



# Attorney General

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Robert R. Corbin

September 25, 1987

The Honorable Peter Goudinoff  
Arizona State Representative  
State Capitol - House Wing  
Phoenix, Arizona 85007

Re: I87-115 (R87-064)

Dear Representative Goudinoff:

You have asked whether a university president may declare a school holiday. By example, you noted the University of Arizona's former observance of "Rodeo Day."

The Legislature is the sole Arizona governmental entity which is empowered to create a "legal holiday" as that term is defined under Arizona law.<sup>1/</sup> However, the Arizona Board of Regents is empowered to establish attendance days for students enrolled in Arizona's universities, and is empowered to establish the work days and paid days off for employees of those universities. A president of an Arizona university is not so empowered.

The Attorney General has opined previously that only the state Legislature has the authority in Arizona to declare a legal holiday. Ariz. Atty. Gen. Op. 186-062. A.A.C. R2-5-402 provides that state service employees may be paid for legal holidays while not working. The definition of state service employee is set forth in A.A.C. R2-5-101(50), which provides that "[s]tate service" means all agencies, officers, and employees subject to these Rules as provided by A.R.S.

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<sup>1/</sup>The legal significance of the declaration of a legal holiday, defined in A.R.S. § 1-301(A), is set forth in A.R.S. §§ 1-302 and 38-401, and in A.A.C. R2-5-402. The legal holidays established by the Legislature are set forth in A.A.C. R2-5-402(A).

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§ 41-762." State service employee is defined in A.R.S. § 41-762 to mean all employees of the state except those exempted by A.R.S. §§ 41-761 to -775. Employees of state universities are exempted specifically from the definition of state service employee by A.R.S. § 41-771(A)(5). See Ariz. Atty. Gen. Op. I81-123.

In Ariz. Atty. Gen. Op. I86-062, we concluded that the Governor is not empowered to declare a legal holiday on which state service employees shall be paid though not working on a day which the Legislature has not declared to be a holiday. Because university employees are exempt from the state service rules and statutes, that opinion does not control the determination of whether the Board of Regents may declare a university holiday limited to the effect of university employees receiving pay though not working on a particular day. While the Legislature has not granted the Governor authority regarding holidays for state service employees, it has empowered the Board of Regents to do so with respect to university employees and students.

The Legislature has empowered the Board of Regents to exercise general administrative power over state universities. The Board's statutory authority is set forth in A.R.S. § 15-1626 to -1637. A.R.S. § 15-1626(A) provides in part:

A. The board shall:

1. Enact ordinances for the government of the institutions under its jurisdiction.

. . . .

3. Determine the salaries of a president or presidents, vice-presidents, deans, professors, instructors, lecturers, fellows and such other officers and employees appointed and employed.

. . . .

6. Establish curriculums and designate courses at the several institutions which in its judgment will best serve the interests of this state.

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7. Award such degrees and diplomas upon the completion of such courses and curriculum requirements as it deems appropriate.

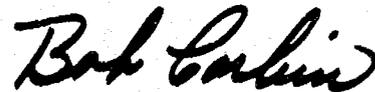
In addition to powers expressly delegated, the Board of Regents also has "such powers as may be reasonably implied for the purpose of effectuating its purposes." Arizona Board of Regents v. Harper, 108 Ariz. 223, 225, 495 P.2d 453, 455 (1972). Therefore, the Board's implicit powers include the authority to establish a school calendar and to set the attendance days required for a degree.

The Board has been given legislative authority to establish a curriculum and the days of attendance necessary to complete a degree program. This duty is nondelegable. Dixon v. Osman, 22 Ariz.App. 430, 528 P.2d 181 (1974).

Pursuant to A.R.S. § 15-1626(A)(3), the Board may determine if any employees shall be paid during days when they are not required to work. This determination is to be made pursuant to the Legislature's grant of authority to the Board and also is nondelegable. Dixon.

The Legislature has granted the Board of Regents, rather than the university president, the authority to establish student attendance requirements and employee work days at the state universities. Therefore, the Board may declare a "school holiday" such as "Rodeo Day."

Sincerely,



BOB CORBIN  
Attorney General

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