

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

February 29, 1988

The Honorable Joe Albo, Jr.
Gila County Attorney
1400 E. Ash Street
Globe, Arizona 85501

Re: I88-033 (R88-006)

Dear Mr. Albo:

We have reviewed your December 29, 1987 opinion addressed to the Superintendent of the Pine Elementary School concerning the appropriate manner in which to deal with a potential conflict of interest. Pursuant to A.R.S. § 15-253(B), we revise that opinion.

The clerk of a school district governing board recently obtained her realtor's license and now works part time for a realty company owned by a first grade teacher. The question is to what extent Arizona's conflict of interest statutes prohibit the clerk, who is a voting member of the school district governing board, from taking part in board decisions that would impact on her part time employer, the first grade teacher.

A.R.S. § 38-503 prohibits a member of a governing board from voting on a contract, sale or purchase in which the member or member's relative would have a substantial interest. A.R.S. § 38-502 defines substantial interest as "any pecuniary or proprietary interest, either direct or indirect, other than a remote interest." A remote interest includes "[t]hat of a public officer or employee, . . . unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee" of another political subdivision or a public agency thereof, or a public agency other than the same governmental entity. Accordingly, only if the school district governing board were considering the purchase of realty, or a contract with the realty company with which the governing board member is employed, would the member be required

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to abstain from voting and otherwise comply with A.R.S.
§ 38-503. See also, A.R.S. §§ 38-504(C), 38-509 and 38-510.

We agree with your conclusion that the board member would have no conflict in voting whether to approve the first grade teacher's annual contract renewal, assuming it is based upon predetermined salary steps concerning which no discretion is exercised by the board.

Sincerely,



BOB CORBIN
Attorney General

BC:JDR:txc



EDUCATION OPINION

ISSUE NO LATER THAN

2-29-88

Gila County Attorney

1400 E. ASH STREET

Globe, Arizona 85501

(602) 425-3231
EXT. 298

Joe Albo Jr.

OPINION

TO: Sue N. Myers, Superintendent
Pine Elementary School

FROM: Candyce B. Pardee
Deputy County Attorney

RE: Conflict of Interest

DATE: December 29, 1987

88 - 006

Martin
1-7-88

You requested an opinion as to whether Karen Randall, the Clerk of the Governing Board, has a conflict of interest since she is working for Bishop Realty which is owned by Andrea Bishop, a first grade teacher. The conflict of interest statutes are found in A.R.S. Sec. 38-501 et seq. A.R.S.-504 (A) provides that "no public officer...may represent another person for compensation before a public agency by which he is or was employed within the preceding twelve months or which he served within the preceding twelve months concerning any matter with which such officer or employee was directly concerned and in which he personally participated during his employment or service by a substantial and material exercise of administrative discretion." This section would exclude Ms. Randall from representing Ms. Bishop during salary deliberations. There would not be any conflict of interest, however, in Ms. Randall approving Ms. Bishop's contract along with those of all other teachers on predetermined salary step in which there would be no discretionary decision making needed.

A.R.S. Sec. 38-503 provides that a public officer who has a substantial interest in a contract sale, purchase, or service to the public agency must make that interest known in the official records of the public agency and shall refrain from voting or otherwise participating in any manner on such a contract sale or purchase. If therefore, the school district decided to purchase property being sold by Bishop Realty, Ms. Randall would have to refrain from voting upon that matter and would have to put the nature of her conflict in the record. The decision to purchase property from Bishop Realty, or perhaps to use Bishop Realty for appraisal purposes, etc. would have to be made only after a competitive bidding process.

A copy of this opinion is being sent to the Attorney General for his review pursuant to A.R.S. Sec. 15-253. If no action is taken by that office within 60 days, the opinion will be deemed confirmed.

Candyce B. Pardee



PINE ELEMENTARY SCHOOL

DISTRICT 12

P.O. BOX 1150 PINE, ARIZONA 85544 476-3283

October 21, 1987

Candyce C. Pardee
Deputy County Attorney
1400 E. Ash St.
Globe, Az. 85501

Dear Candy:

Do I have a question for you!

Karen Randall, Governing Board Clerk, has recently passed her Real Estate exam and is working for Bishop Realty, owned by Andrea Bishop, 1st grade teacher.

Question: Is there a conflict of interest? What about salary deliberations?

We've tossed this question around at the Law Conference and with Max Jarrett. Now to you for a definite answer!

Thanks!

Sincerely,

Sue N. Myers,
Superintendent

SNM:dr

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