

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by JANET NAPOLITANO ATTORNEY GENERAL April 17, 2002	No. I02-005 (R02-011) Re: School Facilities Board Jurisdiction Regarding Accommodation Schools; School Facilities Board Funding to Eliminate Debt
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TO: Dr. Philip E. Geiger, Executive Director
Arizona School Facilities Board

Questions Presented

You have asked the following questions regarding the role of the School Facilities Board (“SFB”):

1. Are accommodation schools within the SFB’s jurisdiction; *i.e.*, is the SFB responsible for providing monies from Students FIRST funds to accommodation schools for their facilities?
2. Can the SFB use monies from the New School Facilities Fund facilities to eliminate the outstanding balance on a lease-purchase agreement entered into by a school district for an existing facility?

Summary Answers

1. Because accommodation schools fall within the definition of a “school district,” the SFB is responsible for providing Students FIRST funds for the renovation, repair and construction of accommodation school facilities.

2. Section 15-2041, Arizona Revised Statutes (“A.R.S.”), which governs the New School Facilities Fund, does not authorize the SFB to distribute monies from the Fund to pay off the outstanding balance of a debt on an existing facility.

Background

The SFB is charged with establishing minimum adequacy standards for school facilities and distributing funds from three different sources to: (1) bring existing facilities up to standards (the Deficiencies Correction Fund); (2) maintain all facilities at the adequacy level (the Building Renewal Fund); and (3) construct new facilities for growing school districts (the New School Facilities Fund). A.R.S. §§ 15-2021 through -2041.

An “accommodation school” is a school that is operated through the county board of supervisors and the county school superintendent and that serves a military reservation or territory which is not included within the boundaries of a school district. A.R.S. § 15-101(1)(a). A school that provides educational services to homeless children or alternative education programs as provided in A.R.S. § 15-308(B) may also be an “accommodation school.” A.R.S. § 15-101(1)(b).

According to your opinion request, the Maricopa County Regional School District (the “District”) is the accommodation district for Maricopa County, and it operates the Thomas J. Pappas School. In August 1996, the District entered into a lease-purchase agreement with the Maricopa County Public Finance Corporation to finance the building of the Pappas School. The agreement currently has an outstanding balance of approximately \$2 million. The District has asked the SFB to provide it with the necessary funds to pay off the outstanding balance on the lease-purchase agreement, thereby allowing the District to purchase the school facility.

Analysis

A. The SFB's Jurisdiction Extends to Accommodation Schools.

An administrative agency has no powers except those expressly conferred or necessarily implied in the statutes governing the agency. *Pressley v. Indus. Comm'n*, 73 Ariz. 22, 31, 236 P.2d 1011, 1017 (1951). The statutes governing the SFB clearly limit the SFB's authority to overseeing and providing funding for the facilities of school districts. *See e.g.*, A.R.S. §§ 15-2021 (the SFB shall use the monies in the Deficiencies Correction Fund to correct existing deficiencies in school districts); -2031 (the SFB shall distribute monies in the Building Renewal Fund to school districts "for the purpose of maintaining the adequacy of existing school facilities"); -2041 (the SFB shall distribute monies in the New School Facilities Fund to school districts for the purpose of constructing new school facilities). The Legislature defined the SFB's mission as follows:

The purpose of the school facilities board is to evaluate the school capital needs of *school districts* and to distribute monies to *school districts* in order to cure existing deficiencies, for building renewal and for the construction of new facilities.

1998 Ariz. Sess. Laws, 3d Spec. Sess., ch. 1, § 7 (emphasis added).

A "school district" is "a political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools or *an accommodation school*." A.R.S. § 15-101(20) (emphasis added). Thus, because the SFB is responsible for providing monies to school districts for the renovation, repair and construction of school district facilities, and because accommodations schools are school districts, the SFB is responsible for providing funding from the Students FIRST funds for the renovation, repair and construction of accommodation school facilities.

B. The SFB Cannot Use the New School Facilities Fund to Pay-Off Prior Debts of School Districts.

Section 15-2041, A.R.S., enumerates the exclusive purposes for which the SFB may distribute monies from the New School Facilities Fund. Pursuant to that statute, the SFB may distribute New School Facilities Fund monies only for constructing new school facilities and for acquiring land for new schools either through purchase or long-term lease. A.R.S. § 15-2041(C), (F). There are no provisions in A.R.S. §15-2041 or any other law that authorize the SFB to distribute monies from the New School Facilities Fund to pay off the outstanding balance of a debt on an existing school facility. Because the SFB cannot exercise powers that are not conferred upon it by law, it does not have the authority to pay off the outstanding balance on a lease purchase agreement with monies from the New Schools Facilities Fund. *See Pressley, 73 Ariz. at 31, 236 P.2d at 1017.*

Conclusion

The SFB is responsible for providing monies to school districts for the renovation, repair and construction of school district facilities. Because accommodation schools fall within the definition of a “school district,” the SFB’s statutory responsibilities over school facilities extend to accommodation school facilities. However, there are no provisions in A.R.S. § 15-2041 that would authorize the SFB to distribute monies from the New School Facilities Fund to pay off the outstanding balance of a debt on an existing facility.

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