

SUMMARIES OF ATTORNEY GENERAL OPINIONS

The following attorney general opinions were issued between January 1 and June 30, 2004. For copies of these opinions, call (602) 542-5025 or view them online at the attorney general's web site:

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Opinion Number	Date of opinion	Opinion summary
I04-001	May 3, 2004	<ol style="list-style-type: none">1. The Joint Underwriting Association is not a corporation created by special legislation. Rather, it is a public entity created within the Department of Insurance.2. As a public body created by statute, the JUA is subject to all of the public process laws applicable to the Department of Insurance, including state procurement, public records, open meeting, personnel code, fiscal controls, and governmental immunity provisions.3. To fund the JUA, the Director may impose assessments only against insurers writing liability insurance. The provisions authorizing assessments do not apply to all insurers writing casualty insurance.4. Because A.R.S. § 20-2220 provides that the state or any of its political subdivisions are not "otherwise responsible for losses sustained by the [JUA]," the state is not responsible for any debts the JUA may incur.5. The JUA statutes require the JUA to take numerous actions to prevent financial insolvency; the JUA statutes, however, do not specify the course of action the JUA must take if it is unable to fulfill its ultimate financial obligations.
I04-002	May 24, 2004	A Joint Technological Education District is required to cap its student count pursuant to A.R.S. § 15-393(D)(3) when a course or program is provided in a facility that is <i>both</i> owned and operated by a school district in which its pupils are enrolled.

Semiannual Index

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- I04-003 May 26, 2004
1. If law enforcement officers are seeking only to interview a student, the officers are subject to regular school policy regarding access to students. Law enforcement officers making an arrest or serving a subpoena or a search warrant, however, generally have the right to immediate access to a student.
 2. Although Arizona law does not require that school officials notify parents before law enforcement officers interview a student, school officials may generally provide such notice. However, in instances where law enforcement officers seek to interview a student in connection with an investigation of child abuse or other criminal activity by the student's parent, insistence on parental notification and/or consent is improper. A school official who insists on parental notification under these circumstances may be subject to "criminal liability" for hindering prosecution if the school official acts with the "intent to hinder the apprehension, prosecution, conviction or punishment of another for any [crime]." A.R.S. §§ 13-2511 and 13-2512. Insistence on parental notification is also inappropriate under circumstances in which delay pending parental notification would jeopardize public safety.
 3. School officials must comply with a law enforcement officer's directive to refrain from informing a student that the student may consult his or her parents before answering the officer's questions if the proposed interview relates to an investigation of child abuse or other criminal activity by the student's parent or where delay pending notification of a parent would jeopardize public safety. In other circumstances, a school official may inform a student that he or she may consult with a parent prior to questioning.
 4. School officials are not required to comply with unconditional demands from parents for prior notice of, or consent to, police interviews of a student. This issue may appropriately be addressed in school policies as described above.
 5. A school official is not required to advise a student of juvenile *Miranda* warnings unless the official is conducting a custodial interrogation and acting in the capacity of a law enforcement officer.
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- I04-004 June 3, 2004
- A.R.S. § 16-331, which requires primary elections to determine which candidates will be on the general election ballot, does not violate the requirement in Article VI, Section 12 of the Arizona Constitution. As has been the long-standing practice in counties with populations of less than 250,000, candidates for superior court judge who are members of recognized political parties must participate in a partisan primary election. Consistent with Article VI, Section 12 of the Arizona Constitution, the winners in the primary election then participate in the general election, but no partisan designation appears on the general election ballot.
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- I04-005 June 21, 2004
- When a county has formed a provisional community college district and has instituted a tax levy pursuant to A.R.S. § 15-1409(J), do tuition reimbursement payments from the county cease at the end of the fiscal year in which the provisional district is formed or two years after the provisional district is formed?
- Summary answer: This Office concurs with your conclusion that the reimbursement payments terminate at the end of the fiscal year in which the provisional community college district is formed if the county approves the levy specified in A.R.S. § 15-1409(J).