

ATTORNEY GENERAL OPINIONS

The following Attorney General opinions were filed with the Secretary of State's Office between July 1 and December 31, 2002. For copies of these opinions, call (602) 542-5025. These opinions can also be viewed online at the Attorney General's web site: <http://www.attorneygeneral.state.az.us/opinions/2002.html>.

Opinion Number	Date of Opinion	Opinion summary
I02-006	July 25, 2002	<b>Election Equipment Certification:</b> A.R.S. § 16-422 provides the Secretary of State with the authority to adopt the types, makes, or models of vote recording or tabulating machines or devices. That statute, however, does not give the Secretary of State the authority to decertify those same machines or devices.
I02-007	August 14, 2002	<b>Law Enforcement Jurisdiction on State Trust Lands:</b> State, county, and local law enforcement agencies have the authority and obligation to enforce criminal laws on State Trust land. This authority does not conflict with the Arizona State Land Department's responsibility for the use, management, and disposition of State Trust land and the State's obligation to manage State Trust land in the best interest of the trust.
I02-008	August 19, 2002	<b>School Facilities Board Funding for District Public Schools Redesignated as Charter Schools:</b> 1.) When a school district redesignates one of its schools as a charter school, that facility is no longer entitled to receive further funding from the Building Renewal Fund. The charter school becomes ineligible for building renewal monies when the charter contract is signed, and the school should be removed from SFB's records as of that date. 2.) Similarly, if a district school is redesignated a charter school, that school is no longer eligible to receive funding from the Deficiencies Correction Fund. It is, therefore, not eligible to receive additional monies for projects that have been started and not yet completed as of the date the charter contract is signed. 3.) The SFB does not have the authority to require a school district to repay the SFB for Deficiencies Correction Fund monies previously paid to a public school that has since been redesignated as a charter school.
I02-009	December 10, 2002	<b>Department of Revenue Authority and Responsibilities Regarding Stadium Districts:</b> Pursuant to A.R.S. § 42-5031, DOR is required to determine whether a stadium district is entitled to receive state payments, the amount of any payments to the district, and whether, after 10 years of state payments, a portion of a municipality's local revenue sharing must be distributed to the district. To determine whether a district is entitled to receive state payments under A.R.S. § 42-5031, DOR should have (1) evidence that voters in the district approved the use of the state monies, (2) a resolution from the district requesting payment, and (3) evidence that voters approved a local transaction privilege tax or that there is an intergovernmental agreement that provides local support for the district. The statute does not, however, give DOR broader oversight responsibility with regard to the district. The statutes do not address the authority of DOR to withhold monies from the district. Whether such action is appropriate may vary depending on the particular facts. In general, DOR should administer A.R.S. § 42-5031 so that the state treasurer may make payments to an eligible district in the time-frames prescribed by statute.

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I02-010    December 16, 2002    **School Bus Regulation:** 1.) The statutes and regulations governing school buses do not apply to preschools, except for preschool programs for children with disabilities at public schools. Preschool programs are generally subject to regulation by the Department of Health Services pursuant to A.R.S. §§ 36-881 through 36-893. Head Start is a federal program governed by federal statutes and regulations. Head Start programs operated by public or private agencies in this state must comply with the applicable federal requirements, as well as the state regulations established by DHS. 2.) A vehicle that is designed for 10 or fewer people is not a “school bus” under state or federal law. The statutes do not require schools to use school buses to transport students to or from school.