



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert E. Corbin

February 14, 1989

A. Dean Pickett
Mangum, Wall, Stoops & Warden
222 East Birch Street
P.O. Box 10
Flagstaff, Arizona 86002

Re: I89-017 (R88-138)

Dear Mr. Pickett:

Pursuant to A.R.S. § 15-253(B), we have reviewed the opinion expressed in your December 7, 1988 letter to John L. Vest, Superintendent of Grand Canyon School District. We concur with your conclusion that a local school district generally lacks authority to allow the substitution of a passing score on a nationally standardized achievement test for the completion of a course of study as defined and prescribed by Title 15 and A.A.C. R7-2-302 to -302.02. We also concur that a local school district, however, may accept the transfer of completed course credits from public and private schools if a student demonstrates a passing knowledge of the subject when tested by the nationally standardized achievement test^{1/} and a maximum of 4 credits earned through qualified correspondence courses.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN
Attorney General

BC:LSP:bl

^{1/}Ariz. Att'y Gen. Op. 188-079

MANGUM, WALL, STOOPS & WARDEN
ATTORNEYS AT LAW

DANIEL J. STOOPS
ROBERT W. WARDEN
A. DEAN PICKETT
ROBERT B. VAN WYCK
STEPHEN K. SMITH
ANN L. KIRKPATRICK
PAUL L. BRINKMANN
CHARLES H. APT III
KATHLEEN O'BRIEN

OF COUNSEL
H. KARL MANGUM
DOUGLAS J. WALL

888-138

Paul

222 EAST BIRCH AVENUE
P. O. BOX 10
FLAGSTAFF, ARIZONA 86002
(502) 779-6951

December 7, 1988

Mr. John L. Vest, Superintendent
Grand Canyon School District
P. O. Box 519
Grand Canyon, Arizona 86023

Re: Opinion Request Concerning Alternative
Credit for High School Graduation

Dear Mr. Vest:

You have requested this firm's opinion in answer to the following questions:

May the Governing Board of the School District permit the award of credit toward high school graduation on a basis other than completion of actual academic coursework?

If the answer to the first inquiry is yes, that the second question is:

If so, upon what basis may the Governing Board authorize such credit?

As the following discussion will demonstrate, it is our opinion that no such alternative method exists.

We begin the discussion with review of an informal Attorney General's Opinion, No. 77-124, which by its terms was a concurrence with "no precedential value" concerning a opinion of the Yavapai County Attorney's Office dated May 13, 1977. Among several subjects discussed in the County Attorney's opinion was whether the Governing Board of a local school district could utilize Standardized Achievement Tests in the determination of credits granted toward high school graduation. The County Attorney, while cautioning against the ramifications of such an alternative procedure, concluded as follows:

MANGUM, WALL, STOOPS & WARDEN

Mr. John L. Vest, Superintendent
December 7, 1988
Page Two

So while the State course of study sets forth minimum course requirements and an equivalent graduation requirement in terms of the units to be awarded to those courses, the question of what level of performance will earn the granting of credits and also how that level of performance is to be measured is solely the duty of the [local school district governing] board to determine.

We begin with this reference to the 1977 Opinion in order to demonstrate how intervening legislation has, in our view, changed this result substantially.

In 1983, the Arizona Legislature enacted Chapter 325 of its Session Laws of the first regular session of the 36th Legislature. The title of that Chapter indicated that the bill related to, among other things, "prescribing duties of the State Board of Education and school district governing boards to prescribe courses of study, competency requirements and criteria for the ... graduation of ... high school pupils."

The text of Chapter 325, as pertinent to this inquiry, remains unchanged since 1983. Among other amendments, Chapter 325 enacted the following provisions:

Amendments to A.R.S. 15-203 concerning powers and duties of the State Board of Education:

A. The State Board of Education shall:

...
Prescribe a minimum course of study and competency requirements for the graduation of pupils from high school.
[Emphasis added]

Amendments to A.R.S. 15-341.A concerning the powers and duties of the local school district governing board:

A. The Governing Board shall:

...
7. Prescribe the course of study, subject to approval by the State Board

Mr. John L. Vest, Superintendent
December 7, 1988
Page Three

of Education, and course of study and competency requirements and criteria for the ... graduation of pupils as provided in [§]15-701.01. [Emphasis added]

Section 15-701.01 likewise remains unchanged since 1983 with respect to the subject matter of this inquiry. It provides at Subsection A as follows:

Prior to the 1984-1985 school year, the State Board of Education shall prescribe minimum course of study and competency requirements for the graduation of pupils from high school. Prior to the 1986-1987 school year, the governing board of a school district shall prescribe course of study and competency requirements for the graduation of pupils from the high schools in the school district. The governing board may prescribe course of study and competency requirements for the graduation of pupils from high school which are in addition to or higher than the course of study and competency requirements which the State Board prescribes. [Emphasis added]

The final sentence of the preceding quotation was the subject of Attorney General's Opinion 185-065, which this law firm originated for your school district, and in which the Attorney General concurred that your Governing Board could adopt higher standards than the minimum prescribed by the State Board of Education for high school graduation in English and mathematics, with caution being exercised to assure ample notice to enrolled students of such new graduation requirements, and further caution to assure that no discrimination against minorities or handicapped students would occur.

In fulfillment of this mandate, the State Board of Education has adopted certain specific rules, including R7-2-302.01 which prescribes the minimum credits for graduation for high school graduating classes of 1987, 1988, 1989 and 1990. This rule provides as follows:

Mr. John L. Vest, Superintendent
December 7, 1988
Page Four

"The [State Board of Education] establishes 20 credits as the minimum number of credits necessary for high school graduation, effective for the graduating class of 1987, as follows:

1. Four credits of English to include: grammar; speaking, writing, and reading skills; advanced grammar; composition; American literature; advanced composition; research methods and skills; literature.

2. Two credits of instruction in the essentials, sources and history of the constitutions of the United States and Arizona and instruction in American institutions and ideals in the history of Arizona.

3. One-half credit of "Essentials and Benefits of the Free Enterprise System". This one-half credit may be offered in a department which the local district deems appropriate.

4. Two credits of mathematics.

5. Two credits of science.

6. Nine and one-half credits of additional courses prescribed by the local Governing Board. [Emphasis added]

The State Board has also established a separate rule, R7-2-302.02, establishing slightly enhanced graduation requirements effective for the graduation class of 1991. For that graduating class and later ones, in addition to slight modifications in the above curriculum standards, the State Board recognizes at Subparagraph B as follows:

Credits earned through correspondence courses to meet graduation requirements are subject to the following restrictions: They shall be taken from a regularly accredited institution accredited by

John L. Vest, Superintendent
December 7, 1988
Page Five

an association listed in R7-2-601.G.2 [which includes institutions which are "listed as accredited in the current American Association of Collegiate Registrars and Admissions Officers Report"]. Credits earned thereby shall be limited to four, and only one credit may be earned in each area specified in Subsection A of this Rule [which includes English, constitutional studies, world history/geography, free enterprise, mathematics, science, and additional courses as separate areas].

All of this study must be tempered by the definitions of "course" and "course of study" which both were introduced in the 1983 provisions of Chapter 325. These definitions are found in A.R.S. 15-101, as follows:

...

4. "Course" means organized subject matter in which instruction is offered within a given period of time and for which credit toward promotion, graduation or certification is usually given. A course consists of knowledge selected from a subject for instructional purposes in the schools.

5. "Course of study" means a list of required and optional subjects to be taught in the schools.
[Emphasis added]

These definitions are critical because the charge to the State Board of Education in Section 15-203 is to "prescribe minimum course of study ... requirements for the graduation of pupils from high school (Section 15-203.A.16), which nearly mirrors the charge to the local governing board in Section 15-341.A.7 to prescribe ... course of study ... requirements and criteria for the ... graduation of pupils", and the overall requirements of Section 15-701.01 which mirror these prior requirements in requiring the State Board of Education to "prescribe minimum course of study ... requirements for the graduation of pupils from high school", and require local governing boards to "prescribe course of study ... requirements for the graduation of pupils from the high schools in the school district."

Mr. John L. Vest, Superintendent
December 7, 1988
Page Six

This same theme is thus carried through in the State Board of Education regulations where specific minimum credits for graduation are found, and include in Section R7-2-302.01.6 the requirement of "nine and one-half credits of additional courses prescribed by the local governing board."

This leads to the conclusion that Arizona law now requires the completion of a course of study, defined as "subjects to be taught in the schools" (Section 15-101.5) in order to achieve high school graduation. In Arizona, it is not now permissible for a local school district governing board to accept alternative means to achieve credit, short of completion of actual courses as taught in the individual school district's high schools or courses accepted for transfer credit, in order to receive a high school diploma. The acceptance of transfer credit for courses actually taken in other schools is addressed in Op. Atty. Gen. 188-079, which is discussed in greater detail below. It concludes that boards, in determining whether to accept transfer credit, must employ a "reasonable basis," which includes "appraisal of the course content and the quality of teaching." In the case of correspondence credit, this same standard would apply, subject to the further requirements of A.C.R.R. R7-2-302.02 for members of the 1991 and later graduating classes, as discussed above.

What alternatives might be offered, and why could they not be accepted? First, parents could offer to have their children who have not completed the minimum requisite course of study take the nationally standardized norm-referenced achievement test adopted by the State Board of Education, in hopes that sufficiently high scores on the test could exempt the students from actual coursework. A.R.S. §15-745 requires the governing board of a local district on the parents or custodians request, where the student is being taught at home, to administer such achievement tests. However, neither this Section nor any other provision of Arizona law says specifically or infers that grades on such tests may serve as a substitute for a course of study.

Could parents offer as a substitute for credit the completion of instruction at home pursuant to A.R.S. §15-802.B.1? Again, the answer is no. This alternative to the general requirement of public school attendance is by its own

MANGUM, WALL, STOOPS & WARDEN

Mr. John L. Vest, Superintendent
December 7, 1988
Page Seven

terms intended not as a substitute for completion of a "course of study" leading to graduation, but rather as an alternative to the mandatory duty of parents or custodians to assure that their children attend school full-time between the ages of 8 and 16. By its own terms, the statute makes no reference to substitutes for a course of study leading to graduation, but specifically provides that home instruction is one of the nine reasons a person may be "excused from the duty prescribed by Subsection A of this Section" [to assure school attendance] if it is shown to the satisfaction of the County School Superintendent that the student is being provided a home instruction program as prescribed there. It thus serves as a defense to criminal prosecution for failure to send the children to school under Section 15-302.C rather than as a basis for substitute credit leading to a high school diploma and graduation.

With the general principle ever present in these inquiries that school boards have only the authority granted by statute, which authority must be exercised in a manner permitted by such statutes, Campbell v. Harris, 131 Ariz. 109, 638 P.2d 1355 (App. 1981), it is our opinion that a local school district governing board is without authority to permit any substitute for the completion of a course of study as generally prescribed by the State Board of Education in R7-2-302.01 (or for students who would graduate in 1991 or later, R7-2-302.02) in determining whether to award a high school diploma and permit the graduation of pupils enrolled in the school district.

Specifically, neither the completion of home instruction pursuant to A.R.S. §15-802.B.1, nor the achievement of any particular score on Standardized National Achievement tests, would permit such an award of credit and ultimately a diploma in lieu of completion of a course of study.

We would add that, of course, the high school certificate of equivalency would be available to any student who could pass the general educational development test described in A.R.S. §15-702, without regard to the completion of coursework as discussed above.

Finally, mention should be made of Op. Atty. Gen. 188-079. In that opinion the Attorney General stated that "if a student demonstrates a passing knowledge of a subject tested by

MANGUM, WALL, STOOPS & WARDEN

Mr. John L. Vest, Superintendent
December 7, 1988
Page Eight

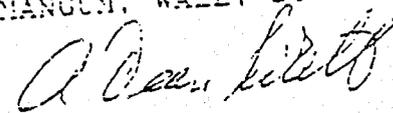
the nationally standardized norm-referenced achievement test the child should receive credit for that subject." Examination of the opinion of the Gila County Attorney which led to the Attorney General's Opinion discloses that the students in question had in fact completed courses in a private school which were tested on the achievement tests. We believe that the opinion was premised on the underlying assumption that prior coursework had been completed, and that the use of the standardized achievements tests was approved as a means to measure the competency of pupils who had completed the prior coursework. We do not believe the opinion stands for the proposition that a satisfactory score on the achievement tests may dispense with the need for completion of a course of study as prescribed in the statutes discussed above.

We are forwarding this opinion to the Attorney General for his review, concurrence or revision pursuant to A.R.S. §15-281.

Please contact us if we can be of any further assistance in this inquiry.

Very truly yours,

MANGUM, WALL, STOOPS & WARDEN



A. Dean Pickett

ADP:sc

cc: Bob Corbin, Esq.