

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2459

AN ACT

AMENDING SECTIONS 15-203, 15-502, 15-503, 41-1758 AND 41-1758.01, ARIZONA
REVISED STATUTES; RELATING TO SCHOOL DISTRICT EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-203, Arizona Revised Statutes, is amended to
3 read:
4 15-203. Powers and duties
5 A. The state board of education shall:
6 1. Exercise general supervision over and regulate the conduct of the
7 public school system and adopt any rules and policies it deems necessary to
8 accomplish this purpose.
9 2. Keep a record of its proceedings.
10 3. Make rules for its own government.
11 4. Determine the policy and work undertaken by it.
12 5. Appoint its employees, on the recommendation of the superintendent
13 of public instruction.
14 6. Prescribe the duties of its employees if not prescribed by statute.
15 7. Delegate to the superintendent of public instruction the execution
16 of board policies and rules.
17 8. Recommend to the legislature changes or additions to the statutes
18 pertaining to schools.
19 9. Prepare, publish and distribute reports concerning the educational
20 welfare of this state.
21 10. Prepare a budget for expenditures necessary for proper maintenance
22 of the board and accomplishment of its purposes and present the budget to the
23 legislature.
24 11. Aid in the enforcement of laws relating to schools.
25 12. Prescribe a minimum course of study in the common schools, minimum
26 competency requirements for the promotion of pupils from the third grade and
27 minimum course of study and competency requirements for the promotion of
28 pupils from the eighth grade. The state board of education shall prepare a
29 fiscal impact statement of any proposed changes to the minimum course of
30 study or competency requirements and, on completion, shall send a copy to the
31 director of the joint legislative budget committee and the executive director
32 of the school facilities board. The state board of education shall not adopt
33 any changes in the minimum course of study or competency requirements in
34 effect on July 1, 1998 that will have a fiscal impact on school capital
35 costs.
36 13. Prescribe minimum course of study and competency requirements for
37 the graduation of pupils from high school. The state board of education
38 shall prepare a fiscal impact statement of any proposed changes to the
39 minimum course of study or competency requirements and, on completion, shall
40 send a copy to the director of the joint legislative budget committee and the
41 executive director of the school facilities board. The state board of
42 education shall not adopt any changes in the minimum course of study or
43 competency requirements in effect on July 1, 1998 that will have a fiscal
44 impact on school capital costs.

1 14. Supervise and control the certification of persons engaged in
2 instructional work directly as any classroom, laboratory or other teacher or
3 indirectly as a supervisory teacher, speech therapist, principal or
4 superintendent in a school district, including school district preschool
5 programs, or any other educational institution below the community college,
6 college or university level, and prescribe rules for certification, including
7 rules for certification of teachers who have teaching experience and who are
8 trained in other states, which are not unnecessarily restrictive and are
9 substantially similar to the rules prescribed for the certification of
10 teachers trained in this state. The rules shall require applicants for all
11 certificates for common school instruction to complete a minimum of
12 forty-five classroom hours or three college level credit hours, or the
13 equivalent, of training in research based systematic phonics instruction from
14 a public or private provider. The rules shall not require a teacher to
15 obtain a master's degree or to take any additional graduate courses as a
16 condition of certification or recertification. The rules shall allow a
17 general equivalency diploma to be substituted for a high school diploma in
18 the certification of emergency substitute teachers. **THE RULES SHALL ALLOW
19 BUT SHALL NOT REQUIRE THE SUPERINTENDENT OF A SCHOOL DISTRICT TO OBTAIN
20 CERTIFICATION FROM THE STATE BOARD OF EDUCATION.**

21 15. Adopt a list of approved tests for determining special education
22 assistance to gifted pupils as defined in and as provided in chapter 7,
23 article 4.1 of this title. The adopted tests shall provide separate scores
24 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
25 shall be capable of providing reliable and valid scores at the highest ranges
26 of the score distribution.

27 16. Adopt rules governing the methods for the administration of all
28 proficiency examinations. **THE RULES SHALL NOT REQUIRE THE BUSINESS MANAGER
29 OF A SCHOOL DISTRICT TO OBTAIN CERTIFICATION FROM THE STATE BOARD OF
30 EDUCATION.**

31 17. Adopt proficiency examinations for its use. The state board of
32 education shall determine the passing score for the proficiency examination.

33 18. Include within its budget the cost of contracting for the purchase,
34 distribution and scoring of the examinations as provided in paragraphs 16 and
35 17 of this subsection.

36 19. Supervise and control the qualifications of professional
37 nonteaching school personnel and prescribe standards relating to
38 qualifications.

39 20. Impose such disciplinary action, including the issuance of a letter
40 of censure, suspension, suspension with conditions or revocation of a
41 certificate, upon a finding of immoral or unprofessional conduct.

42 21. Establish an assessment, data gathering and reporting system for
43 pupil performance as prescribed in chapter 7, article 3 of this title.

1 22. Adopt a rule to promote braille literacy pursuant to section
2 15-214.

3 23. Adopt rules prescribing procedures for the investigation by the
4 department of education of every written complaint alleging that a
5 certificated person has engaged in immoral conduct.

6 24. For purposes of federal law, serve as the state board for
7 vocational and technological education and meet at least four times each year
8 solely to execute the powers and duties of the state board for vocational and
9 technological education.

10 25. Develop and maintain a handbook for use in the schools of this
11 state that provides guidance for the teaching of moral, civic and ethical
12 education. The handbook shall promote existing curriculum frameworks and
13 shall encourage school districts to recognize moral, civic and ethical values
14 within instructional and programmatic educational development programs for
15 the general purpose of instilling character and ethical principles in pupils
16 in kindergarten programs and grades one through twelve.

17 26. Require pupils to recite the following passage from the declaration
18 of independence for pupils in grades four through six at the commencement of
19 the first class of the day in the schools, except that a pupil shall not be
20 required to participate if the pupil or the pupil's parent or guardian
21 objects:

22 We hold these truths to be self-evident, that all men are
23 created equal, that they are endowed by their creator with
24 certain unalienable rights, that among these are life, liberty
25 and the pursuit of happiness. That to secure these rights,
26 governments are instituted among men, deriving their just powers
27 from the consent of the governed. . . .

28 27. Adopt rules that provide for teacher certification reciprocity.
29 The rules shall provide for a one year reciprocal teaching certificate with
30 minimum requirements including valid teacher certification from a state with
31 substantially similar criminal history or teacher fingerprinting requirements
32 and proof of the submission of an application for a fingerprint clearance
33 card pursuant to title 41, chapter 12, article 3.1.

34 28. Adopt rules that will be in effect until December 31, 2006 and that
35 provide for the presentation of an honorary high school diploma to a person
36 who has never obtained a high school diploma and who meets each of the
37 following requirements:

38 (a) Is at least sixty-five years of age.

39 (b) Currently resides in this state.

40 (c) Provides documented evidence from the Arizona department of
41 veterans' services that the person enlisted in the armed forces of the United
42 States before completing high school in a public or private school.

43 (d) Was honorably discharged from service with the armed forces of the
44 United States.

1 29. Cooperate with the Arizona-Mexico commission in the governor's
2 office and with researchers at universities in this state to collect data and
3 conduct projects in the United States and Mexico on issues that are within
4 the scope of the duties of the department of education and that relate to
5 quality of life, trade and economic development in this state in a manner
6 that will help the Arizona-Mexico commission to assess and enhance the
7 economic competitiveness of this state and of the Arizona-Mexico region.

8 30. Adopt rules to define and provide guidance to schools as to the
9 activities that would constitute immoral or unprofessional conduct of
10 certificated persons.

11 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
12 and twelve to volunteer for twenty hours of community service before
13 graduation from high school. A school district that complies with the
14 guidelines adopted pursuant to this paragraph is not liable for damages
15 resulting from a pupil's participation in community service unless the school
16 district is found to have demonstrated wanton or reckless disregard for the
17 safety of the pupil and other participants in community service. For the
18 purposes of this paragraph, "community service" may include service learning.
19 The guidelines shall include the following:

20 (a) A list of the general categories in which community service may be
21 performed.

22 (b) A description of the methods by which community service will be
23 monitored.

24 (c) A consideration of risk assessment for community service projects.

25 (d) Orientation and notification procedures of community service
26 opportunities for pupils entering grade nine, including the development of a
27 notification form. The notification form shall be signed by the pupil and
28 the pupil's parent or guardian, except that a pupil shall not be required to
29 participate in community service if the parent or guardian notifies the
30 principal of the pupil's school in writing that the parent or guardian does
31 not wish the pupil to participate in community service.

32 (e) Procedures for a pupil in grade nine to prepare a written proposal
33 that outlines the type of community service that the pupil would like to
34 perform and the goals that the pupil hopes to achieve as a result of
35 community service. The pupil's written proposal shall be reviewed by a
36 faculty advisor, a guidance counselor or any other school employee who is
37 designated as the community service program coordinator for that school. The
38 pupil may alter the written proposal at any time before performing community
39 service.

40 (f) Procedures for a faculty advisor, a guidance counselor or any
41 other school employee who is designated as the community service program
42 coordinator to evaluate and certify the completion of community service
43 performed by pupils.

1 32. To facilitate the transfer of military personnel and their
2 dependents to and from the public schools of this state, pursue, in
3 cooperation with the Arizona board of regents, reciprocity agreements with
4 other states concerning the transfer credits for military personnel and their
5 dependents. A reciprocity agreement entered into pursuant to this paragraph
6 shall:

7 (a) Address procedures for each of the following:

8 (i) The transfer of student records.

9 (ii) Awarding credit for completed course work.

10 (iii) Permitting a student to satisfy the graduation requirements
11 prescribed in section 15-701.01 through the successful performance on
12 comparable exit-level assessment instruments administered in another state.

13 (b) Include appropriate criteria developed by the state board of
14 education and the Arizona board of regents.

15 33. Adopt guidelines that school district governing boards shall use in
16 identifying pupils who are eligible for gifted programs and in providing
17 gifted education programs and services. The state board of education shall
18 adopt any other guidelines and rules that it deems necessary in order to
19 carry out the purposes of chapter 7, article 4.1 of this title.

20 34. For each of the alternative textbook formats of human-voiced audio,
21 large-print and braille, designate alternative media producers to adapt
22 existing standard print textbooks or to provide specialized textbooks, or
23 both, for pupils with disabilities in this state. Each alternative media
24 producer shall be capable of producing alternative textbooks in all relevant
25 subjects in at least one of the alternative textbook formats. The board
26 shall post the designated list of alternative media producers on its website.

27 35. Adopt a list of approved professional development training
28 providers for use by school districts as provided in section 15-107,
29 subsection J. The professional development training providers shall meet the
30 training curriculum requirements determined by the state board of education
31 in at least the areas of school finance, governance, employment, staffing,
32 inventory and human resources, internal controls and procurement.

33 36. Adopt rules to prohibit a person who violates the notification
34 requirements prescribed in section 15-183, subsection C, paragraph 6 or
35 section 15-550, subsection C from certification pursuant to this title until
36 the person is no longer charged or is acquitted of any offenses listed in
37 section 41-1758.03, subsection B. The board shall also adopt rules to
38 prohibit a person who violates the notification requirements, certification
39 surrender requirements or fingerprint clearance card surrender requirements
40 prescribed in section 15-183, subsection C, paragraph 7 or section 15-550,
41 subsection D from certification pursuant to this title for at least ten years
42 after the date of the violation.

43 B. The state board of education may:

44 1. Contract.

45 2. Sue and be sued.

1 C. No dependent, as defined in section 43-1001, of a governing board
2 member may be employed in the school district in which the person to whom
3 such dependent is so related is a governing board member, except by consent
4 of the board.

5 D. The governing board may employ certificated teachers under contract
6 as part-time classroom teachers. Notwithstanding any other statute, a
7 certificated teacher who has been employed by the school district for more
8 than the major portion of three consecutive school years does not lose the
9 entitlement to the procedures prescribed in sections 15-538.01, 15-539
10 through 15-544 and 15-547 if the teacher is employed under contract on a
11 part-time basis for at least forty per cent time. ~~As used in~~ FOR THE
12 PURPOSES OF this subsection, "forty per cent time" means employed for at
13 least forty per cent of the school day required of full-time teachers of the
14 same grade level or for at least forty per cent of the class load assigned to
15 full-time teachers of the same grade level, as determined by the governing
16 board.

17 E. THE GOVERNING BOARD MAY EMPLOY A BUSINESS MANAGER WHO HAS EXPERTISE
18 IN FINANCE. FOR THE PURPOSES OF THIS SUBSECTION, "EXPERTISE IN FINANCE"
19 MEANS ONE OR MORE OF THE FOLLOWING:

20 1. A BACCALAUREATE DEGREE IN ACCOUNTING, FINANCE, SCHOOL FINANCE OR
21 PUBLIC FINANCE.

22 2. A GRADUATE DEGREE IN ACCOUNTING, FINANCE, SCHOOL FINANCE OR PUBLIC
23 FINANCE.

24 3. OTHER FINANCE TRAINING OR FINANCE EXPERIENCE THAT THE GOVERNING
25 BOARD DETERMINES IS SUFFICIENT TO QUALIFY THE PERSON TO ADMINISTER THE
26 BUSINESS OPERATIONS OF THE SCHOOL DISTRICT.

27 ~~E.~~ F. Notwithstanding sections 23-351 and 23-353, if an employee is
28 discharged from the service of a school district, the school district shall
29 pay the wages due to the employee within ten calendar days from the date of
30 discharge.

31 ~~F.~~ G. Each school district shall establish policies and procedures to
32 provide teachers with personal liability insurance.

33 Sec. 3. Section 15-503, Arizona Revised Statutes, is amended to read:

34 15-503. Superintendents, principals, head teachers and school
35 psychologists; term of employment; evaluation;
36 contract delivery; nonretention notice

37 A. The governing board may:

38 1. Employ a superintendent or principal, or both. IF THE GOVERNING
39 BOARD EMPLOYS A SUPERINTENDENT, THE GOVERNING BOARD SHALL DETERMINE THE
40 QUALIFICATIONS FOR THE SUPERINTENDENT BY ACTION TAKEN AT A PUBLIC MEETING.
41 THE GOVERNING BOARD SHALL REQUIRE A SUPERINTENDENT TO HAVE A VALID
42 FINGERPRINT CLEARANCE CARD THAT IS ISSUED PURSUANT TO TITLE 41, CHAPTER 12,
43 ARTICLE 3.1.

1 2. Appoint a head teacher.

2 3. Jointly with another governing board employ a superintendent or a
3 principal, or both. IF THE GOVERNING BOARD JOINTLY EMPLOYS A SUPERINTENDENT,
4 THE GOVERNING BOARDS SHALL JOINTLY DETERMINE THE QUALIFICATIONS FOR THE
5 SUPERINTENDENT BY ACTION TAKEN AT A PUBLIC MEETING. THE GOVERNING BOARDS
6 SHALL REQUIRE A SUPERINTENDENT TO HAVE A VALID FINGERPRINT CLEARANCE CARD
7 THAT IS ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

8 B. The term of employment of superintendents or principals may be for
9 any period not exceeding three years, except that if the superintendent's or
10 principal's contract with the school district is for multiple years pursuant
11 to this subsection the school district shall not offer to extend or
12 renegotiate the contract until May of the year preceding the final year of
13 the contract. The school district governing board or the governing body of
14 the charter school shall communicate the superintendent's or principal's
15 duties with respect to the classroom site fund established by section 15-977.

16 C. The governing board shall establish systems for the evaluation of
17 the performance of principals and other school administrators and
18 certificated school psychologists in the school district. In the development
19 and adoption of these performance evaluation systems, the governing board
20 shall avail itself of the advice of its administrators and certificated
21 school psychologists. Each evaluation shall include recommendations as to
22 areas of improvement in the performance of the certificated school
23 psychologist if the performance of the certificated school psychologist
24 warrants improvement. After transmittal of an assessment, a board designee
25 shall confer with the certificated school psychologist to make specific
26 recommendations as to areas of improvement in the certificated school
27 psychologist's performance. The board designee shall provide assistance and
28 opportunities for the certificated school psychologist to improve his
29 performance and shall follow up with the certificated school psychologist
30 after a reasonable period of time for the purpose of ascertaining that the
31 certificated school psychologist is demonstrating adequate performance. The
32 evaluation process for certificated school psychologists shall include appeal
33 procedures for certificated school psychologists who disagree with the
34 evaluation of their performance, if the evaluation is for use as criteria for
35 establishing compensation or dismissal.

36 D. On or before May 15 EACH YEAR, the governing board shall offer a
37 contract for the next school year to each certified administrator and
38 certificated school psychologist who is in the last year of his contract
39 unless, on or before April 15, the governing board, a member of the board
40 acting on behalf of the board or the superintendent of the school district
41 gives notice to the administrator or certificated school psychologist of the
42 board's intention not to offer a new contract. If the governing board has
43 called for an override election for the third Tuesday in May as provided in
44 section 15-481, the governing board shall offer a contract for the next
45 school year to each certified administrator or certificated school

1 psychologist who is in the last year of his contract on or before June 15
2 unless, no later than five days after the override election excluding
3 Saturday, Sunday and legal holidays, the governing board, a member of the
4 board acting on behalf of the board or the superintendent of the school
5 district gives notice to the administrator or the certificated school
6 psychologist of the board's intention not to offer a new contract. The
7 administrator's or the certificated school psychologist's acceptance of the
8 contract shall be indicated within thirty days from the date of the written
9 contract or the offer is revoked. The administrator or certificated school
10 psychologist accepts the contract by signing the contract and returning it to
11 the governing board or by making a written instrument ~~which~~ THAT accepts the
12 terms of the contract and delivering the written instrument to the governing
13 board.

14 E. Notice of the board's intention not to reemploy the administrator
15 or certificated school psychologist shall be made by delivering the notice
16 personally to the administrator or the certificated school psychologist or by
17 sending the notice by certified mail, postmarked on or before the applicable
18 deadline prescribed in subsection D of this section, and directed to the
19 administrator or the certificated school psychologist at his place of
20 residence as recorded in the school district records.

21 Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to read:

22 41-1758. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Agency" means the supreme court, the department of economic
25 security, the department of education, the department of health services, the
26 department of juvenile corrections, the department of emergency and military
27 affairs, the board of fingerprinting or the board of examiners of nursing
28 care institution administrators and assisted living facility managers.

29 2. "Division" means the fingerprinting division in the department of
30 public safety.

31 3. "Good cause exception" means the issuance of a fingerprint
32 clearance card to an employee pursuant to section 41-619.55.

33 4. "Person" means a person who is required to be fingerprinted
34 pursuant to any of the following:

35 (a) Section 8-105.

36 (b) Section 8-322.

37 (c) Section 8-509.

38 (d) Section 8-802.

39 (e) Section 15-183.

40 (f) SECTION 15-503.

41 ~~(f)~~ (g) Section 15-534.

42 ~~(g)~~ (h) Section 15-1330.

43 ~~(h)~~ (i) Section 15-1881.

44 ~~(i)~~ (j) Section 26-103.

45 ~~(j)~~ (k) Section 36-411.

- 1 ~~(k)~~ (l) Section 36-425.03.
- 2 ~~(l)~~ (m) Section 36-446.04.
- 3 ~~(m)~~ (n) Section 36-594.01.
- 4 ~~(n)~~ (o) Section 36-594.02.
- 5 ~~(o)~~ (p) Section 36-882.
- 6 ~~(p)~~ (q) Section 36-883.02.
- 7 ~~(q)~~ (r) Section 36-897.01.
- 8 ~~(r)~~ (s) Section 36-897.03.
- 9 ~~(s)~~ (t) Section 36-3008.
- 10 ~~(t)~~ (u) Section 41-619.52.
- 11 ~~(u)~~ (v) Section 41-619.53.
- 12 ~~(v)~~ (w) Section 41-1964.
- 13 ~~(w)~~ (x) Section 41-1967.01.
- 14 ~~(x)~~ (y) Section 41-1968.
- 15 ~~(y)~~ (z) Section 41-1969.
- 16 ~~(z)~~ (aa) Section 41-2814.
- 17 ~~(aa)~~ (bb) Section 46-141, subsection A.
- 18 ~~(bb)~~ (cc) Section 46-321.

19 5. "Vulnerable adult" has the same meaning prescribed in section
20 13-3623.

21 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to
22 read:

23 41-1758.01. Fingerprinting division; duties

24 The fingerprinting division is established in the department of public
25 safety and shall:

26 1. Conduct fingerprint background checks for persons and applicants
27 who are seeking employment with licensees, contract providers and state
28 agencies or seeking employment or educational opportunities with agencies
29 that require fingerprint background checks pursuant to sections 8-105, 8-322,
30 8-509, 8-802, 15-503, 15-183, 15-534, 15-1330, 15-1881, 26-103, 36-411,
31 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,
32 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,
33 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

34 2. Issue fingerprint clearance cards. On issuance, a fingerprint
35 clearance card becomes the personal property of the cardholder and the
36 cardholder shall retain possession of the fingerprint clearance card.

37 3. On submission of an application for a fingerprint clearance card,
38 collect the fees established by the board of fingerprinting pursuant to
39 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
40 monies collected in the board of fingerprinting fund.

41 4. Inform in writing each person who submits fingerprints for a
42 fingerprint background check of the person's right to petition the board of
43 fingerprinting for a good cause exception pursuant to section 41-1758.03.

44 5. Administer and enforce this article.