

REFERENCE TITLE: schools; anti-bullying; electronic media.

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1549**

Introduced by  
Senator Schapira

AN ACT

AMENDING SECTION 15-341, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-341, Arizona Revised Statutes, is amended to  
3 read:

4 15-341. General powers and duties; immunity; delegation;  
5 definitions

6 A. The governing board shall:

7 1. Prescribe and enforce policies and procedures for the governance of  
8 the schools, not inconsistent with law or rules prescribed by the state board  
9 of education.

10 2. Exclude from schools all books, publications, papers or audiovisual  
11 materials of a sectarian, partisan or denominational character.

12 3. Manage and control the school property within its district.

13 4. Acquire school furniture, apparatus, equipment, library books and  
14 supplies for the use of the schools.

15 5. Prescribe the curricula and criteria for the promotion and  
16 graduation of pupils as provided in sections 15-701 and 15-701.01.

17 6. Furnish, repair and insure, at full insurable value, the school  
18 property of the district.

19 7. Construct school buildings on approval by a vote of the district  
20 electors.

21 8. Make in the name of the district conveyances of property belonging  
22 to the district and sold by the board.

23 9. Purchase school sites when authorized by a vote of the district at  
24 an election conducted as nearly as practicable in the same manner as the  
25 election provided in section 15-481 and held on a date prescribed in section  
26 15-491, subsection E, but such authorization shall not necessarily specify  
27 the site to be purchased and such authorization shall not be necessary to  
28 exchange unimproved property as provided in section 15-342, paragraph 23.

29 10. Construct, improve and furnish buildings used for school purposes  
30 when such buildings or premises are leased from the national park service.

31 11. Purchase school sites or construct, improve and furnish school  
32 buildings from the proceeds of the sale of school property only on approval  
33 by a vote of the district electors.

34 12. Hold pupils to strict account for disorderly conduct on school  
35 property.

36 13. Discipline students for disorderly conduct on the way to and from  
37 school.

38 14. Except as provided in section 15-1224, deposit all monies received  
39 by the district as gifts, grants and devises with the county treasurer who  
40 shall credit the deposits as designated in the uniform system of financial  
41 records. If not inconsistent with the terms of the gifts, grants and devises  
42 given, any balance remaining after expenditures for the intended purpose of  
43 the monies have been made shall be used for reduction of school district  
44 taxes for the budget year, except that in the case of accommodation schools  
45 the county treasurer shall carry the balance forward for use by the county  
46 school superintendent for accommodation schools for the budget year.

1           15. Provide that, if a parent or legal guardian chooses not to accept a  
2 decision of the teacher as provided in section 15-521, paragraph 2, the  
3 parent or legal guardian may request in writing that the governing board  
4 review the teachers decision. Nothing in this paragraph shall be construed  
5 to release school districts from any liability relating to a childs promotion  
6 or retention.

7           16. Provide for adequate supervision over pupils in instructional and  
8 noninstructional activities by certificated or noncertificated personnel.

9           17. Use school monies received from the state and county school  
10 apportionment exclusively for payment of salaries of teachers and other  
11 employees and contingent expenses of the district.

12           18. Make an annual report to the county school superintendent on or  
13 before October 1 in the manner and form and on the blanks prescribed by the  
14 superintendent of public instruction or county school superintendent. The  
15 board shall also make reports directly to the county school superintendent or  
16 the superintendent of public instruction whenever required.

17           19. Deposit all monies received by school districts other than student  
18 activities monies or monies from auxiliary operations as provided in sections  
19 15-1125 and 15-1126 with the county treasurer to the credit of the school  
20 district except as provided in paragraph 20 of this subsection and sections  
21 15-1223 and 15-1224, and the board shall expend the monies as provided by law  
22 for other school funds.

23           20. Establish bank accounts in which the board during a month may  
24 deposit miscellaneous monies received directly by the district. The board  
25 shall remit monies deposited in the bank accounts at least monthly to the  
26 county treasurer for deposit as provided in paragraph 19 of this subsection  
27 and in accordance with the uniform system of financial records.

28           21. Prescribe and enforce policies and procedures for disciplinary  
29 action against a teacher who engages in conduct that is a violation of the  
30 policies of the governing board but that is not cause for dismissal of the  
31 teacher or for revocation of the certificate of the teacher. Disciplinary  
32 action may include suspension without pay for a period of time not to exceed  
33 ten school days. Disciplinary action shall not include suspension with pay  
34 or suspension without pay for a period of time longer than ten school days.  
35 The procedures shall include notice, hearing and appeal provisions for  
36 violations that are cause for disciplinary action. The governing board may  
37 designate a person or persons to act on behalf of the board on these matters.

38           22. Prescribe and enforce policies and procedures for disciplinary  
39 action against an administrator who engages in conduct that is a violation of  
40 the policies of the governing board regarding duties of administrators but  
41 that is not cause for dismissal of the administrator or for revocation of the  
42 certificate of the administrator. Disciplinary action may include suspension  
43 without pay for a period of time not to exceed ten school days. Disciplinary  
44 action shall not include suspension with pay or suspension without pay for a  
45 period of time longer than ten school days. The procedures shall include  
46 notice, hearing and appeal provisions for violations that are cause for

1 disciplinary action. The governing board may designate a person or persons  
2 to act on behalf of the board on these matters. For violations that are  
3 cause for dismissal, the provisions of notice, hearing and appeal in chapter  
4 5, article 3 of this title shall apply. The filing of a timely request for a  
5 hearing suspends the imposition of a suspension without pay or a dismissal  
6 pending completion of the hearing.

7 23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce  
8 policies and procedures that prohibit a person from carrying or possessing a  
9 weapon on school grounds unless the person is a peace officer or has obtained  
10 specific authorization from the school administrator.

11 24. Prescribe and enforce policies and procedures relating to the  
12 health and safety of all pupils participating in district sponsored practice  
13 sessions, ~~OR~~ OR games or other interscholastic athletic activities, including  
14 the provision of water.

15 25. Prescribe and enforce policies and procedures regarding the smoking  
16 of tobacco within school buildings. The policies and procedures shall be  
17 adopted in consultation with school district personnel and members of the  
18 community and shall state whether smoking is prohibited in school buildings.  
19 If smoking in school buildings is not prohibited, the policies and procedures  
20 shall clearly state the conditions and circumstances under which smoking is  
21 permitted, those areas in a school building that may be designated as smoking  
22 areas and those areas in a school building that may not be designated as  
23 smoking areas.

24 26. Establish an assessment, data gathering and reporting system as  
25 prescribed in chapter 7, article 3 of this title.

26 27. Provide special education programs and related services pursuant to  
27 section 15-764, subsection A to all children with disabilities as defined in  
28 section 15-761.

29 28. Administer competency tests prescribed by the state board of  
30 education for the graduation of pupils from high school.

31 29. Ensure that insurance coverage is secured for all construction  
32 projects for purposes of general liability, property damage and workers  
33 compensation and secure performance and payment bonds for all construction  
34 projects.

35 30. Keep on file the resumes of all current and former employees who  
36 provide instruction to pupils at a school. Resumes shall include an  
37 individuals educational and teaching background and experience in a  
38 particular academic content subject area. A school district shall inform  
39 parents and guardians of the availability of the resume information and shall  
40 make the resume information available for inspection on request of parents  
41 and guardians of pupils enrolled at a school. Nothing in this paragraph  
42 shall be construed to require any school to release personally identifiable  
43 information in relation to any teacher or employee, including the teachers or  
44 employees address, salary, social security number or telephone number.

45 31. Report to local law enforcement agencies any suspected crime  
46 against a person or property that is a serious offense as defined in section

1 13-706 or that involves a deadly weapon or dangerous instrument or serious  
2 physical injury and any conduct that poses a threat of death or serious  
3 physical injury to employees, students or anyone on the property of the  
4 school. This paragraph does not limit or preclude the reporting by a school  
5 district or an employee of a school district of suspected crimes other than  
6 those required to be reported by this paragraph. For the purposes of this  
7 paragraph, "dangerous instrument", "deadly weapon" and "serious physical  
8 injury" have the same meanings prescribed in section 13-105.

9 32. In conjunction with local law enforcement agencies and local  
10 medical facilities, develop an emergency response plan for each school in the  
11 school district in accordance with minimum standards developed jointly by the  
12 department of education and the division of emergency management within the  
13 department of emergency and military affairs.

14 33. Provide written notice to the parents or guardians of all students  
15 affected in the school district at least thirty days prior to a public  
16 meeting to discuss closing a school within the school district. The notice  
17 shall include the reasons for the proposed closure and the time and place of  
18 the meeting. The governing board shall fix a time for a public meeting on  
19 the proposed closure no less than thirty days before voting in a public  
20 meeting to close the school. The school district governing board shall give  
21 notice of the time and place of the meeting. At the time and place  
22 designated in the notice, the school district governing board shall hear  
23 reasons for or against closing the school. The school district governing  
24 board is exempt from this paragraph if it is determined by the governing  
25 board that the school shall be closed because it poses a danger to the health  
26 or safety of the pupils or employees of the school.

27 34. Incorporate instruction on Native American history into appropriate  
28 existing curricula.

29 35. Prescribe and enforce policies and procedures allowing pupils who  
30 have been diagnosed with anaphylaxis by a health care provider licensed  
31 pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse  
32 practitioner licensed and certified pursuant to title 32, chapter 15 to carry  
33 and self-administer emergency medications, including auto-injectable  
34 epinephrine, while at school and at school sponsored activities. The pupils  
35 name on the prescription label on the medication container or on the  
36 medication device and annual written documentation from the pupils parent or  
37 guardian to the school that authorizes possession and self-administration is  
38 sufficient proof that the pupil is entitled to the possession and  
39 self-administration of the medication. The policies shall require a pupil  
40 who uses auto-injectable epinephrine while at school and at school sponsored  
41 activities to notify the nurse or the designated school staff person of the  
42 use of the medication as soon as practicable. A school district and its  
43 employees are immune from civil liability with respect to all decisions made  
44 and actions taken that are based on good faith implementation of the  
45 requirements of this paragraph, except in cases of wanton or wilful neglect.

1           36. Allow the possession and self-administration of prescription  
2 medication for breathing disorders in handheld inhaler devices by pupils who  
3 have been prescribed that medication by a health care professional licensed  
4 pursuant to title 32. The pupils name on the prescription label on the  
5 medication container or on the handheld inhaler device and annual written  
6 documentation from the pupils parent or guardian to the school that  
7 authorizes possession and self-administration shall be sufficient proof that  
8 the pupil is entitled to the possession and self-administration of the  
9 medication. A school district and its employees are immune from civil  
10 liability with respect to all decisions made and actions taken that are based  
11 on a good faith implementation of the requirements of this paragraph.

12           37. Prescribe and enforce policies and procedures to prohibit pupils  
13 from harassing, intimidating and bullying other pupils, **INCLUDING HARASSING,**  
14 **INTIMIDATING AND BULLYING THROUGH THE USE OF ELECTRONIC TECHNOLOGY AND**  
15 **ELECTRONIC COMMUNICATIONS,** on school grounds, on school property, on school  
16 buses, at school bus stops and at school sponsored events and activities, **AND**  
17 **ON SCHOOL COMPUTERS, NETWORKS, FORUMS AND MAILING LISTS,** that include the  
18 following components:

19           (a) A procedure for pupils to confidentially report to school  
20 officials incidents of harassment, intimidation or bullying.

21           (b) A procedure for parents and guardians of pupils to submit written  
22 reports to school officials of suspected incidents of harassment,  
23 intimidation or bullying.

24           (c) A requirement that school district employees report suspected  
25 incidents of harassment, intimidation or bullying to the appropriate school  
26 official.

27           (d) A formal process for the documentation of reported incidents of  
28 harassment, intimidation or bullying and for the confidentiality, maintenance  
29 and disposition of this documentation. If a school maintains documentation  
30 of reported incidents of harassment, intimidation or bullying, the school  
31 shall not use that documentation to impose disciplinary action unless the  
32 appropriate school official has investigated and determined that the reported  
33 incidents of harassment, intimidation or bullying occurred.

34           (e) A formal process for the investigation by the appropriate school  
35 officials of suspected incidents of harassment, intimidation or bullying.

36           (f) Disciplinary procedures for pupils who have admitted or been found  
37 to have committed incidents of harassment, intimidation or bullying.

38           (g) A procedure that sets forth consequences for submitting false  
39 reports of incidents of harassment, intimidation or bullying.

40           38. Prescribe and enforce policies and procedures regarding changing or  
41 adopting attendance boundaries that include the following components:

42           (a) A procedure for holding public meetings to discuss attendance  
43 boundary changes or adoptions that allows public comments.

44           (b) A procedure to notify the parents or guardians of the students  
45 affected.

1 (c) A procedure to notify the residents of the households affected by  
2 the attendance boundary changes.

3 (d) A process for placing public meeting notices and proposed maps on  
4 the school districts website for public review, if the school district  
5 maintains a website.

6 (e) A formal process for presenting the attendance boundaries of the  
7 affected area in public meetings that allows public comments.

8 (f) A formal process for notifying the residents and parents or  
9 guardians of the affected area as to the decision of the governing board on  
10 the school districts website, if the school district maintains a website.

11 (g) A formal process for updating attendance boundaries on the school  
12 districts website within ninety days of an adopted boundary change. The  
13 school district shall send a direct link to the school districts attendance  
14 boundaries website to the department of real estate.

15 (h) If the land that a school was built on was donated within the past  
16 five years, a formal process to notify the entity that donated the land  
17 affected by the decision of the governing board.

18 39. If the state board of education determines that the school district  
19 has committed an overexpenditure as defined in section 15-107, provide a copy  
20 of the fiscal management report submitted pursuant to section 15-107,  
21 subsection H on its website and make copies available to the public on  
22 request. The school district shall comply with a request within five  
23 business days after receipt.

24 40. Ensure that the contract for the superintendent is structured in a  
25 manner where at least twenty per cent of the total annual compensation and  
26 benefits included for the superintendent in the contract is classified as  
27 performance pay. Nothing in this paragraph shall be construed to require  
28 school districts to increase total compensation for superintendents. Unless  
29 the school district governing board votes to implement an alternative  
30 procedure at a public meeting called for this purpose, the performance pay  
31 portion of the superintendents total annual compensation shall be determined  
32 as follows:

33 (a) Twenty-five per cent of the performance pay shall be determined  
34 based on the percentage of academic gain determined by the department of  
35 education of pupils who are enrolled in the school district compared to the  
36 academic gain achieved by the highest ranking of the fifty largest school  
37 districts in this state. For the purposes of this subdivision, the  
38 department of education shall determine academic gain by the academic growth  
39 achieved by each pupil who has been enrolled at the same school in a school  
40 district for at least five consecutive months measured against that pupils  
41 academic results in the 2008-2009 school year. For the purposes of this  
42 subdivision, of the fifty largest school districts in this state, the school  
43 district with pupils who demonstrate the highest statewide percentage of  
44 overall academic gain measured against academic results for the 2008-2009  
45 school year shall be assigned a score of 100 and the school district with  
46 pupils who demonstrate the lowest statewide percentage of overall academic

1 gain measured against academic results for the 2008-2009 school year shall be  
2 assigned a score of 0.

3 (b) Twenty-five per cent of the performance pay shall be determined by  
4 the percentage of parents of pupils who are enrolled at the school district  
5 who assign a letter grade of "A" to the school on a survey of parental  
6 satisfaction with the school district. The parental satisfaction survey  
7 shall be administered and scored by an independent entity that is selected by  
8 the governing board and that demonstrates sufficient expertise and experience  
9 to accurately measure the results of the survey. The parental satisfaction  
10 survey shall use standard random sampling procedures and provide anonymity  
11 and confidentiality to each parent who participates in the survey. The  
12 letter grade scale used on the parental satisfaction survey shall direct  
13 parents to assign one of the following letter grades:

- 14 (i) A letter grade of "A" if the school district is excellent.
- 15 (ii) A letter grade of "B" if the school district is above average.
- 16 (iii) A letter grade of "C" if the school district is average.
- 17 (iv) A letter grade of "D" if the school district is below average.
- 18 (v) A letter grade of "F" if the school district is a failure.

19 (c) Twenty-five per cent of the performance pay shall be determined by  
20 the percentage of teachers who are employed at the school district and who  
21 assign a letter grade of "A" to the school on a survey of teacher  
22 satisfaction with the school. The teacher satisfaction survey shall be  
23 administered and scored by an independent entity that is selected by the  
24 governing board and that demonstrates sufficient expertise and experience to  
25 accurately measure the results of the survey. The teacher satisfaction  
26 survey shall use standard random sampling procedures and provide anonymity  
27 and confidentiality to each teacher who participates in the survey. The  
28 letter grade scale used on the teacher satisfaction survey shall direct  
29 teachers to assign one of the following letter grades:

- 30 (i) A letter grade of "A" if the school district is excellent.
- 31 (ii) A letter grade of "B" if the school district is above average.
- 32 (iii) A letter grade of "C" if the school district is average.
- 33 (iv) A letter grade of "D" if the school district is below average.
- 34 (v) A letter grade of "F" if the school district is a failure.

35 (d) Twenty-five per cent of the performance pay shall be determined by  
36 other criteria selected by the governing board.

37 B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this  
38 section, the county school superintendent may construct, improve and furnish  
39 school buildings or purchase or sell school sites in the conduct of an  
40 accommodation school.

41 C. If any school district acquires real or personal property, whether  
42 by purchase, exchange, condemnation, gift or otherwise, the governing board  
43 shall pay to the county treasurer any taxes on the property that were unpaid  
44 as of the date of acquisition, including penalties and interest. The lien  
45 for unpaid delinquent taxes, penalties and interest on property acquired by a  
46 school district:

1           1. Is not abated, extinguished, discharged or merged in the title to  
2 the property.

3           2. Is enforceable in the same manner as other delinquent tax liens.

4           D. The governing board may not locate a school on property that is  
5 less than one-fourth mile from agricultural land regulated pursuant to  
6 section 3-365, except that the owner of the agricultural land may agree to  
7 comply with the buffer zone requirements of section 3-365. If the owner  
8 agrees in writing to comply with the buffer zone requirements and records the  
9 agreement in the office of the county recorder as a restrictive covenant  
10 running with the title to the land, the school district may locate a school  
11 within the affected buffer zone. The agreement may include any stipulations  
12 regarding the school, including conditions for future expansion of the school  
13 and changes in the operational status of the school that will result in a  
14 breach of the agreement.

15           E. A school district, its governing board members, its school council  
16 members and its employees are immune from civil liability for the  
17 consequences of adoption and implementation of policies and procedures  
18 pursuant to subsection A of this section and section 15-342. This waiver  
19 does not apply if the school district, its governing board members, its  
20 school council members or its employees are guilty of gross negligence or  
21 intentional misconduct.

22           F. A governing board may delegate in writing to a superintendent,  
23 principal or head teacher the authority to prescribe procedures that are  
24 consistent with the governing boards policies.

25           G. Notwithstanding any other provision of this title, a school  
26 district governing board shall not take any action that would result in a  
27 reduction of pupil square footage unless the governing board notifies the  
28 school facilities board established by section 15-2001 of the proposed action  
29 and receives written approval from the school facilities board to take the  
30 action. A reduction includes an increase in administrative space that  
31 results in a reduction of pupil square footage or sale of school sites or  
32 buildings, or both. A reduction includes a reconfiguration of grades that  
33 results in a reduction of pupil square footage of any grade level. This  
34 subsection does not apply to temporary reconfiguration of grades to  
35 accommodate new school construction if the temporary reconfiguration does not  
36 exceed one year. The sale of equipment that results in a reduction that  
37 falls below the equipment requirements prescribed in section 15-2011,  
38 subsection B is subject to commensurate withholding of school district  
39 capital outlay revenue limit monies pursuant to the direction of the school  
40 facilities board. Except as provided in section 15-342, paragraph 10,  
41 proceeds from the sale of school sites, buildings or other equipment shall be  
42 deposited in the school plant fund as provided in section 15-1102.

43           H. Subsections C through G of this section apply to a county board of  
44 supervisors and a county school superintendent when operating and  
45 administering an accommodation school.

46           **I. FOR THE PURPOSES OF THIS SECTION:**

1           1. "BULLYING" MEANS CONDUCT THAT EITHER:  
2           (a) ADVERSELY AFFECTS THE ABILITY OF ONE OR MORE STUDENTS TO  
3 PARTICIPATE IN OR BENEFIT FROM THE SCHOOL'S EDUCATIONAL PROGRAMS OR  
4 ACTIVITIES BY PLACING A STUDENT IN REASONABLE FEAR OF PHYSICAL HARM AND  
5 INCLUDES CONDUCT BASED ON A STUDENT'S ACTUAL OR PERCEIVED RACE, COLOR,  
6 NATIONAL ORIGIN, SEX, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR  
7 EXPRESSION, RELIGION OR ANY OTHER DISTINGUISHING CHARACTERISTIC THAT MAY BE  
8 DEFINED BY THE DEPARTMENT OF EDUCATION OR THE SCHOOL DISTRICT GOVERNING  
9 BOARD.

10           (b) IS BASED ON ASSOCIATION WITH A PERSON OR GROUP WITH ONE OR MORE OF  
11 THE ACTUAL OR PERCEIVED CHARACTERISTICS PRESCRIBED IN SUBDIVISION (a) OF THIS  
12 PARAGRAPH.

13           2. "HARASSMENT" MEANS CONDUCT THAT EITHER:

14           (a) ADVERSELY AFFECTS THE ABILITY OF ONE OR MORE STUDENTS TO  
15 PARTICIPATE IN OR BENEFIT FROM THE SCHOOL'S EDUCATIONAL PROGRAMS OR  
16 ACTIVITIES BECAUSE THE CONDUCT IS REASONABLY PERCEIVED BY THE STUDENT AS  
17 SEVERE, PERSISTENT OR PERVASIVE AND INCLUDES CONDUCT BASED ON A STUDENT'S  
18 ACTUAL OR PERCEIVED RACE, COLOR, NATIONAL ORIGIN, SEX, DISABILITY, SEXUAL  
19 ORIENTATION, GENDER IDENTITY OR EXPRESSION, RELIGION OR ANY OTHER  
20 DISTINGUISHING CHARACTERISTIC THAT MAY BE DEFINED BY THE DEPARTMENT OF  
21 EDUCATION OR THE SCHOOL DISTRICT GOVERNING BOARD.

22           (b) IS BASED ON ASSOCIATION WITH A PERSON OR GROUP WITH ONE OR MORE OF  
23 THE ACTUAL OR PERCEIVED CHARACTERISTICS PRESCRIBED IN SUBDIVISION (a) OF THIS  
24 PARAGRAPH.

25           Sec. 2. Intent

26           The Legislature finds and declares that:

27           1. All students have the right to participate fully in the educational  
28 process, free from bullying and harassment.

29           2. A safe and civil environment in school is necessary for students to  
30 learn and to achieve high academic standards.

31           3. Bullying and harassment, like other disruptive or violent  
32 behaviors, are forms of conduct that disrupt both a student's ability to  
33 learn and a school's ability to educate its students in a safe environment.

34           4. Because students learn by example, school administrators, faculty,  
35 staff and volunteers should be expected to demonstrate appropriate behavior,  
36 treat others with civility and respect and refuse to tolerate bullying and  
37 harassment.

38           Sec. 3. Short title

39           This act may be cited as the "Arizona Safe Schools Act of 2011".