

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert H. Corbin

December 26, 1986

Mr. Robert J. Roberson  
Roberson & Shelley  
210 Second Avenue  
P.O. Box 749  
Yuma, Arizona 85364-0132

Re: I86-120 (R86-145)

Dear Mr. Roberson:

Pursuant to A.R.S. § 15-253(B), this office has reviewed the opinion expressed in your September 30, 1986 letter to Dr. Robert Browne, Superintendent of the Yuma Union High School District in which you conclude that A.R.S. § 15-342(7), governing sales of school property, authorizes a school district to exchange school property with the Arizona State Board of Directors for Community Colleges without an election upon a determination that the school property is required by the State for a public purpose and the exchange will not affect the normal operations of a school within the school district. We revise your opinion as follows:

Because an exchange of school property is both a purchase and a sale, the purchase aspect of the exchange is subject to approval by a vote of the school district electors, except when the property to be acquired is a school site that is included in a plan for the use of the reserve of the capital outlay fund and within the cost limitations of A.R.S. § 15-341(A)(11). See Ariz. Atty. Gen. Op. 186-119.

We note, moreover, that the Arizona State Board of Directors for Community Colleges ("State Board") is not authorized at this time to make the contemplated exchange. The United States of America holds title to the real property sought

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by the District. The United States has dedicated the property to the State Board for the use of the colleges under the jurisdiction of the State Board. Before an exchange may be effected, the United States must take whatever action may be necessary to permit the State Board to make an exchange.

Sincerely,

*Jessia Funkhouser*  
for BOB CORBIN  
Attorney General

BC:FWS:JGF:gm

Roberson & Shelley

LAWYERS

210 SECOND AVENUE

P. O. BOX 749

YUMA, ARIZONA 85364-0132

ROBERT J. ROBERSON  
ERROL F. SHELLEY

TELEPHONE  
(602) 782-3897

September 30, 1986

186-245  
10-10-86  
Martin

Dr. Robert Browne  
Superintendent  
Yuma Union High School District  
3150 Avenue A  
Yuma, Arizona 85364

EDUCATION OPINION

ISSUE NO LATER THAN

December 9, 1986

Re: Fourth High School Site

Dear Dr. Browne:

As I understand the situation, Yuma Union High School District No. 70 presently has a school site west of town on which the third high school is being built. This site has more land than is necessary for the third school. The District is interested in planning ahead and desires to obtain land east of town as a future site for a fourth campus. Land is available which is presently dedicated to the State Board of Directors for Community Colleges near Arizona Western College. Arizona Western College, a State Community College, desires to obtain a site west of town for a satellite campus. The question presented is can the District transfer 15 acres of land from the west site to the State Board in exchange for land on the east side of town without an election. It is my opinion it can.

Arizona Revised Statutes 15-342(7) permits the District to sell to the state, which includes the State Board of Directors for Community Colleges, any school property provided the sale will not affect the normal operations of a school within the District. It has already been determined that the sale of the land by the District will not affect the operation of a school. Since the land is being transferred to the State Board of Directors for the purpose of building a community college, the requirement that the transfer be for a public purpose is met. There is no requirement that a "sell" be made for cash and there is no prohibition that would prevent the District from receiving land in payment for the land sold.

It is my opinion that the above subsection, being specific in its language, controls over subsection 10 which would require an election to sell school property. Subsection 10 applies to the sale of property to entities other than the state, city or county.

Building the fourth school is another matter. A.R.S. 15-341 requires the approval of the voters to construct school buildings. Therefore, even though the District can acquire the land without an election, an election would be required before the District could start construction of the fourth school.

If you have any further questions concerning this issue please contact me.

A copy of this opinion is being forwarded to the Attorney General for his review.

Sincerely,

ROBERSON & SHELLEY, LAWYERS



ROBERT J. ROBERSON