



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

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January 31, 1985

Mr. Gregory L. Miles
Udall, Shumway, Blackhurst,
Allen, Lyons & Dairs, P.C.
30 West 1st Street
Mesa, Arizona 85201

Re: I85-017 (R84-203)

Dear Mr. Miles:

Pursuant to A.R.S. § 15-253.B, we revise the opinions set forth in your letter to Mr. Roger Kruse, Chairman of the Board of Trustees of the Mesa Unified School District No. 4 Employee Benefit Trust addressing the propriety of a plan which would allow the District's self-insurance trust (trust) to pay premiums for non-trust insurance programs.

Specifically, the district has established a self-insurance trust under the provisions of A.R.S. § 15-382 which provides, in pertinent part, as follows:

A. The school district governing board may determine that self-insurance is necessary or desirable in the best interest of the district and may provide for a self-insurance program or programs for employee benefits for the district including risk management consultation. . . .

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C. If the school district governing board establishes a self-insurance program, the board shall place all funds into a trust to be used for payment of uninsured losses, claims, defense costs and other related expenses. . . .

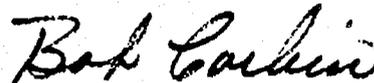
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E. "Self-insurance program" as used in this section means an employee benefit program or programs established and wholly or partially funded by the school district governing board. Self-insurance programs shall not include a decision by the board not to carry insurance upon a particular risk or risks.

The trust proposes a plan which would change the nature of the trust from merely a self-insurance program to an entire employee insurance benefit package. Thus, if an employee chooses to be insured by a program other than the trust, the trust proposes to pay the premiums for that non-trust program.

We do not think that the language of A.R.S. § 15-382 authorizes the trust to pay for premiums for non-trust insurance programs. Paragraph C allows trust funds to be used for payment of "uninsured losses, claims, defense costs or other related expenses." The term "or other expenses" as it is used in paragraph C must be interpreted in light of the words preceding it, under the statutory construction principle of ejusdem generis. State ex rel. Arizona Dep't of Revenue v. Magma Copper Co., 138 Ariz. 322, 674 P.2d 876 (App. 1983) (general words which follow the enumeration of particular classes of things should be construed as applicable only to persons or things of the same class as those enumerated). This term as it is used in paragraph C, thus, relates to expenses similar to the expense of a particular loss or claim. We do not think that the term "other expenses" may be expanded to also include the cost of premiums for a completely different insurance program. Self-insurance does not encompass a private insurance program.

Sincerely,



BOB CORBIN
Attorney General

R84- 203

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
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November 9, 1984

EDUCATION OPINION
ISSUE NO LATER THAN

Mr. Roger Kruse
Chairman of the Board of Trustees
Employee Benefit Trust
Mesa Unified School District No. 4
549 North Stapley Drive
Mesa, Arizona 85203

Re: Premium Payments From Benefit Trust Funds

Dear Mr. Kruse:

This letter is in response to your request for a legal opinion in relation to use of trust funds. You have related to us the facts set out below.

Mesa Public Schools has established a self-insurance trust under the provisions of A.R.S. Section 15-382. The trust offers alternative health insurance programs for school employees who elect not to participate in the trust's health benefits. For example, such employees may participate in health maintenance programs, such as CIGNA. Additionally, certain life insurance benefits are provided through commercial insurance companies.

The question you have asked is as follows:

Is the Trust authorized to pay such premiums to such outside insurance companies, with Trust funds, or must such premiums be paid directly through the County?

We conclude that the language of the statute permits payment of premiums to such insurers from Trust funds. The rationale which supports this conclusion is as follows.

Arizona Revised Statutes, Section 15-383.A authorizes school districts to "provide for a self-insurance program or programs for employee benefits. . . ." The statute continues and defines "self-insurance program" as "an employee benefit program or programs established and wholly or partially funded by the school district governing board." A.R.S. Section 15-383.E. By definition, funds of the district may be used to provide "employee benefits" through the Trust. The statute further explains how funds in the self-insurance program are to be held. In that regard it states:

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"If the school district governing board establishes its self-insurance program, the board shall place all funds into a trust to be used for payment of uninsured losses, claims, defense costs, and other related expenses." A.R.S. Section 15-383.C. (Emphasis added.)

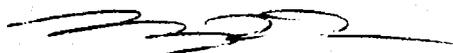
The Board is to place "all" funds into the Trust. The use of the word "all" indicates that funds shall pass through the Trust. The language plainly states that specific costs and expenses related to the self insurance program may be paid from the trust. Health maintenance programs and life insurance policies constitute legitimate "employee benefits." It follows that such premiums would necessarily be a "related expense" in providing such benefits.

Consequently, it is our opinion that it is appropriate for the district to deposit funds in the trust which the trust intends to use for payment of premiums to such insurance companies.

If you have any further questions, please do not hesitate to contact us.

Very truly yours,

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



Gregory L. Miles

GLM/jak