



W. J. J. J.
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert E. Corbin

March 23, 1981

James A. Shiner, Esq.
Stompoly & Even, P.C.
P.O. Box 3017
Tucson, Arizona 85702

I 81-047
Re: [REDACTED] (R81-031)

Dear Mr. Shiner:

We have reviewed your opinion dated February 17, 1981 to the Superintendent of the Sunnyside Unified School District, concerning the use by the school board of a Consent Agenda and the need to comply with the Administrative Procedure Act in amending the board's policies. We concur with your conclusion that there is no legal prohibition against the use of a "consent agenda" as described in your letter to the school district.^{1/} There are, however, potential problems with such a practice if the public notice of the meeting does not fully disclose the specific matters to be voted on as part of the "consent agenda" or, alternatively, the discussion at the meeting or the minutes reflecting the action taken by the board do not accurately and fully disclose the matters decided by the board.

We decline to review that part of your opinion which discusses the applicability of the Administrative Procedure Act to the board's amendment of its policies.

Sincerely,
Bob Corbin
BOB CORBIN
Attorney General

1. Our understanding of "consent agenda" is that it is merely the voting on more than one subject at one time. A "consent agenda" cannot be used, of course, to foreclose board discussion of any matter a member wishes to raise.

JOHN G. STOMPOLY
JOHN R. EVEN
JAMES L. STROUD
JOHN PATRICK LYONS
CHARLES E. GIDDINGS
WILLIAM G. WALKER
JAMES ALAN SHINER
KENT D. MORGAN
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TUCSON, ARIZONA 85702

AREA CODE 80
792-2781

3-3-81
MURPHY/S
R81-03

February 17, 1981

EDUCATION OPINION

ISSUE NO LATER THAN

5-1-81

Mr. Fred Bull, Superintendent
Sunnyside Unified School District
Post Office Box 11280
Tucson, Arizona 85734

Re: Consent Agenda

Dear Mr. Bull:

This correspondence is in response to your request that I determine if there exists any legal impediments to the Board of Education of Sunnyside Unified School District No. 12 adopting, if the Board so desires, a section during the Board meetings which would be captioned "Consent Agenda." It is my understanding that under the Consent Agenda routine business matters such as:

1. Approval of minutes of prior meetings;
2. Requests for executive session;
3. Personnel;
4. Vouchers; and
5. Lost warrants

would be voted upon en masse in one single vote. It is further my understanding that prior to a motion with respect to the Consent Agenda, each member of the Board will be provided the opportunity to remove any items from the Consent Agenda. Upon removal of an item from the Consent Agenda, the item will be treated separately.

In essence, the question presented involves whether there is any prohibition pertaining to voting on more than one item in a single vote. I have discovered no statutory authority which would indicate that this is improper. Furthermore, the Attorney General of the State of Arizona in opinion no. 73-9 has specifically concluded that there is no statutory prohibition with respect to voting on more than one item in a single vote. This conclusion was reaffirmed in Attorney General opinion no. 78-1.

Mr. Fred Bull
page 2
February 17, 1981

If the Board desires to implement the Consent Agenda format as discussed above, it will be necessary for the Board to modify policy no. 2160(8) which currently provides:


"The order of business shall be:

- A. Call to order
- B. Roll call
- C. Acceptance or correction of minutes
of last meeting
- D. General functions
- E. Reports (personnel)
- F. Reports (business and finance)
- G. Call for constituents comments
- H. Adjournment."

The amendment to Policy 2160(8) must be done in compliance with the Arizona Administrative Procedure Act. A.R.S. §41-1001, et seq. This Act is applicable because the School Board falls within the definition of "agency" contained in A.R.S. §41-1001(1). The modification of current Board policy falls within the definition of "rule" contained in A.R.S. §41-1001(7), as it is a policy pertaining to the procedure of the School Board. Furthermore, compliance with the Administrative Procedure Act would be required by virtue of the fact that the action to be taken would involve amendment of a prior rule. A.R.S. §41-1001(7).

This opinion is being forwarded to the office of the Attorney General for concurrence or review pursuant to A.R.S. §14-436(b). Unless circumstances require immediate action upon this opinion, you should await my forwarding to you the response of the Attorney General before acting upon the opinion set forth above.

Very truly yours,


James A. Shiner

JAS:law



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March 23, 1981

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EDUCATION OPINION

ISSUE NO LATER THAN

5-1-81

Re: Consent Agenda

Dear Mr. Bull:

This correspondence is in response to your request that I determine if there exists any legal impediments to the Board of Education of Sunnyside Unified School District No. 12 adopting, if the Board so desires, a section during the Board meetings which would be captioned "Consent Agenda." It is my understanding that under the Consent Agenda routine business matters such as:

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2. Requests for executive session;
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