariz. Atty. Gen. Op. 63-36L which held that the county attorney represents junior college governing boards.

Sincerely,



BOB CORBIN
Attorney General

BC:SMS:kmc

Our conclusion is further supported by A.R.S. § 11-532.A.10 which expressly authorizes the county attorney to "[a]ct as attorney for school districts" ^{1/} "School district" is defined as a "political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools" A.R.S. § 15-101.15. The term "public schools" generally does not include community colleges. See e.g., Benvenue Parent-Teacher Ass'n v. Nash Co. Bd. of Ed., 167 S.E.2d 538, 541 (N.C. App. 1969), Alabama Ed. Ass'n v. Bd. of Trustees, Etc., 374 So.2d 258, 261 (1979). The fact that the legislature expressly authorized the county attorney to represent school districts, and failed to similarly authorize the county attorney to represent community college districts, is a further indication that the legislature did not intend to authorize the county attorney to represent the latter. We therefore conclude that although A.R.S. § 11-532.A.10 requires the county attorney to act as legal advisor of elementary, secondary and unified school districts in Arizona, there is no similar authority for the county attorney to represent community college districts.

We note that A.R.S. § 11-532.A.7 provides that the county attorney shall give his written opinion when required to county officers on matters relating to the duties of their offices. However, this provision in and of itself does not authorize the county attorney to represent community college districts because members of community college governing boards are not county officers. See A.R.S. § 11-401 which does not include members of a community college governing board among its list of county officers. A community college district is a separate entity from a county. Ariz. Atty. Gen. Op. 182-089. ^{2/}

While the pertinent statutes governing community college districts provide that the election of community

1. The legislature has distinguished between school districts, see A.R.S. § 15-441 et seq., and community college districts, see A.R.S. § 15-1401 et seq.

2. In fact, a community college district may be organized to include territory lying in more than one county. A.R.S. § 15-1402.A.