

**The Honorable Carol Springer**

**August 27 , 1999  
As ammended 12/29/99**

**Arizona State Treasurer**

**N° 199-017 (R99-024)**

### **Questions Presented**

You have asked (1) whether a school district may receive state monies for charter schools, and, if so, whether those monies may be commingled with other district monies held by the county treasurer; (2) whether warrants may be issued for charter school expenses, and, if so, whether the warrants may be registered or paid for by credit line; (3) if such warrants may be issued, whether they are legal purchases for the State Treasurer pursuant to Arizona Revised Statutes ("A.R.S.") § 35-313(A)(13); and (4) whether the interest on such warrants would be tax exempt.

### **Summary Answer**

1. State monies for charter schools sponsored by school districts may be commingled with school district monies, but monies for charter schools sponsored by the State Board of Education ("Education Board") or the State Board for Charter Schools ("Charter Board") must be kept separate from school district monies.

2. Warrants cannot be issued to pay for the expenses of charter schools operated by a private person or private organization.

Because of the conclusion that warrants cannot be issued to pay for the expenses of charter schools, it is not necessary to answer questions three and four.

### **Background**

In 1994, the Legislature created a hybrid public school in Arizona known as a charter school. 1994 Ariz. Sess. Laws, 9th Sp. Sess., ch. 2, § 2. The Legislature created charter schools to provide a learning environment that will improve pupil achievement and provide additional academic choices for parents and pupils. A.R.S. § 15-181(A). Charter schools are public schools established by a contract between an authorized sponsor and a public body, a private person, or a private organization. A.R.S. §§ 15-101(3), -183(B). The Legislature authorized the Education Board, the Charter Board, and school district governing boards to sponsor charter schools. A.R.S. §§ 15-101(3), -183(C).

### **Analysis**

**A. State Monies for School District-Sponsored Charter Schools May Be Commingled with School District Monies, But Monies for Charter Schools Sponsored by the Education Board or Charter Board Must Be Kept Separate from School District Monies.**

Because charter schools are public schools, they are eligible to receive state financial support appropriated by the Legislature. A.R.S. § 15-185.<sup>(1)</sup> However, the method by which a charter school applies for and receives state financial support depends on whether a charter school is sponsored by (i) a school district governing board or (ii) by the Education Board or the Charter Board. *See* A.R.S. § 15-185(A) and (B).

District-sponsored charter schools apply for and receive state aid directly through their sponsoring districts. School districts apply for state aid based on their total student enrollments as calculated by their "average daily membership," which is defined in A.R.S. § 15-901(A)(2). The total average daily membership for any sponsoring district includes the average daily membership of each sponsored charter school. A.R.S. § 15-185(A)(3)(a). The budget and financial assistance calculations for any sponsoring district thereby reflect the enrollments of sponsored charter schools. School districts are responsible *only* for charter schools they sponsor; they are not responsible for charter schools sponsored by the Education Board or the Charter Board that may be located within the district boundaries. A.R.S. § 15-185(A)(2).

By contrast, charter schools sponsored by the Education Board or the Charter Board are responsible for calculating their own base support levels and the additional assistance to which

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they are entitled. A.R.S. § 15-185(B)(1) and (5). Based on those calculations, the charter school obtains financial aid directly from the State.

The method by which state financial aid is distributed to charter schools also depends on their sponsorship. Funding for district-sponsored charter schools is distributed by the State to the appropriate county treasurer and from the county treasurer to the district sponsor, which is then responsible for distributing the appropriate amount of financial aid to the charter schools it has sponsored. A.R.S. §§ 15-973(B)(10), -303. School districts receive their state aid in the form of a lump sum payment, which includes monies attributable to both the sponsoring district and its public schools and to the district-sponsored charter schools. Consequently, the funds are already "commingled" when the school district receives the lump sum payment.<sup>(2)</sup>

Because they are responsible for their own aid applications, Education Board and Charter Board sponsored charter schools receive their state funding directly. A.R.S. § 15-185(B). Funds for Education Board and Charter Board sponsored charter schools are allocated specifically for the charter school. The State distributes funds directly to the charter schools. A.R.S. § 15-185(B)(5) and (8). The funds are not and may not be commingled with school district funds.

#### B. Warrants May Not Be Issued to Pay for the Expenses of a Charter School.

Warrants are used by government entities for properly drawing money from their treasuries to pay their debts and expenses. *See Roe v. Roosevelt Water Conservation Dist.*, 41 Ariz. 197, 203, 16 P.2d 967, 970 (1932). Warrants are orders to the treasurer, clerk, or other officer entrusted with the disbursement of the funds of the State, a county, a municipality, or a political subdivision to pay a specified sum to a specified person, usually out of a particular fund or appropriation or out of funds not otherwise appropriated. *See generally* 64 Am. Jur. 2d *Public Securities and Obligations* § 19 (1972). Colloquially speaking, warrants are a government's version of personal checks.<sup>(3)</sup>

Pursuant to A.R.S. §§ 15-996(3) and (5), county treasurers are expressly authorized to pay or register warrants issued on behalf of school districts. In addition, the county school superintendent is expressly authorized to issue warrants on behalf of the county's school districts. A.R.S. §§ 15-304, -996(5), -999. *See also* A.R.S. § 15-914.01 (large school districts may, with approval of the Education Board, approve, prepare and issue warrants). In contrast, the Legislature has never expressly authorized any entity to issue, pay, or register warrants on behalf of charter schools. The express authority for warrants issued on behalf of school districts, and the absence of any similar authority with respect to charter schools, indicates that the Legislature did not intend to authorize warrants to be issued on behalf of charter schools. *See Banks v. Arizona State Bd. of Pardons and Paroles*, 129 Ariz. 199, 203, 629 P.2d 1035, 1039 (App. 1981) (where the Legislature has included a term in certain places and excluded it elsewhere, courts will not read excluded term into the statute).

That charter school expenses cannot be paid by warrant is one of several ways in which Arizona statutes recognize the distinct nature of charter schools, particularly with regard to debts and expenses. For example, charter school sponsors and the State are not liable for the debts or financial obligations of a charter school or charter school operators. A.R.S. § 15-183(Q). Also, charter schools may pledge, assign or encumber their assets to be used as collateral for loans or extensions of credit. A.R.S. § 15-183(T). These provisions highlight the independent financial responsibility of charter schools, which are public schools financed with public funds, but may be operated by public bodies, private persons, or private organizations. A.R.S. § 15-183(B). Although charter school expenses may not ordinarily be paid for by warrant, if a public body operates the charter school, as allowed

pursuant to A.R.S. § 15-183(B), the public body may use warrants to pay for the expenses of its charter school, just as the public body may use warrants to pay for other expenses related to its activities. The use of warrants by these operators is unrelated to their status as charter school operators, but instead is allowed because they are public bodies. Because warrants cannot be issued for charter schools, it is not necessary to answer the additional questions raised in your request for an opinion.

#### Conclusion

Because a school district that sponsors a charter school receives its state financial assistance in the form of a lump

sum payment, including state aid for both the sponsoring district and the district-sponsored charter schools, the charter school monies are already "commingled" with the district monies when the district receives the lump sum payment. In contrast, Education Board or Charter Board sponsored charter schools, having no relationship to a school board, receive their funding directly from the State. In that case, school district monies are not and cannot be commingled with charter school monies.

Although warrants may be issued for school districts, warrants cannot be issued to pay for the expenses of charter schools. Although county treasurers and the State Treasurer may pay or register warrants for a school district that sponsors charter schools, they may not pay or register warrants that will be used to pay for the expenses of a charter school operated by a private person or private organization.

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- 1) The amount of state aid provided to charter schools is computed based on the charter contract (if the charter school is sponsored by a school district governing board) or according to a specific formula that includes base support and additional assistance. A.R.S. § 15-185(A) and (B).
- 2) The charter of a district-sponsored charter school must include a description of how the school district intends to fund the charter school. A.R.S. § 15-185(A)(1). Thus, while the charter school funds are "commingled" with district monies, allocation of the monies is determined by the contract between the district sponsor and the charter school.
- 3) However, unlike personal checks, warrants generally do not "bounce." For example, if there are insufficient funds to pay a warrant drawn by a government entity on a county treasury, and if a revolving line of credit has not been obtained by the government entity, the county treasurer endorses the warrant "not paid for lack of funds" and keeps a register of when the warrant was presented for payment. A.R.S. §§ 11-605,-635. As money becomes available to redeem unpaid warrants, the county treasurer redeems the unpaid warrants in the order in which they were originally registered. A.R.S. §§ 11-636 through -640; *see also* A.R.S. § 35-185.01 (procedures applicable to warrants issued on the State treasury).



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