

Multi-Site Charter Small School Weight Funding

Highlights

- *Statute authorizes small school weights for school districts and charters with fewer than 600 students. These weights generate additional funding.*
- *The FY 2016 budget, however, phases out small school weight funding over 3 years for multi-site charter schools with more than 600 combined students.*
- *This change will reflect the current practice for school districts.*
- *The FY 2016 budget assumed a \$(6.5) million state savings for this issue, primarily based on 2013 Arizona Department of Education (ADE) data.*
- *Beyond the 3 year phase out of small school weight funds for charter networks with more than 600 students, ADE interpreted the bill language to require the immediate elimination of small school weights for multi-site charters with less than 600 students.*
- *The Attorney General has since confirmed the original statutory intent: Multi-site charters with less than 600 students will remain eligible for small school weight funding for FY 2016 and future years.*
- *Compared to the \$(6.5) million budgeted amount, the elimination of the multi-site schools may now save \$(9.0) million due to an updated ADE assessment of eligible charters. This estimate is still under review.*

This report provides a brief overview of information released recently by the Arizona Department of Education (ADE) regarding budgeted reductions in small school weight funding for multi-site charter schools. An ADE press release dated May 15, 2015 (*see Attachment A*) estimated that the 3-year phase out of small school weights for multi-site charters would reduce state funding by \$(14.6) million in FY 2016, rather than by the \$(6.5) million amount assumed in the FY 2016 budget. Per a more recent clarification from the Office of the Attorney General, however, the FY 2016 savings is now estimated at \$(9.0) million. The latter estimate is subject to additional change once revised student counts and other data for FY 2016 become available.

Background

A.R.S. § 15-943 authorizes small school weights for school districts and charter schools with fewer than 600 Average Daily Membership (ADM) in either Grades K-8 or 9-12. (Separate small school weights exist for those 2 grade ranges.) These weights generate higher funding per pupil for students who qualify for them. Historically, a school district's eligibility for small school weights has been based on ADM counts from all of its schools combined, whereas a multi-site charter school's eligibility has been based on ADM counts from its individual schools. As a result, it was easier for charter schools to qualify for small school weights under past practice.

The FY 2016 budget language (Laws 2015, Chapter 15, as amended by Laws 2015, Chapter 299) is intended to treat charter schools similarly to school districts for purposes of determining their small school weight eligibility, phased in over 3 years (1/3rd in FY 2016, 2/3rd in FY 2017 and eliminating the weights in FY 2018 for the relevant schools). As a result, upon full implementation in FY 2018, for example, two 350-student K-8 charter schools from a multi-charter operator would no longer qualify for small school weights, since their combined ADM would be greater than 600.

Estimated FY 2016 Savings

The FY 2016 budgeted savings of \$(6.5) million was primarily based on ADE's informal September 2013 analysis. At that time, ADE manually compiled a list of charter schools that appeared to be operated by the same entity through a comparison of web addresses, email addresses and contact names, since a formal list of multi-site charters was not available. ADE's September 2013 list included 127 charter schools within 18 "networks." ADE noted at the time that this list was not all inclusive. With the 3-year phase out, the FY 2016 budget assumed savings would reach \$(20.0) million in FY 2018.

In May 2015, ADE estimated \$(14.6) million in savings, based on 207 (versus 127) charter schools in 42 (versus 18) networks, so it reflected a wider pool of charter schools. ADE's earlier analysis mainly included the largest charter networks, whereas the updated list is more comprehensive. The updated list also reflects new charter schools opened since September 2013. A comparison of the May 2015 and September 2013 multi-site charter lists is attached (*see Attachment B*). ADE indicates that the May 2015 list is not final and will likely change.

ADE's \$(14.6) million May estimate also assumed the immediate elimination of small school weights for charter networks with fewer than 600 students (*See Table 1*). Of the \$(14.6) million estimated savings, \$(5.6) million was associated with these smaller networks. For example, ADE assumed 2 affiliated K-8 schools with 200 and 300 students, respectively (500 students total), would no longer qualify for the small school weight.

The JLBC Staff believed ADE's May interpretation of the FY 2016 budget language was contrary to legislative intent. The budget provision was to only apply to networks with more than 600 students. Legislative Council concurred that the budget language was limited to networks with more than 600 students.

On June 24, 2015, the Office of the Attorney General issued an opinion (Attachment C) indicating that multi-site charter schools with fewer than 600 Average Daily Membership (ADM) students at all of their sites combined for Grades K-8 or high school remain eligible for small school weight funding for FY 2016 and future years. As a result, the Arizona Department of Education (ADE) will no longer be eliminating small school weight funding to such charter schools in FY 2016.

Fiscal Year	Basic State Aid	Additional Inflation	Total State Savings
2016	\$(14,448,000)	\$(171,000)	\$(14,619,000)
2017	(23,289,100)	(342,000)	(23,631,100)
2018	(32,129,800)	(513,400)	(32,643,200)

By retaining the small school weight for charter networks with fewer than 600 students, the estimated FY 2016 savings would be \$(9.0) million (*see Table 2*). The corresponding estimates for FY 2017 and FY 2018 would be \$(18.0) million and \$(27.0) million, respectively, as the policy is phased in over 3 years.

Fiscal Year	Basic State Aid	Additional Inflation	Total State Savings
2016	\$(8,904,800)	\$(106,000)	\$(9,010,800)
2017	(17,810,900)	(212,000)	(18,022,900)
2018	(26,716,700)	(318,300)	(27,035,000)

Classroom Site Fund and Additional Inflation

Small school weights also affect 2 other funding allocations to schools: 1) Proposition 301 Classroom Site Fund (CSF); and 2) the \$74.4 million of “Additional Inflation” funding that was provided in the FY 2016 budget. The Additional Inflation funding will be distributed in the same manner as regular Basic State Aid.

The Arizona Charter Schools Association recently asked ADE if it will continue to apply small school weights at current levels when computing CSF and Additional Inflation allocations for multi-site charter schools – or whether ADE would phase out the weights according to the budgeted schedule.

Both regular state aid and CSF payments are based on weighted student counts, including the small school adjustment. As a result, and as affirmed by the Office of the Attorney General, ADE will apply the reduced small school weights to both the \$74.4 million state aid payment as well as the CSF distribution.

Applying the 3-year multi-site small school phase out to Additional Inflation will reduce those payments by \$(0.1) million in FY 2016, \$(0.2) million in FY 2017, and \$(0.3) million in FY 2018. (*See Table 2 Additional Inflation column.*)

JLBC has estimated the CSF reductions for multi-site charters are \$(0.6) million in FY 2016, \$(1.3) million in FY 2017 and \$(1.9) million in FY 2018. Since the CSF represents dedicated Proposition 301 sales tax monies, these reductions would not result in additional General Fund savings. These funds would instead be reallocated to all school districts and charters schools as part of the regular CSF formula.

Eligibility Determination

In order to determine whether a charter school will be affected by the 3-year phase out, ADE will be asking each charter holder to submit a "Statement of Assurance" form to the department attesting as to whether it is multi-site. Charter schools will not need to send ADE documents verifying their statements in the Statement of Assurance, but must keep such records on file for 3 years and are subject to audit.

Additionally, the Attorney General has determined that among charter schools, those sponsored by institutions other than the State Board for Charter Schools (e.g. universities or community colleges) are not subject to the FY 2016 change to the small school weight fund calculation, according to the law. The 6 charter schools sponsored by Arizona State University (ASU), therefore, will continue to be counted as individual schools rather than collectively as a single network, so their funding will not diminish as it will for other charter networks that now exceed the 600 student cap. If ASU's charter schools are to be treated the same as similar charters, the FY 2016 budget language would need to be revised.



Arizona Department of Education
Office of Superintendent of Public Instruction Diane M. Douglas

FOR IMMEDIATE RELEASE

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Budgetary Changes to Impact Small Charter School Funding

(Phoenix, Ariz., May 15, 2015) – The Arizona Department of Education today released information related to changes in the recently passed Fiscal Year 2016 budget that will impact funding for certain charter schools and charter school networks.

The issue stems from language designed to adjust what is known as the Small School Weight (SSW), which is a weight in the charter school funding formula that increases funding for eligible small schools.

The impact of the changes was initially estimated at \$6.5 million, but will actually be closer to \$15 million based on the technical language in the underlying law.

The SSW cuts will have the following impact.

% Decrease	Fiscal Year	Estimated Fiscal Impact
33%	2016	(\$14,619,005)
67%	2017	(\$23,631,088)
100%	2018	(\$32,643,171)

Schools that previously received the SSW may no longer be eligible or their weight may be phased out over a three-year period based on several factors, including school size and organizational structure.

The Department remains committed to working with legislative and charter school leaders to develop solutions that can mitigate the impact of the SSW cuts.

End

"Multisite" Charter Schools - May 2015 versus September 2013
 JLBC Staff
 5/21/2015

Notes: ADE compiled the September 2013 list by manually comparing web addresses, email addresses and/or contact names of charter schools in an initial attempt to identify which ones appeared to be operated by the same entity. ADE compiled the list as an informal response to a member request and indicated at the time that it was not all inclusive. The May 2015 list reflects ADE's current assessment of the charter schools that would be affected by the phase out of small school weights for multisite charter schools under Laws 2015, Chapter 15, Section 2. The May 2015 list includes 207 charter schools from 42 "networks" versus 127 schools from 18 "networks" in the September 2013 list. The "EntityID" numbers shown in the table are identification numbers for individual charter schools from ADE, some of which share common names.

May 2015 List		
EntityID	Name	Network
79961	Academy of Mathematics and Science, Inc.	Academy of Mathematics and Science
89852	Math and Science Success Academy, Inc.	Academy of Mathematics and Science
90878	Academy of Mathematics and Science South, Inc.	Academy of Mathematics and Science
5978	Akimel O Otham Pee Posh Charter School, Inc.	Akimel O Otham Pee Posh Charter School, Inc.
78966	Akimel O'Otham Pee Posh Charter School, Inc.	Akimel O Otham Pee Posh Charter School, Inc.
4331	Arizona Agribusiness & Equine Center, Inc.	Arizona Agribusiness & Equine Center - AAEC Schools
85816	Arizona Agribusiness & Equine Center, Inc.	Arizona Agribusiness & Equine Center - AAEC Schools
87403	Arizona Agribusiness & Equine Center, Inc.	Arizona Agribusiness & Equine Center - AAEC Schools
90779	Arizona Agribusiness & Equine Center, Inc.	Arizona Agribusiness & Equine Center - AAEC Schools
91131	Arizona Agribusiness & Equine Center, Inc.	Arizona Agribusiness & Equine Center - AAEC Schools
89949	ASU Preparatory Academy	ASU Schools
91303	ASU Preparatory Academy	ASU Schools
91305	ASU Preparatory Academy	ASU Schools
91307	ASU Preparatory Academy	ASU Schools
92325	ASU Preparatory Academy	ASU Schools
92327	ASU Preparatory Academy	ASU Schools
4294	Ball Charter Schools (Hearn)	Ball Charter Schools
79204	Ball Charter Schools (Dobson)	Ball Charter Schools
90885	Ball Charter Schools (Val Vista)	Ball Charter Schools
6361	BASIS School, Inc.	BASIS Schools
81078	BASIS School, Inc.	BASIS Schools
90508	BASIS School, Inc.	BASIS Schools
90841	BASIS School, Inc.	BASIS Schools
90842	BASIS School, Inc.	BASIS Schools
90862	BASIS School, Inc.	BASIS Schools
91280	BASIS School, Inc.	BASIS Schools
91309	BASIS School, Inc.	BASIS Schools
91339	BASIS School, Inc.	BASIS Schools
91949	BASIS School, Inc.	BASIS Schools
92318	BASIS School, Inc.	BASIS Schools
92320	BASIS School, Inc.	BASIS Schools
92349	BASIS School, Inc.	BASIS Schools
80032	CPLC Community Schools dba Toltecalli High School	Chicanos por la Causa, Inc.
90331	CPLC Community Schools dba Hiaki High School	Chicanos por la Causa, Inc.

Sept 2013 List		
EntityID	Name	Network
4331	Arizona Agribusiness & Equine Center, Inc.	Agribusiness
85816	Arizona Agribusiness & Equine Center, Inc.	Agribusiness
87403	Arizona Agribusiness & Equine Center, Inc.	Agribusiness
90779	Arizona Agribusiness & Equine Center, Inc.	Agribusiness
91131	Arizona Agribusiness & Equine Center, Inc.	Agribusiness
80995	American Charter Schools Foundation d.b.a. Alta Vista High School	American Charter
79883	American Charter Schools Foundation d.b.a. Apache Trail High School	American Charter
79874	American Charter Schools Foundation d.b.a. Crestview College Preparatory High Sc	American Charter
79872	American Charter Schools Foundation d.b.a. Desert Hills High School	American Charter
79873	American Charter Schools Foundation d.b.a. Estrella High School	American Charter
79875	American Charter Schools Foundation d.b.a. Peoria Accelerated High School	American Charter
80989	American Charter Schools Foundation d.b.a. South Pointe High School	American Charter
88334	American Charter Schools Foundation d.b.a. South Ridge High School	American Charter
79877	American Charter Schools Foundation d.b.a. Sun Valley High School	American Charter
79879	American Charter Schools Foundation d.b.a. West Phoenix High School	American Charter
89949	University Public Schools, Inc.	ASU
91303	University Public Schools, Inc.	ASU
91305	University Public Schools, Inc.	ASU
91307	University Public Schools, Inc.	ASU
4294	Ball Charter Schools (Hearn)	Ball
79204	Ball Charter Schools (Dobson)	Ball
90885	Ball Charter Schools (Val Vista)	Ball
6361	BASIS School, Inc.	Basis
81078	BASIS School, Inc.	Basis
90508	BASIS School, Inc.	Basis
90841	BASIS School, Inc.	Basis
90842	BASIS School, Inc.	Basis
90862	BASIS School, Inc.	Basis
91280	BASIS School, Inc.	Basis
91309	BASIS School, Inc.	Basis
91339	BASIS School, Inc.	Basis
91949	BASIS School, Inc.	Basis

May 2015 List		
EntityID	Name	Network
4431	Portable Practical Educational Preparation, Inc. (PPEP, Inc.)	PPEP TEC Schools
87405	Portable Practical Educational Preparation, Inc. (PPEP, Inc.)	PPEP TEC Schools
4306	Reid Traditional Schools' Valley Academy, Inc.	Reid Traditional Schools
91317	Reid Traditional Schools' Painted Rock Academy Inc.	Reid Traditional Schools
10879	Mountain Rose Academy, Inc.	Rose Management Group
79441	Desert Rose Academy, Inc.	Rose Management Group
81029	Canyon Rose Academy, Inc.	Rose Management Group
90997	Pima Rose Academy, Inc.	Rose Management Group
79084	Skyline Schools, Inc.	Skyline Schools
89869	AZ Compass Schools, Inc.	Skyline Schools
90317	Vector School District, Inc.	Skyline Schools
90329	Skyline Gila River Schools, LLC	Skyline Schools
90540	South Valley Academy, Inc.	Skyline Schools
91108	South Phoenix Academy Inc.	Skyline Schools
79049	Daisy Education Corporation dba Sonoran Science Academy	Sonoran Science Academy
89914	Daisy Education Corporation dba Sonoran Science Academy - Phoenix	Sonoran Science Academy
89915	Sonoran Science Academy - Broadway	Sonoran Science Academy
89917	Daisy Education Corporation dba Paragon Science Academy	Sonoran Science Academy
90284	Daisy Education Corporation dba. Sonoran Science Academy Davis Monthan	Sonoran Science Academy
90332	Daisy Education Corporation dba Sonoran Science Academy - Ahwatukee	Sonoran Science Academy
90541	Daisy Education Corporation dba. Sonoran Science Academy Peoria	Sonoran Science Academy
4301	Ridgeline Academy, A Challenge Foundation Academy	TeamCFA (Challenge Foundation Schools)
90140	Challenge Foundation Academies of Arizona, Inc.	TeamCFA (Challenge Foundation Schools)
91275	Hirsch Academy A Challenge Foundation	TeamCFA (Challenge Foundation Schools)
91937	Western School of Science and Technology, Inc.	TeamCFA (Challenge Foundation Schools)
4361	Tempe Preparatory Academy	Tempe Prep
89947	Tempe Preparatory Junior Academy	Tempe Prep
6363	Westwind Children's Services	Westwind Schools
10970	Park View School, Inc.	Westwind Schools
79483	Westwind Middle School Academy	Westwind Schools
85749	Arizona Montessori Charter School at Anthem	Westwind Schools

Sept 2013 List		
EntityID	Name	Network
4306	Reid Traditional Schools' Valley Academy, Inc.	Reid
91317	Reid Traditional Schools' Painted Rock Academy Inc.	Reid
6363	Westwind Children's Services	Westwind
79483	Westwind Middle School Academy	Westwind



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

<p>ATTORNEY GENERAL OPINION</p> <p>By</p> <p>MARK BRNOVICH ATTORNEY GENERAL</p> <p>June 24, 2015</p>	<p>No. I15-005 (R15-011)</p> <p>Re: Small School Weight for Charter Schools</p>
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To: Diane M. Douglas
Arizona Superintendent of Public Instruction

Questions Presented

You have asked the following questions about Senate Bill 1476, 2015 Ariz. Sess. Laws, 52d Leg., 1st Reg. Sess., ch. 15 (SB 1476), as amended by Senate Bill 1193, 2015 Ariz. Sess. Laws, 52d Leg., 1st Reg. Sess., ch. 299 (SB 1193), legislation that affects the eligibility of certain charter schools for the Small School Weight:

1. Which charter holders are eligible for Small School Weight and which charter holders are eligible for a phase down of the Small School Weight, given the above-described changes.
2. Whether the changes in the calculation of the Small School Weight as a result of SB 1476 will affect the calculation and distribution of Classroom Site Fund monies.
3. Whether the changes in the calculation of the Small School Weight as a result of SB 1476 will affect the distribution of the inflationary increase set forth in Senate Bill 1469, 2015 Ariz. Sess. Laws, 52d Leg., 1st Reg. Sess., ch. 8, § 34 (SB 1469).
4. How should the Small School Weight be calculated for charter holders that serve grades K-12, given that A.R.S. § 15-943(1) provides for separate Small School Weights for schools serving grades K-8 and schools serving grades 9-12.

Summary Answers

1. A charter holder is eligible for application of the Small School Weight if that charter holder meets the definition of charter holder in A.R.S. § 15-101(3) and the student count of all charter schools held by that charter holder is less than 600. In other words, the controlling factor for eligibility as to this adjustment is the aggregate average daily membership and not the number of charters held.
2. Yes, the changes in the calculation of the Small School Weight will affect the amount of Classroom Site Fund monies that some charter schools receive.
3. Yes, the changes in the calculation of the Small School Weight will affect the distribution of the inflationary increase set forth in SB 1469.
4. For charter schools that serve students in grades K-12, the Department should separately determine the number of students in grades K-8 and 9-12, and apply the appropriate weighting factors set out in A.R.S. § 15-943(1)(a) and (b) to the K-8 students and the 9-12 students.

Background

Charter schools are “established by contract with a district governing board,¹ the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district . . . or a group of community college districts . . .” A.R.S. § 15-101(4). The contract that establishes a charter school is commonly known as a charter. The entities that may establish a charter school are referred to as “sponsors.” *See, e.g.*, A.R.S. § 15-183(C). Also defined by statute is the term “charter holder” which “means that person that enters into a charter with the state board for charter schools.” A.R.S. § 15-101(3). Notably, the definition of “charter holder” does not include all of the entities permitted to sponsor charter schools.

A charter holder may operate a single school. Or a charter holder might operate a number of charter schools. In such a case, the charter holder might hold one charter and operate one or more schools under that charter. Alternatively, a charter holder could hold one or more charters and operate one school for each of those charters. A charter school can serve just a few grades or it can serve grades K-8, 9-12 or K-12.

The questions at issue here relate to base support level funding, which is made available to charter schools by A.R.S. § 15-185(B)(1). A.R.S. § 15-943 describes how base support level is determined: it is calculated by multiplying a school’s weighted student count by a statutorily-set base level.² Weighted student count is determined by applying specific weights to student count, as set out in A.R.S. § 15-943. Application of the weights increases funding.

¹ In 2014, the legislature imposed a moratorium on district-sponsored charter schools through that year’s budget. 2014 Ariz. Sess. Laws, 51st Leg., 2d Reg. Sess., ch. 17, §2 (SB 1488).

² For example, the base level for the fiscal year 2014-15 is \$3,373.11. A.R.S. § 15-901(B)(2)(e).

Paragraph (1) of A.R.S. § 15-943 addresses the Small School Weight. A Small School Weight is a statutorily-set weight (or adjustment) to a school district's student count for school districts with fewer than 600 students. The amount of the weight varies, depending on whether the school district serves students in grades K-8 or 9-12 and depending on the number of students.³ A.R.S. § 15-943(1). Student count is also weighted to account for other factors, as set out in A.R.S. § 15-943(2), but those weighting factors are not relevant to this issue. While A.R.S. § 15-943 refers only to a school district's eligibility for Small School Weight, A.R.S. § 15-185(B)(1) established that charter schools would also be funded on the basis of a base support level as prescribed in A.R.S. § 15-943.⁴

For purposes of school finance, the Arizona Department of Education historically treated each separate charter school operated pursuant to an individual charter as a school district. By way of example, if a charter holder had three separate charters for three separate school sites, the Department treated each separately chartered site as a school district, even if the same charter holder held all three charters and operated the three schools as a system or set of related schools. Thus, the Department determined the student count of each individually-chartered school for purposes of determining eligibility for the Small School Weight. (E.g., if each separately chartered school had 500 students, then each would be eligible for the Small School Weight.) If, however, the charter holder had one charter and operated three school sites under that charter, the Department aggregated the student count of all three schools for purposes of determining eligibility for the Small School Weight. (E.g., if each school operated under the same charter had 250 students, none would receive the Small School Weight.)

In the 2015 legislative session, the Legislature enacted SB 1476, as amended by SB 1193, with changes effective in the 2015-16 school year. It provides as follows:

(b) The small school weights prescribed in section 15-943, paragraph 1 apply if a charter holder, as defined in section 15-101, holds one charter for one or more school sites and the average daily membership for the school sites are combined for the calculation of the small school weight. The small school weight shall not be applied individually to a charter holder if one or more of the following conditions exists and the combined average daily membership derived from the following conditions is greater than six hundred:

(i) The organizational structure or management agreement of the charter holder requires the charter holder or charter school to contract with a specific management company.

(ii) The governing body of the charter holder has identical membership to another charter holder in this state.

³ There are different Small School Weights for schools with 1-99 students, 100-499 students, or 500-599 students. A.R.S. § 15-943(1).

⁴ The only difference between district and charter schools, in terms of determining base support level, is the calculation of the Teacher Experience Index, as required by A.R.S. § 15-941; no Teacher Experience Index is determined for charter schools. A.R.S. § 15-185(B)(1)(a).

(iii) The charter holder is a subsidiary of a corporation that has other subsidiaries that are charter holders in this state.

(iv) The charter holder holds more than one charter in this state.⁵

(c) Notwithstanding subdivision (b) of this paragraph, for fiscal year 2015–2016 the department of education shall reduce by thirty-three percent the amount provided by the small school weight for charter schools prescribed in subdivision (b) of this paragraph.

(d) Notwithstanding subdivision (b) of this paragraph, for fiscal year 2016–2017 the department of education shall reduce by sixty-seven percent the amount provided by the small school weight for affiliated charter schools prescribed in subdivision (b) of this paragraph.

SB 1476 changes the way that Small School Weights are calculated for charter schools. The first sentence defines charter schools that are eligible for consideration for the Small School Weight: they must be schools where a “charter holder, as defined in section 15–101, holds one charter for one or more school sites and the average daily membership for the school sites are combined for the calculation of the small school weight.” SB 1476, 2:34-37. The next sentence describes a set of charter holders that will no longer be eligible for Small School Weight. It states “the small school weight shall not be applied individually to a charter holder if one or more of the following conditions exists and the combined average daily membership derived from those conditions is greater than 600.” SB 1476, 2:37-40. Taken together, the conditions, which are listed in subsections (i) through (iv), describe ways of organizing charter schools as a system or a set of affiliated schools. They include an organizational structure or management agreement that requires the charter holder or charter school to contract with a specific management company, identical governing bodies for charter holders, the charter holder being the subsidiary of a corporation with other charter holders as subsidiaries, or the charter holder holds more than one charter in the state. *Id.*, 2:41-3:3. Finally, subsections (c) and (d) phase in the elimination of the Small School Weight for those schools no longer eligible, providing that it will be reduced by thirds over the next two years.

Analysis

The intent of the new legislation appears to be to limit the application of the Small School Weight, and in particular, to eliminate eligibility for the Small School Weight for affiliated charter schools where the total student count for all affiliated schools exceeds 600. However, the language of the first sentence introduces two potential difficulties into the process of identifying the charter schools that are eligible for the Small School Weight. In addition, questions have arisen regarding the calculation of Classroom Site Funds, pursuant to A.R.S. § 15-977, and the amount of the inflationary increase provided by Senate Bill 1469. Finally, the Department has asked how it should determine eligibility for Small School Weight for charter schools that serve

⁵ SB 1476 originally provided “(iv) The charter holder holds one or more charters in this state.” SB 1193 amended the provision to read, “(iv) The charter holder holds more than one charter in this state.”

grades K-12, because the Small School Weight varies, depending on whether a charter school serves grades K-8 or 9-12.

I. Identification of Charters Eligible for Small School Weight

The new legislation begins by defining a charter holder who is eligible for consideration of the Small School Weight as “a charter holder . . . [who] holds one charter for one or more school sites and the average daily membership is combined for the calculation of the small school weight.” SB 1476, at 2:34-37. The statute does not specifically address charter holders who hold more than one charter but have an aggregate student count less than 600. The statute could be read to eliminate their eligibility for Small School Weight, except that Arizona courts have made it clear that a statute’s silence cannot be conclusive as to legislative intent. *Sell v. Gama*, 231 Ariz. 323, 328, ¶ 21 (2013) (“we find it not plausible to interpret the statutory silence as tantamount to an implicit [legislative] intent.”) (internal quotation marks omitted, alterations in original); *see also Sw. Paint & Varnish Co. v. Arizona Dep’t of Env’tl. Quality*, 194 Ariz. 22, 26, ¶ 21 (1999) (“We have squarely rejected the idea that silence is an expression of legislative intent.”)

The silence in this case can be resolved by looking to “the context of the [legislation], the language used, the subject matter, the historical background, the effects and consequences, and the spirit and purpose of the law.” *Martin v. Martin*, 156 Ariz. 452, 457 (1988). By looking to the broader language and context of the legislation, it becomes clear that this legislation sought to ensure that affiliated charter schools whose aggregated student count exceeds 600 will no longer receive the Small School Weight adjustment. Thus, interpreting the silence as to charter affiliates with multiple charters and small enrollment such that these schools no longer receive this adjustment would be inconsistent with the purpose of SB 1476.

This conclusion is bolstered by “phase out” language in subsections (c) and (d) of the relevant provision. It would be illogical for the legislature to slowly phase out this funding mechanism for affiliated schools with aggregate student counts elevating them out of the “small school” category, while immediately eliminating eligibility for a class of affiliated schools that remain “small” even in the aggregate. In other words, the legislature made an effort to minimize the difficulty posed by this reduction in financing by phasing it out over time for the explicitly affected schools. To interpret the statute so as to maximize the burden on schools that remain “small” even in the aggregate runs contrary to that effort.

A more difficult situation is created by SB 1476’s statement that the Small School Weight applies if a “charter holder, *as defined in section 15-101*, holds one charter for one or more school sites.” (Emphasis supplied.) The reference to the definition of charter holder in A.R.S. § 15-101 introduces a limitation on the universe of affected entities. That statute defines a charter holder as “a person that enters into a charter with the state board for charter schools.” A.R.S. § 15-101(3). Notably, this definition does not include other entities that may grant charters, including the State Board of Education, a university under the Arizona Board of Regents, or a community college (or group of community colleges). Nor is it consistent with the definition of a charter school, found immediately adjacent, in A.R.S. § 15-101(4). That definition describes a charter school as

a public school established by contract with a district governing board, the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district with enrollment of more than fifteen thousand full-time equivalent students or a group of community college districts with a combined enrollment of more than fifteen thousand full-time equivalent students pursuant to article 8 of this chapter to provide learning that will improve pupil achievement.

As a result of SB 1476's reference to the statutory definition of charter holder, the new law excludes from eligibility those charter schools that are chartered by entities other than the State Board for Charter Schools. There is no ambiguity in this reference; the legislature explicitly included a limiting provision by reference to a particular definition and there is no second, plausible interpretation of the language. *See CNL Hotels & Resorts, Inc. v. Maricopa County*, 230 Ariz. 21, 23, ¶ 9 (2012). To include charter schools sponsored by such other entities would effectively amend either SB 1476's reference to A.R.S. § 15-101 or the definition of charter holder in A.R.S. § 15-101(3),⁶ to include sponsors that the legislature did not reference. Because there is no ambiguity, there is no need to consider legislative history. *Farris v. Advantage Capital Corp.*, 217 Ariz. 1, 2, ¶ 5 (2007). Even if it were appropriate to consider, however, the legislative history of SB 1476 does not explain why lawmakers excluded charter schools sponsored by entities not listed in A.R.S. § 15-101; it also does not provide any basis for including in SB 1476 charter sponsors not specifically listed there.

II. Calculation of Classroom Site Fund Monies

You have also asked how the changes in SB 1476 will affect the calculation of Classroom Site Fund (CSF) monies. The CSF was established pursuant to Proposition 301, and the rules governing the CSF are set forth at A.R.S. § 15-977. Subsection G describes how the funds are distributed:

⁶ The inconsistency between the definitions of "charter school" and "charter holder" has existed since the legislature first defined "charter holder" in 2009. Nothing in the legislative history explains why the two definitions are not consistent with each other. The definition of charter school was added in 1994; it included all entities that could sponsor charter schools at that time. House Bill 2002, 1994 Ariz. Sess. Laws, 41st Leg., 9th Spec. Sess., ch. 2. The legislature added the definition of charter holder in 2009; it has always been limited to charters given by the State Board for Charter Schools and has never included all the entities that are able to sponsor charter schools. Senate Bill 1196, 2009 Ariz. Sess. Laws, 49th Leg., 1st Reg. Sess., ch. 95. Its legislative history gives no indication as to the purpose of defining charter holder. *See* Fact Sheet for Senate Bill 1196 as enacted, 49th Leg., 1st Reg. Sess., at p. 3. While the definition of charter school has been updated as the entities that can sponsor charter schools has changed, the definition of charter holder has remained the same. *See* Senate Bill 1263, 2011 Ariz. Sess. Laws, 50th Leg., 1st Reg. Sess., ch. 344 (amending definition of charter school to include entities given the ability to sponsor charter schools during the 2010 session). The change that increased the entities that could sponsor charter schools was made in House Bill 2725, 2010 Ariz. Sess. Laws, 49th Leg., 2d Reg. Sess., ch. 332.

G. Monies in the [Classroom Site F]und are continuously appropriated, are exempt from the provisions of section 35-190 relating to lapsing of appropriations and shall be distributed as follows:

1. By March 30 of each year, the staff of the joint legislative budget committee shall determine a per pupil amount from the fund for the budget year using the estimated statewide weighted count for the current year pursuant to section 15-943, paragraph 2, subdivision (a) and based on estimated available resources in the classroom site fund for the budget year adjusted for any prior year carryforward or shortfall.
2. The allocation to each charter school and school district for a fiscal year shall equal the per pupil amount established in paragraph 1 of this subsection for the fiscal year multiplied by the weighted student count for the school district or charter school for the fiscal year pursuant to section 15-943, paragraph 2, subdivision (a). For the purposes of this paragraph, the weighted student count for a school district that serves as the district of attendance for nonresident pupils shall be increased to include nonresident pupils who attend school in the school district.

A.R.S. § 15-977(G). In short, monies in the Classroom Site Fund are distributed based on a school district or charter school's weighted student count, calculated pursuant to A.R.S. § 15-943(2)(a), and multiplied by a per pupil amount determined by the Joint Legislative Budget Committee each year. Arizona Revised Statutes § 15-943(2)(a) specifically incorporates the Small School Weight when it states "subject to paragraph 1 of this section;" paragraph (1) of A.R.S. § 15-943 addresses the Small School Weight, and paragraph (2) describes other weights, related to factors such as ELL status, disability or homelessness. In other words, CSF monies are distributed based on weighted student count.

A.R.S. § 15-185(B)(1) provides, "the charter school shall calculate a base support level as prescribed in section 15-943, except [for the conditions described in (a)⁷ and (b)]." SB 1476, which adds subsections (b) through (d), then explains how weighted student count is calculated, depending on whether a school's student count is more or less than 600 and on whether certain factors demonstrating affiliation are present. Because SB 1476 affects the calculation of weighted student count, and weighted student count is one factor in the equation for determining the allocation of CSF monies, the allocation of CSF monies is necessarily affected by SB 1476.

III. Distribution of SB 1469's Inflationary Increase

You have also asked how SB 1476's reduction in the Small School Weight should affect distribution of the inflationary increase set forth in Senate Bill 1469. 2015 Ariz. Sess. Laws, 52d Lg. 1st Reg. Sess., ch. 8, § 34 (SB 1469). Senate Bill 1469 provides that the Department shall

⁷ Subsection (a) prevents charter schools from having access to the Teacher Experience Index funding, as provided by A.R.S. § 15-941. This provision is not new. Previously, it was found in subsection (B)(1); with the change, it is now separately enumerated as subsection (a).

allocate \$74,394,000 as though it were “an additional increase of \$54.31 in the base level defined for fiscal year 2015-2016 in section 15-901, subsection B, paragraph 2,” but specifies that the “additional inflation amount is not an increase in the base level” as defined by A.R.S. § 15-901. SB 1469 at 25:12-24. This language clearly indicates that the inflationary increase is to be treated as though it is part of the base level. A.R.S. § 15-943(3) states that a “base support level” is calculated by multiplying the weighted student count (as determined pursuant to subsections (1) and (2)) “by the base level.” A.R.S. § 15-943(3). Because the inflationary amount is to be allocated as “if the monies were for an additional increase . . . in the base level,” the inflationary increase amount should be added to the base level, and then the base support level should be calculated by multiplying that number by the weighted student count, determined pursuant to A.R.S. § 15-943, as affected by SB 1476, if appropriate.

IV. Calculation of the Small School Weight for K-12 Charter Schools

Finally, you have asked how the Department should apply SB 1476 to charter schools that serve grades K-12. This question arises because A.R.S. § 15-943(1) establishes different Small School Weights for K-8 schools and for 9-12 schools. *Compare* A.R.S. § 15-943(1)(a) *with* -943(1)(b). While neither SB 1476 nor A.R.S. § 15-943 address this question, the Department has developed its own interpretation, which arises independently of the change effected by SB 1476. For charter holders that serve both K-8 and 9-12 in one school, the Department determines the number of K-8 students and the number of 9-12 students separately. If the number of K-8 students is less than 600, it applies the K-8 Small School Weight, with a similar result if the number of 9-12 students is less than 600. The Department’s practice is reasonable; under this practice, students in grade K-8 are aggregated for purposes of determining their eligibility for the weight assigned to them, while 9-12 students are considered as a separate group for the weight assigned to them. With SB 1476, the Department should now aggregate all students in grades K-8 in schools held by a single charter holder to determine whether to apply the Small School Weight, and should make similar calculation as to all students in grades 9-12.

Conclusion

The legislative change to eligibility for the Small School Weight will not change eligibility for those affiliated charter schools with aggregated student counts below 600, regardless of the number of charters held. It will, however, affect both the Classroom Site Fund and inflationary increase monies that some charter schools receive. Finally, the Department of Education should separately determine the number of students in grades K-8 and 9-12 for purposes of applying the relevant weighting factors.

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