

SUMMARIES OF ATTORNEY GENERAL OPINIONS

The following Attorney General opinions were filed with the Secretary of State’s Office between July 1 and December 31, 2003. For copies of these opinions, call (602) 542-5025 or view them online at the Attorney General’s web site:

<http://www.attorneygeneral.state.az.us/opinions/2003.html>.

Opinion Number	Date of opinion	Opinion summary
I03-001	July 21, 2003	<p><b>Guidelines Governing Waivers from English Immersion Programs:</b> A.R.S. § 15-765(B) authorizes the Department of Education to develop guidelines for monitoring public schools to ensure compliance with state and federal laws governing English language learners. Those portions of the guidelines that address the requirements for waivers under A.R.S. § 15-753(B)(2) and (3) are consistent with this statutory authority.</p> <p>Any guidelines for monitoring issued by the Superintendent that concern waivers under A.R.S. § 15-753(B)(1) must be consistent with testing requirements that the Board adopts under A.R.S. § 15-756(A)(1) and with the requirements in A.R.S. § 15-753(B)(1) regarding scores on the relevant tests. The Board must determine which standardized tests or other procedures are used to determine English proficiency. In addition, the minimum test scores for a (B)(1) waiver, although an appropriate subject for monitoring guidelines, must be supported by facts that establish that the scores are the average for students at the appropriate grade level, as required by statute.</p>
I03-002	July 25, 2003	<p><b>Application of Proposition 203 to Charter Schools:</b> Charter schools are not subject to the requirements of Proposition 203 unless a school’s charter provides otherwise.</p>
I03-003	July 30, 2003	<p><b>Campaign Finance Law:</b></p> <ol style="list-style-type: none"><li>1. Arizona Revised Statutes § 16-901.01, which contains the definition of “expressly advocates,” does not apply to news media interviews or appearances on news-oriented radio or television programs. News media appearances and interviews do not constitute campaign expenditures by the media entity, and consequently do not result in campaign contributions to a candidate, as long as the news entity is not owned or controlled by a political committee, political party, or candidate.</li><li>2. Because news media interviews or appearances by a candidate are not campaign contributions, it is not necessary to determine their monetary value for purposes of reporting campaign contributions.</li></ol>
I03-004	August 4, 2003	<p><b>Fire District Services:</b> Fire districts may enter into contracts to provide fire protection services for a fee to customers outside their territorial boundaries, under the circumstances authorized by A.R.S. §§ 48-805(B)(8) and 48-814.</p>
I03-005	August 11, 2003	<p><b>Conflicts of Interest:</b> A school district governing board member who has a conflict of interest relating to decisions regarding services provided to the district by the natural gas company that employs him must refrain from participating in discussions relating to the choice of power in areas of the district that are not served by the member’s employer. The board member must also refrain from participating in general study sessions concerning the choice of power for future schools. This prohibition on participating in discussions applies unless it is reasonably foreseeable that the issue of purchasing gas as opposed to electricity will not come to the governing board for action while the board member’s employer is a potential provided to the district.</p>

Semiannual Index

- I03-006 November 5, 2003 **Eligibility of Employees of Voluntary Associations to Participate in the Arizona State Retirement System:** Associations that are neither created by state law nor designated as political subdivisions in the state's statutes or constitution are not political subdivisions under ASRS. Therefore, their employees cannot participate as active members of ASRS, and prior employment with such an association is not eligible for public service purchase credit.
- I03-007 December 3, 2003 **Tribal Member Eligibility to Serve on Commission on Appellate Court Appointments:** A Navajo tribal member may serve as a member of the Commission, provided that he or she otherwise meets the requirements for membership on the Commission.
- I03-008 December 3, 2003 **Availability of Tax Credit for Fees Paid for Dental Care Provided to Students at a Public School:** Fees paid to a private dental care clinic that operates on land that the clinic leases from a public school are not fees paid for an "extracurricular activity" within the meaning of A.R.S. § 43-1089.01. Therefore, the statutory tax credit is not available to taxpayers who pay for such services.
- I03-009 December 3, 2003 **Arizona Board of Nursing Jurisdiction over Licensees Who Practice Exclusively on Federal Enclaves:** Unless otherwise preempted by federal law, the Board has the authority to discipline for unprofessional conduct its licensees and certificate holders, and those of the Compact states, who practice exclusively on federal enclaves within the state of Arizona for violations of the Nurse Practice Act.
- I03-010 December 15, 2003 **Clarification of the Rollover Provision in A.R.S. § 42-16002:**
1. The rollover provisions of A.R.S. § 42-16002 apply to decisions made by assessors under the administrative valuation review process. However, only decisions that have changed the value must be rolled over.
  2. Similar to appeals at the assessor level, A.R.S. § 42-16002(B) applies to decisions at the county boards or at the State Board of Equalization level only where the value was changed.
  3. In the year subsequent to an appeal where the valuation was changed, the full cash value of property is the value determined at the highest level of appeal. However, A.R.S. § 42-16002(C) gives the taxpayer an opportunity to appeal the rollover valuation.
  4. Although taxpayers are not precluded from appealing the valuations of their property each year, only those appeals where the valuation of property was changed require a rollover value. Therefore, the assessor would not be precluded from revaluing property each year based on current market conditions where the property was not successfully appealed during the previous year.
- I03-011 December 19, 2003 **Use of Building Renewal Fund Balances for Preventative Maintenance:** School districts may use accrued and unused monies in their BRF accounts to satisfy the legislative mandate of performing routine preventative maintenance. The School Facilities Board should use the formula codified at A.R.S. § 15-2031(J) to calculate the amount that the districts may use from their BRF accounts for this purpose.