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November 1, 1985

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RE: I85-118 (R85-127)
(R85-129)

Dear Sirs:

We have received opinion letters from both of you addressing the statutory procedures required to establish a unified school district (kindergarten through twelve) whose geographic boundaries are coterminous with an existing common school district (Crane Elementary School District) and whose proposed geographic boundaries lie totally within an existing union high school district (Yuma Union High School District No. 70). An opinion letter has been received from John White, Deputy County Attorney, written to Hank Suverkrup, Yuma County School Superintendent, and an opinion letter from Robert J. Roberson, attorney, written to Dr. Robert L. Browne, Yuma Union High School District Superintendent. Since the letters addressed the same question, our review, pursuant to A.R.S. § 15-253(B), is consolidated into this single response. This office revises the opinion letter of John White and concurs with the opinion letter of Robert Roberson, for the reasons set out below.

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Before setting forth our analysis, we believe a brief statement of facts underlying the initial opinion requests will be useful. It is our understanding that the Yuma Union High School District No. 70 has four feeder common school districts including the Crane Elementary School District. The boundary of the Yuma Union High School District No. 70 encompasses all four of the common school districts. The Crane common school district has an assessed valuation in excess of two million dollars, and it has some 3,600 students attending kindergarten through eighth grade. Approximately 1,500 students who reside in the Crane common school district attend high school in the Yuma Union High School District No. 70.

We note that the Crane common school district is a creation of statute with designated geographic boundaries and administered by a school board elected by the citizens of the district. A.R.S. 15-101(7), A.R.S. § 15-101(15), A.R.S. § 15-321, A.R.S. § 15-421, and A.R.S. § 15-901(A)(4). The Yuma Union High School District No. 70 is also a statutorially created school district, with designated geographic boundaries and an elected school board. A.R.S. § 15-101(7), A.R.S. § 15-101(15), A.R.S. § 15-421, A.R.S. § 15-901(A)(12).

Some citizens of the Crane common school district seek to establish a unified school district with a high school district which would have the same boundaries as the Crane common school district. Therefore, the question arises as to the statutory procedures which must be followed to achieve this result.

In his opinion letter to Hank Suverkrup, Yuma County School Superintendent, John White opined that the applicable statute for the formation of a high school is A.R.S. § 15-444. Subsection A of A.R.S. § 15-444, on its face, would appear to set forth the required procedure:

A common school district having a student count of not less than two hundred pupils and an assessed valuation of not less than two million dollars may, by a majority vote of the qualified school electors of the school district, establish and maintain a high school.

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Robert Roberson relied upon A.R.S. § 15-458 which provides in pertinent part:

A. In a school district containing a student count of more than two hundred fifty, a new school district may be formed by a subdivision of the existing school district.

B. On the request of the governing board or on receipt of petitions bearing the signatures of ten per cent or more of the qualified electors in the area proposed to be a new school district and ten per cent or more of the qualified electors in the area proposed to continue as the existing school district, the county school superintendent shall within ten days call an election to determine if the existing school district should be divided and a new school district or districts formed. The petition shall state the proposed boundaries of the school district or districts to be formed together with the student count and the amount of real property valuation within the school district or districts to be formed. No new school district may be formed unless the state board of education determines that the real property valuation per student count is sufficient to support the school in a manner comparable to other school districts of similar size.

We construe A.R.S. § 15-444(A) to allow a common school district to establish a high school when it is not presently included within an existing high school district. A statute may not be interpreted in such a manner as to render it superfluous or meaningless. Continental Bank v. Ariz. Dept. of Revenue, 131 Ariz. 6, 638 P.2d 228 (App. 1981). If the intent of A.R.S. § 15-444(A) is to permit the creation of a high school district in an existing high school district, then A.R.S. § 15-458 would be superfluous. We do not believe this was the intent of the legislature.

The legislature, in A.R.S. § 15-441(A), has expressed its intent that existing school districts shall continue in existence:

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The bases of the educational organization of the county and state are the school districts as defined in § 15-101. Existing districts shall be continued, and new districts may be formed as provided in this title.

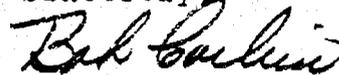
The language, "new districts may be formed as provided in this title," in our opinion, must reference A.R.S. § 15-458, given the fact situation presented herein. As noted above, A.R.S. § 15-458 sets forth the procedures for subdivision of an existing school district resulting in the creation of a new district. It is our understanding that several common school districts exist within the state which are not within the boundaries of a high school district and thus the necessity for A.R.S. § 15-444(A).

If the strictures of A.R.S. § 15-458 are met, the newly created high school district can be consolidated with the existing Crane common school district to form a unified district if the petition, election and other procedures set forth in A.R.S. § 15-459 are met.

Questions related to assets and liabilities and bonded indebtedness divisions between the existing and newly created high school district, as well as the need for the involvement of other common school districts, are matters addressed in A.R.S. § 15-458 and therefore, we will not comment on those questions directed to these concerns, which have been adequately covered in Robert Roberson's opinion letter.

In conclusion, if the goal is to create a district comprising both a common school and a high school in one unified school district, where the common school lies within the boundaries of an existing high school, the subdivision procedures of A.R.S. § 15-458 must be followed. After the high school district is formed, then it can be consolidated with the common school district to form a unified school district pursuant to A.R.S. § 15-459.

Sincerely,



BOB CORBIN
Attorney General