

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1256

AN ACT

AMENDING SECTIONS 15-341, 15-533, 15-761, 15-802 AND 15-821, 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 15-341, Arizona Revised Statutes, is amended to  
3 read:

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

5 A. The governing board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 14. Except as provided in section 15-1224, deposit all monies received  
38 by the district as gifts, grants and devises with the county treasurer who  
39 shall credit the deposits as designated in the uniform system of financial  
40 records. If not inconsistent with the terms of the gifts, grants and devises  
41 given, any balance remaining after expenditures for the intended purpose of  
42 the monies have been made shall be used for reduction of school district  
43 taxes for the budget year, except that in the case of accommodation schools  
44 the county treasurer shall carry the balance forward for use by the county  
45 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 teacher's decision. Nothing in this paragraph shall be construed  
5 to release school districts from any liability relating to a child's  
6 promotion 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 or  
34 suspension without pay for a period of time longer than ten school days. The  
35 procedures shall include notice, hearing and appeal provisions for violations  
36 that are cause for disciplinary action. The governing board may designate a  
37 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

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

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

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

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

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

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

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

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

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

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

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

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

29           34. Incorporate instruction on Native American history into appropriate  
30 existing curricula.

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

1 and actions taken that are based on good faith implementation of the  
2 requirements of this paragraph, except in cases of wanton or wilful neglect.

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

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

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

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

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

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

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

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

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

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

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

1 (b) A procedure to notify the parents or guardians of the students  
2 affected.

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

5 (d) A process for placing public meeting notices and proposed maps on  
6 the school district's website for public review, if the school district  
7 maintains a website.

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

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

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

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

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

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

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

1 gain measured against academic results for the 2008-2009 school year shall be  
2 assigned a score of 100 and the school district with pupils who demonstrate  
3 the lowest statewide percentage of overall academic gain measured against  
4 academic results for the 2008-2009 school year shall be assigned a score of  
5 0.

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

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

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

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

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

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

44 C. If any school district acquires real or personal property, whether  
45 by purchase, exchange, condemnation, gift or otherwise, the governing board

1 shall pay to the county treasurer any taxes on the property that were unpaid  
2 as of the date of acquisition, including penalties and interest. The lien for  
3 unpaid delinquent taxes, penalties and interest on property acquired by a  
4 school district:

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

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

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

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

26 F. A governing board may delegate in writing to a superintendent,  
27 principal or head teacher the authority to prescribe procedures that are  
28 consistent with the governing board's policies.

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

1 sites, buildings or other equipment shall be deposited in the school plant  
2 fund as provided in section 15-1102.

3 H. Subsections C through G of this section apply to a county board of  
4 supervisors and a county school superintendent when operating and  
5 administering an accommodation school.

6 I. FOR THE PURPOSES OF THIS SECTION, THE DEPARTMENT SHALL ADOPT A  
7 DEFINITION FOR "BULLYING" THAT HAS THE SAME MEANING AS DEFINED BY THE UNITED  
8 STATES DEPARTMENT OF EDUCATION PURSUANT TO TITLE IV OF THE NO CHILD LEFT  
9 BEHIND ACT OF 2001.

10 Sec. 2. Section 15-533, Arizona Revised Statutes, is amended to read:

11 15-533. Reciprocity; proficiency examination

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

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

41 C. A person who is not required to pass the proficiency examination  
42 developed and administered in this state by the state board of education  
43 pursuant to subsection A or B shall only be granted reciprocity for those  
44 proficiency examinations required in this state that pertain to the grade

1 levels and content areas that the person is certified to teach in another  
2 state.

3 Sec. 3. Section 15-761, Arizona Revised Statutes, is amended to read:  
4 15-761. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Autism" means a developmental disability that significantly  
7 affects verbal and nonverbal communication and social interaction and that  
8 adversely affects educational performance. Characteristics include  
9 irregularities and impairments in communication, engagement in repetitive  
10 activities and stereotyped movements, resistance to environmental change or  
11 change in daily routines and unusual responses to sensory experiences.  
12 Autism does not include children with characteristics of emotional disability  
13 as defined in this section.

14 2. "Child with a disability":

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

19 (i) Autism.

20 (ii) Developmental delay.

21 (iii) Emotional disability.

22 (iv) Hearing impairment.

23 (v) Other health impairments.

24 (vi) Specific learning disability.

25 (vii) Mild, moderate or severe mental retardation.

26 (viii) Multiple disabilities.

27 (ix) Multiple disabilities with severe sensory impairment.

28 (x) Orthopedic impairment.

29 (xi) Preschool severe delay.

30 (xii) Speech/language impairment.

31 (xiii) Traumatic brain injury.

32 (xiv) Visual impairment.

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

35 (i) A lack of appropriate instruction in reading, including essential  
36 components of reading instruction.

37 (ii) A lack of appropriate instruction in mathematics.

38 (iii) Difficulty in writing, speaking or understanding the English  
39 language due to an environmental background in which a language other than  
40 English is primarily or exclusively used.

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

- 1 (a) Cognitive development.
- 2 (b) Physical development.
- 3 (c) Communication development.
- 4 (d) Social or emotional development.
- 5 (e) Adaptive development.

6 The results of the norm-referenced measure must be corroborated by  
7 information from a comprehensive development assessment and from parental  
8 input, if available, as measured by a judgment based assessment or survey.  
9 If there is a discrepancy between the measures, the evaluation team shall  
10 determine eligibility based on a preponderance of the information presented.

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

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

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

21 7. "Emotional disability":

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

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

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

30 (iii) Inappropriate types of behavior or feelings under normal  
31 circumstances.

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

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

35 (b) Includes children who are schizophrenic but does not include  
36 children who are socially maladjusted unless they are also determined to have  
37 an emotional disability as determined by evaluation as provided in section  
38 15-766.

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

43 9. "Home school district" means the school district in which the  
44 person resides who has legal custody of the child, as provided in section  
45 15-824, subsection B. If the child is a ward of the state and a specific

1 person does not have legal custody of the child OR IS A WARD OF THIS STATE  
2 AND THE CHILD IS ENROLLED IN AN ACCOMMODATION SCHOOL PURSUANT TO SECTION  
3 15-913, the home school district is the district that the child last attended  
4 or, if the child has not previously attended a public school in this state,  
5 the school district within which the child currently resides.

6 10. "Impartial administrative law judge" means an administrative law  
7 judge of the office of administrative hearings who is knowledgeable in the  
8 laws governing special education and administrative hearings.

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

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

15 13. "Mental retardation" means a significant impairment of general  
16 intellectual functioning that exists concurrently with deficits in adaptive  
17 behavior and that adversely affects the child's performance in the  
18 educational environment.

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

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

25 16. "Multidisciplinary evaluation team" means a team of persons  
26 including individuals described as the individualized education program team  
27 and other qualified professionals who shall determine whether a child is  
28 eligible for special education.

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

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

36 (i) Hearing impairment.

37 (ii) Orthopedic impairment.

38 (iii) Moderate mental retardation.

39 (iv) Visual impairment.

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

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

1 (a) Severe visual impairment or severe hearing impairment in  
2 combination with another severe disability.

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

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

8 20. "Other health impairments" means limited strength, vitality or  
9 alertness, including a heightened alertness to environmental stimuli, due to  
10 chronic or acute health problems ~~which~~ THAT adversely affect a pupil's  
11 educational performance.

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

15 22. "Parent" means:

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

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

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

22 (d) A surrogate parent.

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

24 23. "Preschool child" means a child who is at least three years of age  
25 but who has not reached the required age for kindergarten, subject to section  
26 15-771, subsection G.

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

31 (a) Cognitive development.

32 (b) Physical development.

33 (c) Communication development.

34 (d) Social or emotional development.

35 (e) Adaptive development.

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

41 25. "Prior written notice" means written prior notice that a public  
42 educational agency is required to send to parents whenever the public  
43 educational agency proposes or refuses to initiate or change the  
44 identification, evaluation or educational placement of a child with a  
45 disability or the provision of a free appropriate public education.

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

5           27. "Related services" means those supportive services, as defined in  
6 20 United States Code section 1401, that are required to assist a child with  
7 a disability who is eligible to receive special education services in order  
8 for the child to benefit from special education.

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

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

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

20           31. "Special education referral" means a written request for an  
21 evaluation to determine whether a pupil is eligible for special education  
22 services that, for referrals not initiated by a parent, includes  
23 documentation of appropriate efforts to educate the pupil in the regular  
24 education program.

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

30           33. "Specific learning disability" has the same meaning as defined in  
31 20 United States Code section 1401.

32           34. "Speech/language impairment":

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

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

1           35. "State educational agency" means the Arizona department of  
2 education.

3           36. "State placing agency" has the same meaning prescribed in section  
4 15-1181.

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

8           38. "Traumatic brain injury":

9           (a) Means an acquired injury to the brain that is caused by an  
10 external physical force and that results in total or partial functional  
11 disability or psychosocial impairment, or both, that adversely affects  
12 educational performance.

13           (b) Applies to open or closed head injuries resulting in mild,  
14 moderate or severe impairments in one or more areas, including cognition,  
15 language, memory, attention, reasoning, abstract thinking, judgment, problem  
16 solving, sensory, perceptual and motor abilities, psychosocial behavior,  
17 physical functions, information processing and speech.

18           (c) Does not include brain injuries that are congenital or  
19 degenerative or brain injuries induced by birth trauma.

20           39. "Visual impairment" has the same meaning prescribed in 34 Code of  
21 Federal Regulations section 300.8.

22           40. "Ward of the state" has the same meaning prescribed in 20 United  
23 States Code section 1401.

24           Sec. 4. Section 15-802, Arizona Revised Statutes, is amended to read:

25           15-802. School instruction; exceptions; violations;  
26                                   classification; definitions

27           A. Every child between the ages of six and sixteen years shall attend  
28 a school and shall be provided instruction in at least the subjects of  
29 reading, grammar, mathematics, social studies and science. The person who  
30 has custody of the child shall choose a public, private, charter or home  
31 school as defined in this section to provide instruction.

32           B. The parent or person who has custody shall do the following:

33           1. If the child will attend a public, private or charter school,  
34 enroll the child in and ensure that the child attends a public, private or  
35 charter school for the full time school is in session. If a child attends a  
36 school ~~which~~ THAT is operated on a year-round basis, the child shall  
37 regularly attend during school sessions that total not less than one hundred  
38 ~~seventy-five~~ EIGHTY school days or two hundred school days, as applicable, or  
39 the equivalent as approved by the superintendent of public instruction.

40           2. If the child will attend a private school or home school, file an  
41 affidavit of intent with the county school superintendent stating that the  
42 child is attending a regularly organized private school or is being provided  
43 with instruction in a home school. The affidavit of intent shall include:

44           (a) The child's name.

45           (b) The child's date of birth.

1 (c) The current address of the school the child is attending.

2 (d) The names, telephone numbers and addresses of the persons who  
3 currently have custody of the child.

4 3. If the child will attend home school, the child has not reached  
5 eight years of age by September 1 of the school year and the person who has  
6 custody of the child does not desire to begin home instruction until the  
7 child has reached eight years of age, file an affidavit of intent pursuant to  
8 paragraph 2 of this subsection stating that the person who has custody of the  
9 child does not desire to begin home school instruction.

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

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

22 1. The child is in such physical or mental condition that instruction  
23 is inexpedient or impracticable.

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

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

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

33 5. The child is enrolled in a work training, career education, career  
34 and technical education, vocational education or manual training program  
35 ~~which~~ THAT meets the educational standards established and approved by the  
36 department of education.

37 6. The child was either:

38 (a) Suspended and not directed to participate in an alternative  
39 education program.

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

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

44 E. Unless otherwise exempted in this section or section 15-803, a  
45 parent of a child between six and sixteen years of age or a person who has

1 custody of a child, who does not provide instruction in a home school and who  
2 fails to enroll or fails to ensure that the child attends a public, private  
3 or charter school pursuant to this section is guilty of a class 3  
4 misdemeanor. A parent who fails to comply with the duty to file an affidavit  
5 of intent to provide instruction in a home school is guilty of a petty  
6 offense.

7 F. For the purposes of this section:

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

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

14 Sec. 5. Section 15-821, Arizona Revised Statutes, is amended to read:

15 15-821. Admission of children; required age

16 A. Unless otherwise provided by article 1.1 of this chapter or by any  
17 other law, all schools shall admit children who are between the ages of six  
18 and twenty-one years, who reside in the school district and who meet the  
19 requirements for enrollment in one of the grades or programs offered in the  
20 school. A school may refuse to admit a child who has graduated from a high  
21 school with a recognized diploma.

22 B. If a preschool program for children with disabilities is  
23 maintained, a child is eligible for admission as prescribed in section  
24 15-771.

25 C. If a kindergarten program is maintained, a child is eligible for  
26 admission to kindergarten if the child is five years of age. A child is  
27 deemed five years of age if the child reaches the age of five before  
28 September 1 of the current school year. A child is eligible for admission to  
29 first grade if the child is six years of age. A child is deemed six years of  
30 age if the child reaches the age of six before September 1 of the current  
31 school year. If a child who has not reached the age of five before September  
32 1 of the current school year is admitted to kindergarten and ~~is~~ then  
33 ~~readmitted to~~ REPEATS kindergarten in the following school year, a school  
34 district or charter school is not eligible to receive basic state aid on  
35 behalf of that child during the child's second year of kindergarten. IF A  
36 CHILD WHO HAS NOT REACHED THE AGE OF FIVE BEFORE SEPTEMBER 1 OF THE CURRENT  
37 SCHOOL YEAR IS ADMITTED TO KINDERGARTEN BUT DOES NOT REMAIN ENROLLED A SCHOOL  
38 DISTRICT OR CHARTER SCHOOL MAY RECEIVE A PORTION OF BASIC STATE AID ON BEHALF  
39 OF THAT CHILD IN THE SUBSEQUENT YEAR. A school district or charter school  
40 may charge tuition for any child who is ineligible for basic state aid  
41 pursuant to this subsection. The governing board may admit children who have  
42 not reached the required age as prescribed by this subsection if it is  
43 determined to be in the best interest of the children. For children entering  
44 the first grade, such determination shall be based upon one or more  
45 consultations with the parent, parents, guardian or guardians, the children,

1 the teacher and the school principal. Such children must reach the required  
2 age of five for kindergarten and six for first grade by January 1 of the  
3 current school year.

4 D. Notwithstanding any other law, a child who resides with a family  
5 member other than the child's parent while awaiting the outcome of a legal  
6 guardianship or custody proceeding is deemed to reside in the school district  
7 where that family member resides if the family member provides written  
8 documentary proof of one of the following:

9 1. The family member is attempting to obtain legal guardianship of the  
10 child in an unresolved and uncontested guardianship proceeding commenced in  
11 superior court. The family member shall provide documentation to the school  
12 district within thirty days of enrollment that the family member is  
13 attempting to obtain legal guardianship of the child. Upon obtaining legal  
14 guardianship, the family member shall provide documentation to the school  
15 district.

16 2. The family member is attempting to obtain custody of the child in  
17 an unresolved and uncontested child custody proceeding commenced in superior  
18 court. The family member shall provide documentation to the school district  
19 within thirty days of enrollment that the family member is attempting to  
20 obtain custody of the child. Upon obtaining custody, the family member shall  
21 provide documentation to the school district.

22 Sec. 6. Section 15-861, Arizona Revised Statutes, as amended by Laws  
23 2010, chapter 318, section 11, is amended to read:

24 15-861. Four day school week and alternative kindergarten  
25 programs

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

30 B. The instructional time in an educational program offered on the  
31 basis of a four day school week or in an alternative kindergarten program  
32 offered on the basis of a three day school week must be equal to the  
33 instructional time in an educational program or kindergarten program, as  
34 applicable, offered on the basis of a five day school week. Notwithstanding  
35 section 15-901, subsection A, paragraph 5, for school districts ~~which~~ **THAT**  
36 offer an educational program on the basis of a four day school week in common  
37 schools or an alternative kindergarten program on the basis of a three day  
38 school week, or both, as provided in this section, the minimum number of  
39 minutes required for daily attendance shall be increased so that the number  
40 of minutes per day multiplied by the total number of school days per school  
41 year is at least equal to the number of minutes prescribed for that program  
42 or grade in section 15-901, subsection A, paragraph 5, multiplied by one  
43 hundred ~~seventy-five~~ **EIGHTY**.

