



Attorney General

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Phoenix, Arizona 85007

Robert K. Corbin

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ARIZONA ATTORNEY GENERAL

January 21, 1985

Jack Williams
Graham County Attorney
Graham County Courthouse
Safford, Arizona 85546

Re: I85-006 (R84-222)

Dear Mr. Williams:

Pursuant to A.R.S. § 15-253.B, we concur with the opinion expressed in your letter to Edd Hubbard, District Superintendent of the Pima Unified Schools, that a local school board member is not precluded from participating in an employment decision regarding a relative who is neither the spouse nor a dependent of the member.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN
Attorney General

BC/TLM/lsp

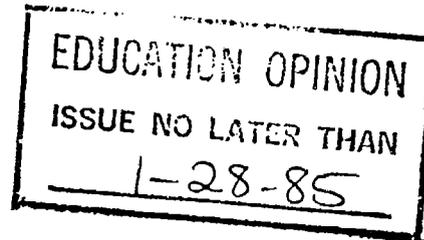
JACK WILLIAMS, COUNTY ATTORNEY
MARK S. BRYCE, DEPUTY

GRAHAM COUNTY ATTORNEY

GRAHAM COUNTY COURTHOUSE • (602) 428-3620 • SAFFORD, ARIZONA 85546



November 26, 1984



Edd Hubbard
District Superintendent
PIMA UNIFIED SCHOOLS
P.O. Box 429
Pima, Arizona 85543

R84- 222

Re: County Attorney's Opinion

Dear Mr. Hubbard,

You have inquired concerning the potential conflict of interest which may arise when a close relative of a school board member is employed by the district.

It is my opinion that a governing board member shall not vote on a specific item which concerns the appointment, employment or remuneration of a spouse, however, it is further my opinion that the employment of a close relative who is not a dependent of the board member does not preclude the board member from acting and does not create a conflict of interest.

By statute no person may hold membership on a governing board who is employed by the district or whose spouse is employed by the district, A.R.S. Section 15-421(D).

A governing board member shall not vote on a specific item which concerns the appointment, employment or remuneration of that member or a relative who is a spouse or a dependent as defined in the Income Tax Code, A.R.S. Sections 15-323 and 43-1001. Certain relatives who receive over half of their support from another person are defined as dependents in the tax code. Although under the general conflict of interest statute, A.R.S. Section 38-503, public officers who have a substantial interest in any contract, sale, purchase or service to the public agency they serve or whose relative has such a substantial interest, shall make known that interest in the official records of the agency and shall refrain from participating in any manner as an officer or employee in the decision. This requirement, however, does not apply to school board members when the relative involved is not a

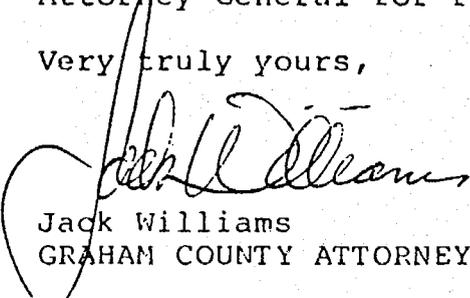
Edd Hubbard
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a dependent as defined in A.R.S. Section 43-1001 or a spouse, A.R.S. Section 38-502.10(H). When the relative involved is not a dependent or a spouse, the interest of the school board member is deemed to be a "remote interest" which does not bring into play the requirements of the conflict of interest statute.

Since I am not familiar with the legislative history of A.R.S. Section 38-502.10(H), I do not know whether that provision was in effect when Attorney General Opinions I82-106 and I82-084 were issued, however, to the extent my opinion is not consistent with those opinions, I believe that Subsection H distinguishes this opinion from those opinions. This is consistent with the provision in the education code concerning the voting eligibility of governing board members which prohibits voting only when the person who is receiving the benefit of the vote is a spouse or a dependent as defined in the tax code.

Pursuant to the provisions of A.R.S. Section 15-253(B), we are concurrently sending a copy of this opinion to the Attorney General for review.

Very truly yours,



Jack Williams
GRAHAM COUNTY ATTORNEY

JW:11

Copy: Attorney General
Josephine Bates, AEA