

REFERENCE TITLE: education; omnibus

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1256**

Introduced by  
Senator Crandall

AN ACT

AMENDING SECTIONS 15-533, 15-761 AND 15-802, ARIZONA REVISED STATUTES;  
AMENDING SECTION 15-861, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010,  
CHAPTER 318, SECTION 11; RELATING TO SCHOOL DISTRICTS AND CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-533, Arizona Revised Statutes, is amended to  
3 read:

4 15-533. Reciprocity: proficiency examination

5 A. To qualify for either a basic or standard teaching certificate, or  
6 equivalent certificate later adopted by the state board of education, a  
7 person must pass each component of the proficiency examination developed and  
8 administered by the state board of education. The proficiency examination  
9 shall consist of only a professional knowledge test and a subject knowledge  
10 test. **A PERSON IS NOT REQUIRED TO TAKE THE EXAMINATION IF THE PERSON HAS  
11 PASSED A PROFICIENCY EXAMINATION ADOPTED BY A STATE AGENCY IN ANOTHER STATE  
12 THAT IS EQUIVALENT TO THE STATE BOARD OF EDUCATION.** A person is not required  
13 to take the professional knowledge portion of the examination if the person  
14 has been a full-time teacher for at least three years in that same area of  
15 certification in which the person is applying for certification in this  
16 state. A person is not required to take the subject knowledge portion of the  
17 examination if the person has obtained a master's degree in that subject area  
18 at an accredited institution of higher education according to an official  
19 transcript issued from the institution. A person who obtained structured  
20 English immersion training in another state that the state board of education  
21 determines is comparable to the structured English immersion training  
22 required in this state shall not be required to obtain additional structured  
23 English immersion training in this state. The state board of education may  
24 grant a basic or standard teaching certificate for not to exceed one year to  
25 a teacher who is a nonresident and who has not met the requirement of this  
26 section at the time of application.

27 B. A person is not required to pass the proficiency examination or the  
28 equivalent examination more than once. The state board of education may  
29 adopt rules to modify the requirements of subsection A for persons who have  
30 taught, obtained certification or obtained a master's degree in another  
31 country. Notwithstanding any other law, a person who has not taught during  
32 the ten years immediately preceding the submission of the application for  
33 certification is required to repass the examination.

34 C. A person who is not required to pass the proficiency examination  
35 developed and administered in this state by the state board of education  
36 pursuant to subsection A or B shall only be granted reciprocity for those  
37 proficiency examinations required in this state that pertain to the grade  
38 levels and content areas that the person is certified to teach in another  
39 state.

40 Sec. 2. Section 15-761, Arizona Revised Statutes, is amended to read:

41 15-761. Definitions

42 In this article, unless the context otherwise requires:

43 1. "Autism" means a developmental disability that significantly  
44 affects verbal and nonverbal communication and social interaction and that  
45 adversely affects educational performance. Characteristics include

1 irregularities and impairments in communication, engagement in repetitive  
2 activities and stereotyped movements, resistance to environmental change or  
3 change in daily routines and unusual responses to sensory experiences.  
4 Autism does not include children with characteristics of emotional disability  
5 as defined in this section.

6 2. "Child with a disability":

7 (a) Means a child who is at least three years but less than twenty-two  
8 years of age, who has been evaluated pursuant to section 15-766 and found to  
9 have at least one of the following disabilities and who, because of the  
10 disability, needs special education and related services:

- 11 (i) Autism.
- 12 (ii) Developmental delay.
- 13 (iii) Emotional disability.
- 14 (iv) Hearing impairment.
- 15 (v) Other health impairments.
- 16 (vi) Specific learning disability.
- 17 (vii) Mild, moderate or severe mental retardation.
- 18 (viii) Multiple disabilities.
- 19 (ix) Multiple disabilities with severe sensory impairment.
- 20 (x) Orthopedic impairment.
- 21 (xi) Preschool severe delay.
- 22 (xii) Speech/language impairment.
- 23 (xiii) Traumatic brain injury.
- 24 (xiv) Visual impairment.

25 (b) Does not include a child if the determinant factor for the  
26 classification is one or more of the following:

- 27 (i) A lack of appropriate instruction in reading, including essential  
28 components of reading instruction.
- 29 (ii) A lack of appropriate instruction in mathematics.
- 30 (iii) Difficulty in writing, speaking or understanding the English  
31 language due to an environmental background in which a language other than  
32 English is primarily or exclusively used.

33 3. "Developmental delay" means performance by a child who is at least  
34 three years of age but under ten years of age on a norm-referenced test that  
35 measures at least one and one-half, but not more than three, standard  
36 deviations below the mean for children of the same chronological age in two  
37 or more of the following areas:

- 38 (a) Cognitive development.
- 39 (b) Physical development.
- 40 (c) Communication development.
- 41 (d) Social or emotional development.
- 42 (e) Adaptive development.

43 The results of the norm-referenced measure must be corroborated by  
44 information from a comprehensive development assessment and from parental  
45 input, if available, as measured by a judgment based assessment or survey.

1 If there is a discrepancy between the measures, the evaluation team shall  
2 determine eligibility based on a preponderance of the information presented.

3 4. "Due process hearing" means a fair and impartial administrative  
4 hearing conducted by the state educational agency by an impartial  
5 administrative law judge in accordance with federal and state law.

6 5. "Educational disadvantage" means a condition ~~which~~ THAT has limited  
7 a child's opportunity for educational experience resulting in a child  
8 achieving less than a normal level of learning development.

9 6. "Eligibility for special education" means the pupil must have one  
10 of the disabilities contained in paragraph 2 of this section and must also  
11 require special education services in order to benefit from an educational  
12 program.

13 7. "Emotional disability":

14 (a) Means a condition whereby a child exhibits one or more of the  
15 following characteristics over a long period of time and to a marked degree  
16 that adversely affects the child's performance in the educational  
17 environment:

18 (i) An inability to learn ~~which~~ THAT cannot be explained by  
19 intellectual, sensory or health factors.

20 (ii) An inability to build or maintain satisfactory interpersonal  
21 relationships with peers and teachers.

22 (iii) Inappropriate types of behavior or feelings under normal  
23 circumstances.

24 (iv) A general pervasive mood of unhappiness or depression.

25 (v) A tendency to develop physical symptoms or fears associated with  
26 personal or school problems.

27 (b) Includes children who are schizophrenic but does not include  
28 children who are socially maladjusted unless they are also determined to have  
29 an emotional disability as determined by evaluation as provided in section  
30 15-766.

31 8. "Hearing impairment" means a loss of hearing acuity, as determined  
32 by evaluation pursuant to section 15-766, ~~which~~ THAT interferes with the  
33 child's performance in the educational environment and requires the provision  
34 of special education and related services.

35 9. "Home school district" means the school district in which the  
36 person resides who has legal custody of the child, as provided in section  
37 15-824, subsection B. If the child is a ward of the state and a specific  
38 person does not have legal custody of the child, the home school district is  
39 the district that the child last attended or, if the child has not previously  
40 attended a public school in this state, the school district within which the  
41 child currently resides.

42 10. "Impartial administrative law judge" means an administrative law  
43 judge of the office of administrative hearings who is knowledgeable in the  
44 laws governing special education and administrative hearings.

1           11. "Individualized education program" means a written statement, as  
2 defined in 20 United States Code sections 1401 and 1412, for providing  
3 special education and related services to a child with a disability.

4           12. "Individualized education program team" means a team whose task is  
5 to develop an appropriate educational program for the child and has the same  
6 meaning prescribed in 20 United States Code section 1414.

7           13. "Mental retardation" means a significant impairment of general  
8 intellectual functioning that exists concurrently with deficits in adaptive  
9 behavior and that adversely affects the child's performance in the  
10 educational environment.

11           14. "Mild mental retardation" means performance on standard measures of  
12 intellectual and adaptive behavior between two and three standard deviations  
13 below the mean for children of the same age.

14           15. "Moderate mental retardation" means performance on standard  
15 measures of intellectual and adaptive behavior between three and four  
16 standard deviations below the mean for children of the same age.

17           16. "Multidisciplinary evaluation team" means a team of persons  
18 including individuals described as the individualized education program team  
19 and other qualified professionals who shall determine whether a child is  
20 eligible for special education.

21           17. "Multiple disabilities" means learning and developmental problems  
22 resulting from multiple disabilities as determined by evaluation pursuant to  
23 section 15-766 that cannot be provided for adequately in a program designed  
24 to meet the needs of children with less complex disabilities. Multiple  
25 disabilities include any of the following conditions that require the  
26 provision of special education and related services:

27           (a) Two or more of the following conditions:

28           (i) Hearing impairment.

29           (ii) Orthopedic impairment.

30           (iii) Moderate mental retardation.

31           (iv) Visual impairment.

32           (b) A child with a disability listed in subdivision (a) of this  
33 paragraph existing concurrently with a condition of mild mental retardation,  
34 emotional disability or specific learning disability.

35           18. "Multiple disabilities with severe sensory impairment" means  
36 multiple disabilities that include at least one of the following:

37           (a) Severe visual impairment or severe hearing impairment in  
38 combination with another severe disability.

39           (b) Severe visual impairment and severe hearing impairment.

40           19. "Orthopedic impairment" means one or more severe orthopedic  
41 impairments and includes those that are caused by congenital anomaly, disease  
42 and other causes, such as amputation or cerebral palsy, and that adversely  
43 affect a child's performance in the educational environment.

44           20. "Other health impairments" means limited strength, vitality or  
45 alertness, including a heightened alertness to environmental stimuli, due to

1 chronic or acute health problems ~~which~~ THAT adversely affect a pupil's  
2 educational performance.

3 21. "Out-of-home care" means the placement of a child with a disability  
4 outside of the home environment and includes twenty-four hour residential  
5 care, group care or foster care on either a full-time or part-time basis.

6 22. "Parent" means:

7 (a) Either a natural or adoptive parent of a child.

8 (b) A guardian, but not this state if the child is a ward of this  
9 state.

10 (c) A person acting in the place of a natural or adoptive parent with  
11 whom the child lives or a person who is legally responsible for the child's  
12 welfare.

13 (d) A surrogate parent.

14 (e) A foster parent to the extent permitted by state law.

15 23. "Preschool child" means a child who is at least three years of age  
16 but who has not reached the required age for kindergarten, subject to section  
17 15-771, subsection G.

18 24. "Preschool severe delay" means performance by a preschool child on  
19 a norm-referenced test that measures more than three standard deviations  
20 below the mean for children of the same chronological age in one or more of  
21 the following areas:

22 (a) Cognitive development.

23 (b) Physical development.

24 (c) Communication development.

25 (d) Social or emotional development.

26 (e) Adaptive development.

27 The results of the norm-referenced measure must be corroborated by  
28 information from a comprehensive developmental assessment and from parental  
29 input, if available, as measured by a judgment based assessment or survey.  
30 If there is a discrepancy between the measures, the evaluation team shall  
31 determine eligibility based on a preponderance of the information presented.

32 25. "Prior written notice" means written prior notice that a public  
33 educational agency is required to send to parents whenever the public  
34 educational agency proposes or refuses to initiate or change the  
35 identification, evaluation or educational placement of a child with a  
36 disability or the provision of a free appropriate public education.

37 26. "Public educational agency" means a school district, a charter  
38 school, an accommodation school, a state supported institution or any other  
39 political subdivision of this state that is responsible for providing  
40 education to children with disabilities.

41 27. "Related services" means those supportive services, as defined in  
42 20 United States Code section 1401, that are required to assist a child with  
43 a disability who is eligible to receive special education services in order  
44 for the child to benefit from special education.

1           28. "Residential special education placement" means the placement of a  
2 child with a disability in a public or private residential program, as  
3 provided in section 15-765, subsection G, in order to provide necessary  
4 special education and related services as specified in the child's  
5 individualized education program.

6           29. "Severe mental retardation" means performance on standard measures  
7 of intellectual and adaptive behavior measures at least four standard  
8 deviations below the mean for children of the same age.

9           30. "Special education" means specially designed instruction that meets  
10 the unique needs of a child with a disability and that is provided without  
11 cost to the parents of the child.

12           31. "Special education referral" means a written request for an  
13 evaluation to determine whether a pupil is eligible for special education  
14 services that, for referrals not initiated by a parent, includes  
15 documentation of appropriate efforts to educate the pupil in the regular  
16 education program.

17           32. "Specially designed instruction" means adapting the content,  
18 methodology or delivery of instruction to address the unique needs of a child  
19 with a disability and to ensure that child's access to the general curriculum  
20 as identified in the academic standards adopted by the state board of  
21 education.

22           33. "Specific learning disability" has the same meaning as defined in  
23 20 United States Code section 1401.

24           34. "Speech/language impairment":

25           (a) For a preschool child, means performance on a norm-referenced  
26 language test that measures at least one and one-half standard deviations  
27 below the mean for children of the same chronological age or whose speech,  
28 out of context, is unintelligible to a listener who is unfamiliar with the  
29 child. Eligibility for a preschool child under this subdivision is  
30 appropriate only when a comprehensive developmental assessment and parental  
31 input indicate that the preschool child is not eligible for services under  
32 another preschool category or under the developmental delay category. **IF**  
33 **THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL**  
34 **DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.**

35           (b) For a child who has reached the required age for kindergarten,  
36 means a speech or language impairment as defined in 34 Code of Federal  
37 Regulations section 300.8.

38           35. "State educational agency" means the Arizona department of  
39 education.

40           36. "State placing agency" has the same meaning prescribed in section  
41 15-1181.

42           37. "Surrogate parent" means a person who has been appointed by the  
43 court or by the department of education pursuant to section 15-763.01 in  
44 order to represent a child in decisions regarding special education.



1 paragraph 2 of this subsection stating that the person who has custody of the  
2 child does not desire to begin home school instruction.

3 C. An affidavit of intent shall be filed within thirty days from the  
4 time the child begins to attend a private school or home school and is not  
5 required thereafter unless the private school or the home school instruction  
6 is terminated and then resumed. The person who has custody of the child  
7 shall notify the county school superintendent within thirty days of the  
8 termination that the child is no longer being instructed at a private school  
9 or a home school. If the private school or home school instruction is  
10 resumed, the person who has custody of the child shall file another affidavit  
11 of intent with the county school superintendent within thirty days.

12 D. A person is excused from the duties prescribed by subsection A or B  
13 of this section if any of the following ~~are IS~~ shown to the satisfaction of  
14 the school principal or the school principal's designee:

15 1. The child is in such physical or mental condition that instruction  
16 is inexpedient or impracticable.

17 2. The child has completed the high school course of study necessary  
18 for completion of grade ten as prescribed by the state board of education.

19 3. The child has presented reasons for nonattendance at a public  
20 school ~~which~~ THAT are satisfactory to the school principal or the school  
21 principal's designee. For THE purposes of this paragraph, the principal's  
22 designee may be the school district governing board.

23 4. The child is over fourteen years of age and is EMPLOYED, with the  
24 consent of the person who has custody of him, ~~employed~~ at some lawful wage  
25 earning occupation.

26 5. The child is enrolled in a work training, career education, career  
27 and technical education, vocational education or manual training program  
28 ~~which~~ THAT meets the educational standards established and approved by the  
29 department of education.

30 6. The child was either:

31 (a) Suspended and not directed to participate in an alternative  
32 education program.

33 (b) Expelled from a public school as provided in article 3 of this  
34 chapter.

35 7. The child is enrolled in an education program provided by a state  
36 educational or other institution.

37 E. Unless otherwise exempted in this section or section 15-803, a  
38 parent of a child between six and sixteen years of age or a person who has  
39 custody of a child, who does not provide instruction in a home school and who  
40 fails to enroll or fails to ensure that the child attends a public, private  
41 or charter school pursuant to this section is guilty of a class 3  
42 misdemeanor. A parent who fails to comply with the duty to file an affidavit  
43 of intent to provide instruction in a home school is guilty of a petty  
44 offense.

1 F. For the purposes of this section:

2 1. "Home school" means a school conducted primarily by the parent,  
3 guardian or other person who has custody of the child or instruction provided  
4 in the child's home.

5 2. "Private school" means a nonpublic institution, other than the  
6 child's home, where academic instruction is provided for at least the same  
7 number of days and hours each year as a public school.

8 Sec. 4. Section 15-861, Arizona Revised Statutes, as amended by Laws  
9 2010, chapter 318, section 11, is amended to read:

10 15-861. Four day school week and alternative kindergarten  
11 programs

12 A. A governing board, after at least two public hearings in the school  
13 district, may offer an educational program on the basis of a four day school  
14 week or an alternative kindergarten program on the basis of a three day  
15 school week, or both.

16 B. The instructional time in an educational program offered on the  
17 basis of a four day school week or in an alternative kindergarten program  
18 offered on the basis of a three day school week must be equal to the  
19 instructional time in an educational program or kindergarten program, as  
20 applicable, offered on the basis of a five day school week. Notwithstanding  
21 section 15-901, subsection A, paragraph 5, for school districts ~~which~~ THAT  
22 offer an educational program on the basis of a four day school week in common  
23 schools or an alternative kindergarten program on the basis of a three day  
24 school week, or both, as provided in this section, the minimum number of  
25 minutes required for daily attendance shall be increased so that the number  
26 of minutes per day multiplied by the total number of school days per school  
27 year is at least equal to the number of minutes prescribed for that program  
28 or grade in section 15-901, subsection A, paragraph 5, multiplied by one  
29 hundred ~~seventy-five~~ EIGHTY.