

House Engrossed
schools; employees; employment; discipline

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 2

HOUSE BILL 2023

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-251 AND 15-350, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-505; AMENDING SECTIONS 15-512, 15-514, 15-534.02, 15-534.04, 15-550 AND 41-1092.02, ARIZONA REVISED STATUTES; RELATING TO SCHOOL EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to
3 read:

4 15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal; fee;
6 funds; annual reports

7 A. An applicant seeking to establish a charter school shall ~~submit~~
8 ~~a written application~~ APPLY IN WRITING to a proposed sponsor as prescribed
9 in subsection C of this section. The application, application process and
10 application time frames shall be posted on the sponsor's website and shall
11 include the following, as specified in the application adopted by the
12 sponsor:

- 13 1. A detailed educational plan.
- 14 2. A detailed business plan.
- 15 3. A detailed operational plan.
- 16 4. Any other materials required by the sponsor.

17 B. The sponsor of a charter school may contract with a public body,
18 private person or private organization for the purpose of establishing a
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either the state board of
21 education, the state board for charter schools, a university under the
22 jurisdiction of the Arizona board of regents, a community college district
23 or a group of community college districts, subject to the following
24 requirements:

25 1. An applicant may not ~~submit an application~~ APPLY for sponsorship
26 to any person or entity other than those prescribed in this subsection.

27 2. The applicant may ~~submit the application~~ APPLY to the state
28 board of education or the state board for charter schools.
29 Notwithstanding any other law, neither the state board for charter schools
30 nor the state board of education shall grant a charter to a school
31 district governing board for a new charter school or for the conversion of
32 an existing district public school to a charter school. The state board
33 of education or the state board for charter schools may approve the
34 application if the application meets the requirements of this article and
35 may approve the charter if the proposed sponsor determines, within its
36 sole discretion, that the applicant is sufficiently qualified to operate a
37 charter school and that the applicant is applying to operate as a separate
38 charter holder by considering factors such as whether:

39 (a) The schools have separate governing bodies, governing body
40 membership, staff, facilities and student population.

41 (b) Daily operations are carried out by different administrators.

42 (c) The applicant intends to have an affiliation agreement for the
43 purpose of providing enrollment preferences.

1 (d) The applicant's charter management organization has multiple
2 charter holders serving varied grade configurations on one physical site
3 or nearby sites serving one community.

4 (e) ~~it~~ THE APPLICANT is reconstituting an existing school site
5 population at the same or new site.

6 (f) ~~it~~ THE APPLICANT is reconstituting an existing grade
7 configuration from a prior charter holder with at least one grade
8 remaining on the original site with the other grade or grades moving to a
9 new site. The state board of education or the state board for charter
10 schools may approve any charter schools transferring charters. If the
11 state board of education or the state board for charter schools rejects
12 the preliminary application, the state board of education or the state
13 board for charter schools shall notify the applicant in writing of the
14 reasons for the rejection and of suggestions for improving the
15 application. An applicant may submit a revised application for
16 reconsideration by the state board of education or the state board for
17 charter schools. The applicant may request, and the state board of
18 education or the state board for charter schools may provide, technical
19 assistance to improve the application.

20 3. The applicant may submit the application to a university under
21 the jurisdiction of the Arizona board of regents, a community college
22 district or a group of community college districts. A university, a
23 community college district or a group of community college districts shall
24 not grant a charter to a school district governing board for a new charter
25 school or for the conversion of an existing district public school to a
26 charter school. A university, a community college district or a group of
27 community college districts may approve the application if it meets the
28 requirements of this article and if the proposed sponsor determines, in
29 its sole discretion, that the applicant is sufficiently qualified to
30 operate a charter school.

31 4. Each applicant seeking to establish a charter school shall
32 submit a full set of fingerprints to the approving agency for the purpose
33 of obtaining a state and federal criminal records check pursuant to
34 section 41-1750 and Public Law 92-544. If an applicant will have direct
35 contact with students, the applicant shall possess a valid fingerprint
36 clearance card that is issued pursuant to title 41, chapter 12,
37 article 3.1. The department of public safety may exchange this
38 fingerprint data with the federal bureau of investigation. The criminal
39 records check shall be completed before the issuance of a charter.

40 5. All persons engaged in instructional work directly as a
41 classroom, laboratory or other teacher or indirectly as a supervisory
42 teacher, speech therapist or principal shall have a valid fingerprint
43 clearance card that is issued pursuant to title 41, chapter 12,
44 article 3.1, unless the person is a volunteer or guest speaker who is
45 accompanied in the classroom by a person with a valid fingerprint

1 clearance card. A charter school shall not employ ~~a teacher~~ IN ANY
2 POSITION THAT REQUIRES A VALID FINGERPRINT CLEARANCE CARD A PERSON AGAINST
3 WHOM THE STATE BOARD OF EDUCATION HAS TAKEN DISCIPLINARY ACTION AS
4 PRESCRIBED IN SECTION 15-505 OR whose certificate has been SUSPENDED,
5 surrendered or revoked, unless the ~~teacher's~~ PERSON'S certificate has been
6 subsequently reinstated by the state board of education. All other
7 personnel shall be fingerprint checked pursuant to section 15-512, or the
8 charter school may require those personnel to obtain a fingerprint
9 clearance card issued pursuant to title 41, chapter 12, article 3.1.
10 Before employment, the charter school shall make documented, good faith
11 efforts to contact previous employers of a person to obtain information
12 and recommendations that may be relevant to ~~a~~ THE person's fitness for
13 employment as prescribed in section 15-512, subsection F, INCLUDING
14 CHECKING THE EDUCATOR INFORMATION SYSTEM THAT IS MAINTAINED BY THE
15 DEPARTMENT OF EDUCATION PURSUANT TO SECTION 15-505. The charter school
16 shall notify the department of public safety if the charter school or
17 sponsor receives credible evidence that a person who possesses a valid
18 fingerprint clearance card is arrested for or is charged with an offense
19 listed in section 41-1758.03, subsection B. A person who is employed at a
20 charter school that has met the requirements of this paragraph is not
21 required to meet any additional requirements that are established by the
22 department of education or that may be established by rule by the state
23 board of education. The state board of education may not adopt rules that
24 exceed the requirements for persons WHO ARE qualified to teach in charter
25 schools prescribed in title I of the every student succeeds act
26 (P.L. 114-95) or the individuals with disabilities education improvement
27 act of 2004 (P.L. 108-446). Charter schools may hire personnel who have
28 not yet received a fingerprint clearance card if proof is provided of the
29 submission of an application to the department of public safety for a
30 fingerprint clearance card and if the charter school that is seeking to
31 hire the applicant does all of the following:

32 (a) Documents in the applicant's file the necessity for hiring and
33 ~~placement of~~ PLACING the applicant before ~~receiving~~ THE APPLICANT RECEIVES
34 a fingerprint clearance card.

35 (b) Ensures that the department of public safety completes a
36 statewide criminal records check on the applicant. A statewide criminal
37 records check shall be completed by the department of public safety every
38 one hundred twenty days until the date that the fingerprint check is
39 completed or the fingerprint clearance card is issued or denied.

40 (c) Obtains references from the applicant's current employer and
41 the two most recent previous employers except for applicants who have been
42 employed for at least five years by the applicant's most recent employer.

43 (d) Provides general supervision of the applicant until the date
44 that the fingerprint card is obtained.

1 (e) Completes a search of criminal records in all local
2 jurisdictions outside of this state in which the applicant has lived in
3 the previous five years.

4 (f) Verifies the fingerprint status of the applicant with the
5 department of public safety.

6 6. A charter school that complies with the fingerprinting
7 requirements of this section shall be deemed to have complied with section
8 15-512 and is entitled to the same rights and protections provided to
9 school districts by section 15-512.

10 7. If a charter school operator is not already subject to a public
11 meeting or hearing by the municipality in which the charter school is
12 located, the operator of a charter school shall conduct a public meeting
13 at least thirty days before the charter school operator opens a site or
14 sites for the charter school. The charter school operator shall post
15 notices of the public meeting in at least three different locations that
16 are within three hundred feet of the proposed charter school site.

17 8. A person who is employed by a charter school or who is an
18 applicant for employment with a charter school, who is arrested for or
19 charged with a nonappealable offense listed in section 41-1758.03,
20 subsection B and who does not immediately report the arrest or charge to
21 the person's supervisor or potential employer is guilty of unprofessional
22 conduct and the person shall be immediately dismissed from employment with
23 the charter school or immediately excluded from potential employment with
24 the charter school.

25 9. A person who is employed by a charter school and who is
26 convicted of any nonappealable offense listed in section 41-1758.03,
27 subsection B or is convicted of any nonappealable offense that amounts to
28 unprofessional conduct under section 15-550 shall immediately do all of
29 the following:

30 (a) Surrender any certificates issued by the department of
31 education.

32 (b) Notify the person's employer or potential employer of the
33 conviction.

34 (c) Notify the department of public safety of the conviction.

35 (d) Surrender the person's fingerprint clearance card.

36 D. An entity that is authorized to sponsor charter schools pursuant
37 to this article has no legal authority over or responsibility for a
38 charter school sponsored by a different entity. This subsection does not
39 apply to the state board of education's duty to exercise general
40 supervision over the public school system pursuant to section 15-203,
41 subsection A, paragraph 1.

42 E. The charter of a charter school shall do all of the following:

43 1. Ensure compliance with federal, state and local rules,
44 regulations and statutes relating to health, safety, civil rights and
45 insurance. The department of education shall publish a list of relevant

1 rules, regulations and statutes to notify charter schools of their
2 responsibilities under this paragraph.

3 2. Ensure that it is nonsectarian in its programs, admission
4 policies and employment practices and all other operations.

5 3. Ensure that it provides a comprehensive program of instruction
6 for at least a kindergarten program or any grade between grades one and
7 twelve, except that a school may offer this curriculum with an emphasis on
8 a specific learning philosophy or style or certain subject areas such as
9 mathematics, science, fine arts, performance arts or foreign language.

10 4. Ensure that it designs a method to measure pupil progress toward
11 the pupil outcomes adopted by the state board of education pursuant to
12 section 15-741.01, including participation in the statewide assessment and
13 the nationally standardized norm-referenced achievement test as designated
14 by the state board and the completion and distribution of an annual report
15 card as prescribed in chapter 7, article 3 of this title.

16 5. Ensure that, except as provided in this article and in its
17 charter, it is exempt from all statutes and rules relating to schools,
18 governing boards and school districts.

19 6. Ensure that, except as provided in this article, it is subject
20 to the same financial and electronic data submission requirements as a
21 school district, including the uniform system of financial records as
22 prescribed in chapter 2, article 4 of this title, procurement rules as
23 prescribed in section 15-213 and audit requirements. The auditor general
24 shall conduct a comprehensive review and revision of the uniform system of
25 financial records to ensure that the provisions of the uniform system of
26 financial records that relate to charter schools are in accordance with
27 commonly accepted accounting principles used by private business. A
28 school's charter may include exceptions to the requirements of this
29 paragraph that are necessary as determined by the university, the
30 community college district, the group of community college districts, the
31 state board of education or the state board for charter schools. The
32 department of education or the office of the auditor general may conduct
33 financial, program or compliance audits.

34 7. Ensure compliance with all federal and state laws relating to
35 the education of children with disabilities in the same manner as a school
36 district.

37 8. Ensure that it provides for a governing body for the charter
38 school that is responsible for the policy decisions of the charter school.
39 Notwithstanding section 1-216, if there is a vacancy or vacancies on the
40 governing body, a majority of the remaining members of the governing body
41 constitute a quorum for the transaction of business, unless that quorum is
42 prohibited by the charter school's operating agreement.

43 9. Ensure that it provides a minimum of one hundred eighty
44 instructional days before June 30 of each fiscal year unless it is
45 operating on an alternative calendar approved by its sponsor. The

1 superintendent of public instruction shall adjust the apportionment
2 schedule accordingly to accommodate a charter school utilizing an
3 alternative calendar.

4 F. A charter school shall keep in the personnel file of ~~at~~ EACH
5 current ~~employees~~ EMPLOYEE who ~~provide~~ PROVIDES instruction to pupils at
6 the charter school information about the employee's educational and
7 teaching background and experience in a particular academic content
8 subject area. A charter school shall inform parents and guardians of the
9 availability of the information and shall make the information available
10 for inspection on request of parents and guardians of pupils enrolled at
11 the charter school. This subsection does not require any charter school
12 to release personally identifiable information in relation to any teacher
13 or employee, including the teacher's or employee's address, salary, social
14 security number or telephone number.

15 G. The charter of a charter school may be amended at the request of
16 the governing body of the charter school and on the approval of the
17 sponsor.

18 H. Charter schools may contract, sue and be sued.

19 I. The charter is effective for fifteen years from the first day of
20 the fiscal year as specified in the charter, subject to the following:

21 1. At least eighteen months before the ~~expiration of~~ the charter
22 EXPIRES, the sponsor shall notify the charter school that the charter
23 school may apply for renewal and shall make the renewal application
24 available to the charter school. A charter school that elects to apply
25 for renewal shall file a complete renewal application at least fifteen
26 months before the ~~expiration of the~~ charter EXPIRES. A sponsor shall give
27 written notice of its intent not to renew the charter school's request for
28 renewal to the charter school at least twelve months before the expiration
29 of the charter. The sponsor shall make data used in making renewal
30 decisions available to the school and the public and shall provide a
31 public report summarizing the evidence basis for each decision. The
32 sponsor may deny the request for renewal if, in its judgment, the charter
33 holder has failed to do any of the following:

34 (a) Meet or make sufficient progress toward the academic
35 performance expectations set forth in the performance framework.

36 (b) Meet the operational performance expectations set forth in the
37 performance framework or any improvement plans.

38 (c) Meet the financial performance expectations set forth in the
39 performance framework or any improvement plans.

40 (d) Complete the obligations of the contract.

41 (e) Comply with this article or any provision of law from which the
42 charter school is not exempt.

43 2. A charter operator may apply for early renewal. At least nine
44 months before the charter school's intended renewal consideration, the
45 operator of the charter school shall submit a letter of intent to the

1 sponsor to apply for early renewal. The sponsor shall review fiscal
2 audits and academic performance data for the charter school that are
3 annually collected by the sponsor, review the current contract between the
4 sponsor and the charter school and provide the qualifying charter school
5 with a renewal application. On submission of a complete application, the
6 sponsor shall give written notice of its consideration of the renewal
7 application. The sponsor may deny the request for early renewal if, in
8 the sponsor's judgment, the charter holder has failed to do any of the
9 following:

10 (a) Meet or make sufficient progress toward the academic
11 performance expectations set forth in the performance framework.

12 (b) Meet the operational performance expectations set forth in the
13 performance framework or any improvement plans.

14 (c) Meet the financial performance expectations set forth in the
15 performance framework or any improvement plans.

16 (d) Complete the obligations of the contract.

17 (e) Comply with this article or any provision of law from which the
18 charter school is not exempt.

19 3. A sponsor shall review a charter at five-year intervals using a
20 performance framework adopted by the sponsor and may revoke a charter at
21 any time if the charter school breaches one or more provisions of its
22 charter or if the sponsor determines that the charter holder has failed to
23 do any of the following:

24 (a) Meet or make sufficient progress toward the academic
25 performance expectations set forth in the performance framework.

26 (b) Meet the operational performance expectations set forth in the
27 performance framework or any improvement plans.

28 (c) Meet the financial performance expectations set forth in the
29 performance framework or any improvement plans.

30 (d) Comply with this article or any provision of law from which the
31 charter school is not exempt.

32 4. In determining whether to renew or revoke a charter holder, the
33 sponsor must consider making sufficient progress toward the academic
34 performance expectations set forth in the sponsor's performance framework
35 as one of the most important factors.

36 5. At least sixty days before the effective date of the proposed
37 revocation, the sponsor shall give written notice to the operator of the
38 charter school of its intent to revoke the charter. Notice of the
39 sponsor's intent to revoke the charter shall be delivered personally to
40 the operator of the charter school or sent by certified mail, return
41 receipt requested, to the address of the charter school. The notice shall
42 incorporate a statement of reasons for the proposed revocation of the
43 charter. The sponsor shall allow the charter school at least sixty days
44 to correct the problems associated with the reasons for the proposed
45 revocation of the charter. The final determination of whether to revoke

1 the charter shall be made at a public hearing called for ~~such~~ THAT
2 purpose.

3 J. The charter may be renewed for successive periods of twenty
4 years.

5 K. A charter school that is sponsored by the state board of
6 education, the state board for charter schools, a university, a community
7 college district or a group of community college districts may not be
8 located on the property of a school district unless the district governing
9 board grants this authority.

10 L. A governing board or a school district employee who has control
11 over personnel actions shall not take unlawful reprisal against another
12 employee of the school district because the employee is directly or
13 indirectly involved in an application to establish a charter school. A
14 governing board or a school district employee shall not take unlawful
15 reprisal against an educational program of the school or the school
16 district because an application to establish a charter school proposes ~~the~~
17 ~~conversion of~~ TO CONVERT all or a portion of the educational program to a
18 charter school. For the purposes of this subsection, "unlawful reprisal"
19 means an action that is taken by a governing board or a school district
20 employee as a direct result of a lawful application to establish a charter
21 school and that is adverse to another employee or an education program
22 and:

23 1. With respect to a school district employee, results in one or
24 more of the following:

- 25 (a) Disciplinary or corrective action.
- 26 (b) Detail, transfer or reassignment.
- 27 (c) Suspension, demotion or dismissal.
- 28 (d) An unfavorable performance evaluation.
- 29 (e) A reduction in pay, benefits or awards.
- 30 (f) Elimination of the employee's position without a reduction in
31 force by reason of lack of monies or work.
- 32 (g) Other significant changes in duties or responsibilities that
33 are inconsistent with the employee's salary or employment classification.

34 2. With respect to an educational program, results in one or more
35 of the following:

- 36 (a) Suspension or termination of the program.
- 37 (b) Transfer or reassignment of the program to a less favorable
38 department.
- 39 (c) Relocation of the program to a less favorable site within the
40 school or school district.
- 41 (d) Significant reduction or termination of funding for the
42 program.

43 M. Charter schools shall secure insurance for liability and
44 property loss. The governing body of a charter school that is sponsored
45 by the state board of education or the state board for charter schools may

1 enter into an intergovernmental agreement or otherwise contract to
2 participate in an insurance program offered by a risk retention pool
3 established pursuant to section 11-952.01 or 41-621.01 or the charter
4 school may secure its own insurance coverage. The pool may charge the
5 requesting charter school reasonable fees for any services it performs in
6 connection with the insurance program.

7 N. Charter schools do not have the authority to acquire property by
8 eminent domain.

9 O. A sponsor, including members, officers and employees of the
10 sponsor, is immune from personal liability for all acts done and actions
11 taken in good faith within the scope of its authority.

12 P. Charter school sponsors and this state are not liable for the
13 debts or financial obligations of a charter school or persons who operate
14 charter schools.

15 Q. The sponsor of a charter school shall establish procedures to
16 conduct administrative hearings on determination by the sponsor that
17 grounds exist to revoke a charter. Procedures for administrative hearings
18 shall be similar to procedures prescribed for adjudicative proceedings in
19 title 41, chapter 6, article 10. Except as provided in section
20 41-1092.08, subsection H, final decisions of the state board of education
21 and the state board for charter schools from hearings conducted pursuant
22 to this subsection are subject to judicial review pursuant to title 12,
23 chapter 7, article 6.

24 R. The sponsoring entity of a charter school shall have oversight
25 and administrative responsibility for the charter schools that it
26 sponsors. In implementing its oversight and administrative
27 responsibilities, the sponsor shall ground its actions in evidence of the
28 charter holder's performance in accordance with the performance framework
29 adopted by the sponsor. The performance framework shall be publicly
30 available, shall be placed on the sponsoring entity's website and shall
31 include:

32 1. The academic performance expectations of the charter school and
33 the measurement of sufficient progress toward the academic performance
34 expectations.

35 2. The operational expectations of the charter school, including
36 adherence to all applicable laws and obligations of the charter contract.

37 3. The financial expectations of the charter school.

38 4. Intervention and improvement policies.

39 S. Charter schools may pledge, assign or encumber their assets to
40 be used as collateral for loans or extensions of credit.

41 T. All property accumulated by a charter school shall remain the
42 property of the charter school.

43 U. Charter schools may not locate a school on property that is less
44 than one-fourth mile from agricultural land regulated pursuant to section
45 3-365, except that the owner of the agricultural land may agree to comply

1 with the buffer zone requirements of section 3-365. If the owner agrees
2 in writing to comply with the buffer zone requirements and records the
3 agreement in the office of the county recorder as a restrictive covenant
4 running with the title to the land, the charter school may locate a school
5 within the affected buffer zone. The agreement may include any
6 stipulations regarding the charter school, including conditions for future
7 expansion of the school and changes in the operational status of the
8 school that will result in a breach of the agreement.

9 V. A transfer of a charter to another sponsor, a transfer of a
10 charter school site to another sponsor or a transfer of a charter school
11 site to a different charter shall be completed before the beginning of the
12 fiscal year that the transfer is scheduled to become effective. An entity
13 that sponsors charter schools may accept a transferring school after the
14 beginning of the fiscal year if the transfer is approved by the
15 superintendent of public instruction. The superintendent of public
16 instruction shall have the discretion to consider each transfer during the
17 fiscal year on a case-by-case basis. A charter holder seeking to transfer
18 sponsors shall comply with the current charter terms regarding assignment
19 of the charter. A charter holder transferring sponsors shall notify the
20 current sponsor that the transfer has been approved by the new sponsor.

21 W. Notwithstanding subsection V of this section, a charter holder
22 on an improvement plan must notify parents or guardians of registered
23 students of the intent to transfer the charter and the timing of the
24 proposed transfer. On the approved transfer, the new sponsor shall
25 enforce the improvement plan but may modify the plan based on performance.

26 X. Notwithstanding subsection Y of this section, the state board
27 for charter schools shall charge a processing fee to any charter school
28 that amends its contract to participate in Arizona online instruction
29 pursuant to section 15-808. The charter Arizona online instruction
30 processing fund is established consisting of fees collected and
31 administered by the state board for charter schools. The state board for
32 charter schools shall use monies in the fund only for ~~the~~ processing ~~of~~
33 contract amendments for charter schools participating in Arizona online
34 instruction. Monies in the fund are continuously appropriated.

35 Y. The sponsoring entity may not charge any fees to a charter
36 school that it sponsors unless the sponsor has provided services to the
37 charter school and the fees represent the full value of those services
38 provided by the sponsor. On request, the value of the services provided
39 by the sponsor to the charter school shall be demonstrated to the
40 department of education.

41 Z. Charter schools may enter into an intergovernmental agreement
42 with a presiding judge of the juvenile court to implement a law-related
43 education program as defined in section 15-154. The presiding judge of
44 the juvenile court may assign juvenile probation officers to participate
45 in a law-related education program in any charter school in the county.

1 The cost of juvenile probation officers who participate in the program
2 implemented pursuant to this subsection shall be funded by the charter
3 school.

4 AA. The sponsor of a charter school shall modify previously
5 approved curriculum requirements for a charter school that wishes to
6 participate in the board examination system prescribed in chapter 7,
7 article 6 of this title.

8 BB. If a charter school decides not to participate in the board
9 examination system prescribed in chapter 7, article 6 of this title,
10 pupils enrolled at that charter school may earn a Grand Canyon diploma by
11 obtaining a passing score on the same board examinations.

12 CC. Notwithstanding subsection Y of this section, a sponsor of
13 charter schools may charge a new charter application processing fee to any
14 applicant. The application fee shall fully cover the cost of application
15 review and any needed technical assistance. Authorizers may approve
16 policies that allow a portion of the fee to be returned to the applicant
17 whose charter is approved.

18 DD. A charter school may choose to provide a preschool program for
19 children with disabilities pursuant to section 15-771.

20 EE. Pursuant to the prescribed graduation requirements adopted by
21 the state board of education, the governing body of a charter school
22 operating a high school may approve a rigorous computer science course
23 that would fulfill a mathematics course required for graduation from high
24 school. The governing body may approve a rigorous computer science course
25 only if the rigorous computer science course includes significant
26 mathematics content and the governing body determines the high school
27 where the rigorous computer science course is offered has sufficient
28 capacity, infrastructure and qualified staff, including competent teachers
29 of computer science.

30 FF. A charter school may permit the use of school property,
31 including school buildings, grounds, buses and equipment, by any person,
32 group or organization for any lawful purpose, including a recreational,
33 educational, political, economic, artistic, moral, scientific, social,
34 religious or other civic or governmental purpose. The charter school may
35 charge a reasonable fee for the use of the school property.

36 GG. A charter school and its employees, including the governing
37 body, or chief administrative officer, are immune from civil liability
38 with respect to all decisions made and actions taken to allow the use of
39 school property, unless the charter school or its employees are guilty of
40 gross negligence or intentional misconduct. This subsection does not
41 limit any other immunity provisions that are prescribed by law.

42 HH. Sponsors authorized pursuant to this section shall submit an
43 annual report to the auditor general on or before October 1. The report
44 shall include:

1 1. The current number of charters authorized and the number of
2 schools operated by authorized charter holders.
3 2. The academic, operational and financial performance of the
4 sponsor's charter portfolio as measured by the sponsor's adopted
5 performance framework.
6 3. For the prior year, the number of new charters approved, the
7 number of charter schools closed and the reason for the closure.
8 4. The sponsor's application, amendment, renewal and revocation
9 processes, charter contract template and current performance framework as
10 required by this section.
11 II. The auditor general shall prescribe the format for the annual
12 report required by subsection HH of this section and may require that the
13 annual report be submitted electronically. The auditor general shall
14 review the submitted annual reports to ensure that the reports include the
15 required items in subsection HH of this section and shall make the annual
16 reports available on request. If the auditor general finds significant
17 noncompliance or if a sponsor fails to submit the annual report required
18 by subsection HH of this section, on or before December 31 of each year
19 the auditor general shall report to the governor, the president of the
20 senate, the speaker of the house of representatives and the chairs of the
21 senate and house education committees or their successor committees, and
22 the legislature shall consider revoking the sponsor's authority to sponsor
23 charter schools.
24 Sec. 2. Section 15-203, Arizona Revised Statutes, is amended to
25 read:
26 15-203. Powers and duties; definition
27 A. The state board of education shall:
28 1. Exercise general supervision over and regulate the conduct of
29 the public school system and adopt any rules and policies it deems
30 necessary to accomplish this purpose.
31 2. Keep a record of its proceedings.
32 3. Make rules for its own government.
33 4. Determine the policy and work undertaken by it.
34 5. Subject to title 41, chapter 4, article 4, employ staff.
35 6. Prescribe and supervise the duties of its employees pursuant to
36 title 41, chapter 4, article 4, if not otherwise prescribed by statute.
37 7. Delegate to the superintendent of public instruction the
38 execution of board policies and rules.
39 8. Recommend to the legislature changes or additions to the
40 statutes pertaining to schools.
41 9. Prepare, publish and distribute reports concerning the
42 educational welfare of this state.
43 10. Prepare a budget for expenditures necessary for proper
44 maintenance of the board and accomplishment of its purposes and present
45 the budget to the legislature.

1 11. Aid in the enforcement of laws relating to schools.

2 12. Prescribe a minimum course of study in the common schools,
3 minimum competency requirements for the promotion of pupils from the third
4 grade and minimum course of study and competency requirements for the
5 promotion of pupils from the eighth grade. The state board of education
6 shall prepare a fiscal impact statement of any proposed changes to the
7 minimum course of study or competency requirements and, on completion,
8 shall send a copy to the director of the joint legislative budget
9 committee and the executive director of the school facilities board. The
10 state board of education shall not adopt any changes in the minimum course
11 of study or competency requirements in effect on July 1, 1998 that will
12 have a fiscal impact on school capital costs.

13 13. Prescribe minimum course of study and competency requirements
14 for the graduation of pupils from high school. The state board of
15 education shall prepare a fiscal impact statement of any proposed changes
16 to the minimum course of study or competency requirements and, on
17 completion, shall send a copy to the director of the joint legislative
18 budget committee and the executive director of the school facilities
19 board. The state board of education shall not adopt any changes in the
20 minimum course of study or competency requirements in effect on July 1,
21 1998 that will have a fiscal impact on school capital costs.

22 14. Pursuant to section 15-501.01, supervise and control the
23 certification of persons engaged in instructional work directly as any
24 classroom, laboratory or other teacher or indirectly as a supervisory
25 teacher, speech therapist, principal or superintendent in a school
26 district, including school district preschool programs, or any other
27 educational institution below the community college, college or university
28 level, and prescribe rules for certification.

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

35 16. Adopt rules governing the methods for the administration of all
36 proficiency examinations.

37 17. Adopt proficiency examinations for its use and determine the
38 passing score for the proficiency examinations.

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

42 19. Supervise and control the qualifications of professional
43 nonteaching school personnel and prescribe standards relating to
44 qualifications. The standards shall not require the business manager of a
45 school district to obtain certification from the state board of education.

1 20. Impose such disciplinary action, including **DISCIPLINARY ACTION**
2 **PURSUANT TO SECTION 15-505 OR** the issuance of a letter of censure,
3 suspension, suspension with conditions or revocation of a certificate, on
4 a finding of immoral or unprofessional conduct.

5 21. Establish an assessment, data gathering and reporting system
6 for pupil performance as prescribed in chapter 7, article 3 of this title,
7 including qualifying examinations for the college credit by examination
8 incentive program pursuant to section 15-249.06.

9 22. Adopt a rule to promote braille literacy pursuant to section
10 15-214.

11 23. Adopt rules prescribing procedures for the investigation by the
12 department of education of every written complaint alleging that a
13 certificated person, **A PERSON SEEKING CERTIFICATION OR A NONCERTIFICATED**
14 **PERSON** has engaged in immoral **OR UNPROFESSIONAL** conduct.

15 24. For purposes of federal law, serve as the state board for
16 vocational and technological education and meet at least four times each
17 year solely to execute the powers and duties of the state board for
18 vocational and technological education.

19 25. Develop and maintain a handbook for use in the schools of this
20 state that provides guidance for the teaching of moral, civic and ethical
21 education. The handbook shall promote existing curriculum frameworks and
22 shall encourage school districts to recognize moral, civic and ethical
23 values within instructional and programmatic educational development
24 programs for the general purpose of instilling character and ethical
25 principles in pupils in kindergarten programs and grades one through
26 twelve.

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

32 We hold these truths to be self-evident, that all men
33 are created equal, that they are endowed by their creator with
34 certain unalienable rights, that among these are life, liberty
35 and the pursuit of happiness. That to secure these rights,
36 governments are instituted among men, deriving their just
37 powers from the consent of the governed. . . .

38 27. Adopt rules that provide for certification reciprocity pursuant
39 to section 15-501.01.

40 28. Adopt rules that provide for the presentation of an honorary
41 high school diploma to a person who has never obtained a high school
42 diploma and who meets both of the following requirements:

43 (a) Currently resides in this state.

1 (b) Provides documented evidence from the department of veterans'
2 services that the person enlisted in the armed forces of the United States
3 and served in World War I, World War II, the Korean conflict or the
4 Vietnam conflict.

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

13 30. Adopt rules to define and provide guidance to schools as to the
14 activities that would constitute immoral or unprofessional conduct of
15 certificated **AND NONCERTIFICATED** persons.

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

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

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

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

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

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

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

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

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

12 (i) The transfer of student records.

13 (ii) Awarding credit for completed coursework.

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

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

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

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

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

41 36. Adopt rules to prohibit a person who violates the notification
42 requirements prescribed in section 15-183, subsection C, paragraph 8 or
43 section 15-550, subsection ~~C~~ D from certification pursuant to this title
44 until the person is no longer charged or is acquitted of any offenses
45 listed in section 41-1758.03, subsection B. The state board shall also

1 adopt rules to prohibit a person who violates the notification
2 requirements, certification surrender requirements or fingerprint
3 clearance card surrender requirements prescribed in section 15-183,
4 subsection C, paragraph 9 or section 15-550, subsection ~~D~~ E from
5 certification pursuant to this title for at least ten years after the date
6 of the violation.

7 37. Adopt rules for the alternative certification of teachers of
8 nontraditional foreign languages that allow for the passing of a
9 nationally accredited test to substitute for the education coursework
10 required for certification.

11 38. Adopt rules to define competency-based educational pathways for
12 college and career readiness that may be used by schools. The rules shall
13 include the following components:

14 (a) The establishment of learning outcomes that will be expected
15 for students in a particular subject.

16 (b) A process and criteria by which assessments may be identified
17 or established to determine whether students have reached the desired
18 competencies in a particular subject.

19 (c) A mechanism to allow pupils in grades seven through twelve who
20 have demonstrated competency in a subject to immediately obtain credit for
21 the mastery of that subject. The rules shall include a list of applicable
22 subjects, including the level of competency required for each subject.

23 39. In consultation with the department of health services, the
24 department of education, medical professionals, school health
25 professionals, school administrators and an organization that represents
26 school nurses in this state, adopt rules that prescribe the following for
27 school districts and charter schools:

28 (a) Annual training in the administration of auto-injectable
29 epinephrine for designated medical and nonmedical school personnel. The
30 annual training prescribed in this subdivision is optional during any
31 fiscal year in which a school does not stock epinephrine auto-injectors at
32 the school during that fiscal year.

33 (b) Annual training for all school site personnel on the
34 recognition of anaphylactic shock symptoms and the procedures to follow
35 when anaphylactic shock occurs, following the national guidelines of the
36 American academy of pediatrics. The annual training prescribed in this
37 subdivision is optional during any fiscal year in which a school does not
38 stock epinephrine auto-injectors at the school during that fiscal year.

39 (c) Procedures for the administration of epinephrine auto-injectors
40 in emergency situations.

41 (d) Procedures for annually requesting a standing order for
42 epinephrine auto-injectors pursuant to section 15-157 from the chief
43 medical officer of the department of health services, the chief medical
44 officer of a county health department, a doctor of medicine licensed

1 pursuant to title 32, chapter 13 or a doctor of osteopathic medicine
2 licensed pursuant to title 32, chapter 17.

3 (e) Procedures for reporting the use of epinephrine auto-injectors
4 to the department of health services.

5 40. In consultation with the department of education, medical
6 professionals, school health professionals, school administrators and an
7 organization that represents school nurses in this state, adopt rules that
8 prescribe the following for school districts and charter schools that
9 elect to administer inhalers:

10 (a) Annual training in the recognition of respiratory distress
11 symptoms and the procedures to follow when respiratory distress occurs, in
12 accordance with good clinical practice, and the administration of
13 inhalers, as directed on the prescription protocol, by designated medical
14 and nonmedical school personnel.

15 (b) Requirements for school districts and charter schools that
16 elect to administer inhalers to designate at least two employees at each
17 school to be trained in the recognition of respiratory distress symptoms
18 and the procedures to follow when respiratory distress occurs, in
19 accordance with good clinical practice, and at least two employees at each
20 school to be trained in the administration of inhalers, as directed on the
21 prescription protocol.

22 (c) Procedures for the administration of inhalers in emergency
23 situations, as directed on the prescription protocol.

24 (d) Procedures for annually requesting a standing order for
25 inhalers and spacers or holding chambers pursuant to section 15-158 from
26 the chief medical officer of a county health department, a physician
27 licensed pursuant to title 32, chapter 13 or 17 or a nurse practitioner
28 licensed pursuant to title 32, chapter 15.

29 (e) Procedures for notifying a parent once an inhaler has been
30 administered.

31 41. Adopt rules for certification that allow substitute teachers
32 who can demonstrate primary teaching responsibility in a classroom as
33 defined by the state board of education to use the time spent in that
34 classroom toward the required capstone experience for standard teaching
35 certification.

36 42. For the purposes of Sandra Day O'Connor civics celebration day
37 instruction under section 15-710.01, develop a list of recommended
38 resources relating to civics education that align with the academic
39 standards prescribed by the state board of education in social studies
40 pursuant to sections 15-701 and 15-701.01. The state board shall
41 establish a process that allows public schools to recommend resources for
42 addition to the list.

43 B. The state board of education may:

- 44 1. Contract.
- 45 2. Sue and be sued.

1 3. Distribute and score the tests prescribed in chapter 7, article
2 3 of this title.

3 4. Provide for an advisory committee **OR HEARING OFFICERS** to conduct
4 hearings and screenings to determine whether grounds exist to impose
5 disciplinary action against a certificated person, whether grounds exist
6 to reinstate a revoked or surrendered certificate, ~~and~~ whether grounds
7 exist to approve or deny an initial application for certification or a
8 request for renewal of a certificate **AND WHETHER GROUNDS EXIST TO IMPOSE**
9 **OR LIFT DISCIPLINARY ACTION AGAINST A NONCERTIFICATED PERSON**. The board
10 may delegate its responsibility to conduct hearings and screenings to its
11 advisory committee **OR HEARING OFFICERS**. Hearings shall be conducted
12 pursuant to title 41, chapter 6, article 6.

13 5. Proceed with the disposal of any complaint requesting
14 disciplinary action ~~or with any disciplinary action~~ against **A**
15 **NONCERTIFICATED PERSON AFTER THE BOARD HAS IMPOSED DISCIPLINARY ACTION**
16 **PURSUANT TO SECTION 15-505 OR** a person holding a certificate as prescribed
17 in subsection A, paragraph 14 of this section after the suspension or
18 expiration of the certificate or surrender of the certificate by the
19 holder.

20 6. Assess costs and reasonable attorney fees against a person who
21 files a frivolous complaint or who files a complaint in bad faith. Costs
22 assessed pursuant to this paragraph shall not exceed the expenses incurred
23 by the department of education in the investigation of the complaint.

24 **C. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS**
25 **THE SAME MEANING PRESCRIBED IN SECTION 15-505.**

26 Sec. 3. Section 15-251, Arizona Revised Statutes, is amended to
27 read:

28 15-251. Powers and duties

29 The superintendent of public instruction shall:

30 1. Superintend the schools of this state.

31 2. Request the auditor general to investigate when necessary the
32 accounts of school monies kept by any state, county or district officer.

33 3. Subject to supervision by the state board of education,
34 apportion to the several counties the monies to which each county is
35 entitled for the year. Apportionment shall be made as provided in chapter
36 9 of this title.

37 4. Execute, under the direction of the state board of education,
38 the policies that have been decided on by the state board.

39 5. Direct the performance of executive, administrative or
40 ministerial functions by the department of education or divisions or
41 employees of the department.

42 6. Direct and oversee the work of all investigators related to ~~the~~
43 ~~investigation of~~ **INVESTIGATING** certificated persons, ~~or~~ persons seeking
44 certification **AND NONCERTIFICATED PERSONS** for immoral or unprofessional
45 conduct under this title and rules adopted pursuant to this title. The

1 investigators shall be housed within and are employees of the department
2 of education. FOR THE PURPOSES OF THIS PARAGRAPH, "NONCERTIFICATED
3 PERSON" HAS THE SAME MEANING PRESCRIBED IN SECTION 15-505.

4 7. Provide information to the state board of education related to
5 the powers and duties set forth in section 15-203.

6 Sec. 4. Section 15-350, Arizona Revised Statutes, is amended to
7 read:

8 15-350. Investigation of immoral or unprofessional conduct;
9 confidentiality; definition

10 A. On request of the state board of education or the department of
11 education, any school or school district that has employed a certificated
12 OR NONCERTIFICATED person during the time in which the person is alleged
13 to have engaged in conduct constituting grounds for disciplinary action
14 shall make available the attendance and testimony of witnesses, documents
15 and any physical evidence within the school district's control for
16 examination or copying. All information received and records or reports
17 kept by the state board of education or the department of education during
18 an investigation of immoral or unprofessional conduct are confidential and
19 are not a public record.

20 B. Notwithstanding subsection A of this section, the department of
21 education may provide information, records or reports relating to the
22 investigation of a ~~certificate holder~~ CERTIFICATED OR NONCERTIFICATED
23 PERSON to ANY OF THE FOLLOWING:

24 1. Any school or school district that currently employs the
25 ~~certificate holder~~ CERTIFICATED OR NONCERTIFICATED PERSON.

26 2. ANY SCHOOL OR SCHOOL DISTRICT TO WHICH THE CERTIFICATED OR
27 NONCERTIFICATED PERSON HAS APPLIED FOR EMPLOYMENT.

28 3. ANY THIRD-PARTY ENTITY THAT CONTRACTS WITH A SCHOOL OR SCHOOL
29 DISTRICT TO PROVIDE EDUCATORS AND TO WHICH THE PERSON HAS APPLIED FOR
30 EMPLOYMENT.

31 4. ANY AGENCY AS DEFINED IN SECTION 41-1001 THAT HAS RECEIVED AND
32 IS INVESTIGATING AN APPLICATION BY THE CERTIFICATED OR NONCERTIFICATED
33 PERSON FOR A CERTIFICATE OR LICENSE OR THAT IS CONDUCTING AN INVESTIGATION
34 OF THE PERSON IN ORDER TO MAKE A CERTIFICATION OR LICENSURE DECISION.

35 5. A STATE EDUCATION AGENCY IN ANOTHER STATE, OR THE EQUIVALENT,
36 WITH WHICH A PERSON HOLDS A CERTIFICATE OR IS APPLYING FOR A CERTIFICATE.

37 C. All information, records ~~or~~ AND reports received by any school
38 or school district pursuant to this ~~subsection~~ SECTION shall be used for
39 employment purposes only, are confidential and are not a public record.

40 ~~C.~~ D. An investigator who is regularly employed and paid by the
41 department of education has the authority to access criminal history
42 records and criminal history record information, as defined in section
43 41-1750, from law enforcement agencies.

44 E. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS
45 THE SAME MEANING PRESCRIBED IN SECTION 15-505.

1 Sec. 5. Title 15, chapter 5, article 1, Arizona Revised Statutes,
2 is amended by adding section 15-505, to read:

3 15-505. Discipline; educator information system; personnel
4 list; definitions

5 A. PURSUANT TO THE RULES AND PROCEDURES ADOPTED PURSUANT TO SECTION
6 15-203, THE DEPARTMENT OF EDUCATION SHALL INVESTIGATE WRITTEN COMPLAINTS
7 ALLEGING THAT A NONCERTIFICATED PERSON HAS ENGAGED IN IMMORAL OR
8 UNPROFESSIONAL CONDUCT.

9 B. THE STATE BOARD OF EDUCATION MAY REVIEW A COMPLAINT AND
10 DETERMINE WHETHER TO TAKE DISCIPLINARY ACTION AGAINST A NONCERTIFICATED
11 PERSON WHO HAS ENGAGED IN IMMORAL OR UNPROFESSIONAL CONDUCT, INCLUDING
12 PROHIBITING THE PERSON'S EMPLOYMENT AT A SCHOOL DISTRICT OR CHARTER SCHOOL
13 FOR UP TO FIVE YEARS EXCEPT AS OTHERWISE PRESCRIBED IN SECTION 15-550.
14 THE STATE BOARD SHALL ADOPT RULES AND PROCEDURES FOR DISCIPLINARY ACTION
15 OF NONCERTIFICATED PERSONS THAT ARE SUBSTANTIALLY SIMILAR TO THE RULES AND
16 PROCEDURES FOR CERTIFICATED PERSONS.

17 C. BEFORE EMPLOYING A CERTIFICATED OR NONCERTIFICATED PERSON,
18 SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL CONDUCT A SEARCH OF THE
19 PROSPECTIVE EMPLOYEE ON THE EDUCATOR INFORMATION SYSTEM THAT IS MAINTAINED
20 BY THE DEPARTMENT OF EDUCATION.

21 D. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY NOT EMPLOY EITHER OF THE
22 FOLLOWING IN A POSITION THAT REQUIRES A VALID FINGERPRINT CLEARANCE CARD:

23 1. A CERTIFICATED PERSON WHOSE CERTIFICATE HAS BEEN SUSPENDED,
24 SURRENDERED OR REVOKED, UNLESS THE STATE BOARD OF EDUCATION HAS
25 SUBSEQUENTLY REINSTATED THE PERSON'S CERTIFICATE.

26 2. A NONCERTIFICATED PERSON WHO HAS BEEN PROHIBITED FROM EMPLOYMENT
27 AT A SCHOOL DISTRICT OR CHARTER SCHOOL BY THE STATE BOARD OF EDUCATION
28 PURSUANT TO SUBSECTION B OF THIS SECTION.

29 E. EACH SCHOOL DISTRICT AND CHARTER SCHOOL SHALL ANNUALLY SUBMIT TO
30 THE DEPARTMENT OF EDUCATION A LIST OF CERTIFICATED AND NONCERTIFICATED
31 PERSONS WHO ARE EMPLOYED AT THE SCHOOL DISTRICT OR CHARTER SCHOOL. THE
32 DEPARTMENT SHALL ISSUE GUIDANCE TO SCHOOL DISTRICTS AND CHARTER SCHOOLS
33 REGARDING THIS SUBSECTION.

34 F. FOR THE PURPOSES OF THIS SECTION:

35 1. "NONCERTIFICATED PERSON":

36 (a) MEANS A SCHOOL DISTRICT OR CHARTER SCHOOL EMPLOYEE WHO BOTH:

37 (i) DOES NOT POSSESS A CERTIFICATE ISSUED PURSUANT TO RULES ADOPTED
38 BY THE STATE BOARD OF EDUCATION UNDER SECTION 15-203, SUBSECTION A,
39 PARAGRAPH 14.

40 (ii) IS REQUIRED OR ALLOWED TO PROVIDE SERVICES DIRECTLY TO PUPILS
41 WITHOUT BEING SUPERVISED BY A CERTIFICATED EMPLOYEE.

42 (b) DOES NOT INCLUDE A PERSON WHO DOES NOT HOLD A CERTIFICATE AND
43 WHO IS ONE OF THE FOLLOWING AT A SCHOOL DISTRICT OR CHARTER SCHOOL:

44 (i) A TRANSPORTATION EMPLOYEE AS DEFINED IN SECTION 15-513.

45 (ii) A FOOD SERVICE EMPLOYEE OR CONTRACTOR.

1 (iii) A MAINTENANCE WORKER.

2 (iv) AN EMPLOYEE OR CONTRACTOR OF THE SCHOOL DISTRICT OR CHARTER
3 SCHOOL THAT IS NOT REQUIRED TO POSSESS A VALID FINGERPRINT CLEARANCE CARD.

4 2. "SUPERVISED" MEANS BEING UNDER THE DIRECTION OF AND, EXCEPT FOR
5 BRIEF PERIODS OF TIME DURING A SCHOOL DAY OR SCHOOL ACTIVITY, WITHIN SIGHT
6 OF A CERTIFICATED EMPLOYEE WHEN PROVIDING DIRECT SERVICES TO PUPILS.

7 Sec. 6. Section 15-512, Arizona Revised Statutes, is amended to
8 read:

9 15-512. Noncertificated personnel; fingerprinting personnel;
10 background investigations; affidavit; civil
11 immunity; violation; classification; definition

12 A. Noncertificated personnel and personnel who are not paid
13 employees of the school district and who are not either the parent or the
14 guardian of a pupil who attends school in the school district but who are
15 required or allowed to provide services directly to pupils without ~~the~~
16 ~~supervision of~~ BEING SUPERVISED BY a certificated employee and who are
17 initially hired by a school district after January 1, 1990 shall be
18 fingerprinted as a condition of employment except for personnel who are
19 required as a condition of licensing to be fingerprinted if the license is
20 required for employment or for personnel who were previously employed by a
21 school district and who reestablished employment with that district within
22 one year after the date that the employee terminated employment with the
23 district. A school district may require noncertificated personnel and
24 personnel who are not paid employees of the school district and who are
25 not either the parent or the guardian of a pupil who attends school in the
26 school district but who are required or allowed to provide services
27 directly to pupils without ~~the supervision of~~ BEING SUPERVISED BY a
28 certificated employee to obtain a fingerprint clearance card as a
29 condition of employment. Even if the school district does not require a
30 fingerprint clearance card as a condition of employment, noncertificated
31 personnel and personnel who are not paid employees of the school district
32 and who are not either the parent or the guardian of a pupil who attends
33 school in the school district but who are required or allowed to provide
34 services directly to pupils without ~~the supervision of~~ BEING SUPERVISED BY
35 a certificated employee may apply for a fingerprint clearance card. A
36 school district may release the results of a background check or
37 communicate whether the person has been issued or denied a fingerprint
38 clearance card to another school district for employment purposes. The
39 employee's fingerprints and the form prescribed in subsection D of this
40 section shall be submitted to the school district within twenty days after
41 the date an employee begins work. A school district may terminate an
42 employee if the information on the form provided under subsection D of
43 this section is inconsistent with the information received from the
44 fingerprint check or the information received in connection with a
45 fingerprint clearance card application. The school district shall develop

1 procedures for fingerprinting employees. For the purposes of this
2 subsection, "~~supervision~~ SUPERVISED" means BEING under the direction of
3 and, except for brief periods of time during a school day or ~~a~~ school
4 activity, within sight of a certificated employee when providing direct
5 services to pupils.

6 B. Fingerprints submitted pursuant to this section shall be used to
7 conduct a state and federal criminal records check pursuant to section
8 41-1750 and Public Law 92-544. The department of public safety may
9 exchange this fingerprint data with the federal bureau of investigation.

10 C. The school district shall assume the costs of fingerprint checks
11 and fingerprint clearance cards and may charge these costs to its
12 fingerprinted employee, except that the school district may not charge the
13 costs of the fingerprint check or the fingerprint clearance card to
14 personnel of the school district who are not paid employees. The fees
15 charged for fingerprinting shall be deposited with the county treasurer
16 who shall credit the deposit to the fingerprint fund of the school
17 district. The costs charged to a fingerprinted employee are limited to
18 and the proceeds in the fund may only be applied to the actual costs,
19 including personnel costs, incurred as a result of the fingerprint checks
20 or the fingerprint clearance cards. The fingerprint fund is a continuing
21 fund that is not subject to reversion.

22 D. Personnel required to be fingerprinted or obtain a fingerprint
23 clearance card as prescribed in subsection A of this section shall certify
24 on forms that are provided by the school and notarized whether they are
25 awaiting trial on or have ever been convicted of or admitted in open court
26 or pursuant to a plea agreement committing any of the following criminal
27 offenses in this state or similar offenses in another jurisdiction,
28 including a charge or conviction that has been vacated, set aside or
29 expunged:

- 30 1. Sexual abuse of a minor.
- 31 2. Incest.
- 32 3. First or second degree murder.
- 33 4. Kidnapping.
- 34 5. Arson.
- 35 6. Sexual assault.
- 36 7. Sexual exploitation of a minor.
- 37 8. Felony offenses involving contributing to the delinquency of a
38 minor.
- 39 9. Commercial sexual exploitation of a minor.
- 40 10. Felony offenses involving sale, distribution or transportation
41 of, offer to sell, transport, or distribute or conspiracy to sell,
42 transport or distribute marijuana or dangerous or narcotic drugs.
- 43 11. Felony offenses involving the possession or use of marijuana,
44 dangerous drugs or narcotic drugs.

- 1 12. Misdemeanor offenses involving the possession or use of
2 marijuana or dangerous drugs.
- 3 13. Burglary in the first degree.
- 4 14. Burglary in the second or third degree.
- 5 15. Aggravated or armed robbery.
- 6 16. Robbery.
- 7 17. A dangerous crime against children as defined in section
8 13-705.
- 9 18. Child abuse.
- 10 19. Sexual conduct with a minor.
- 11 20. Molestation of a child.
- 12 21. Manslaughter.
- 13 22. Aggravated assault.
- 14 23. Assault.
- 15 24. Exploitation of minors involving drug offenses.
- 16 E. A school district may refuse to hire or may review or terminate
17 personnel who have been convicted of or admitted committing any of the
18 criminal offenses prescribed in subsection D of this section or of a
19 similar offense in another jurisdiction. A school district that is
20 considering terminating an employee pursuant to this subsection shall hold
21 a hearing to determine whether a person already employed shall be
22 terminated. In conducting a review, the governing board shall utilize the
23 guidelines, including the list of offenses that are not subject to review,
24 as prescribed by the state board of education pursuant to section 15-534,
25 subsection C. In considering whether to hire or terminate the employment
26 of a person, the governing board shall take into account the following
27 factors:
- 28 1. The nature of the crime and the potential for crimes against
29 children.
- 30 2. Offenses committed as a minor for which proceedings were held
31 under the jurisdiction of a juvenile or an adult court.
- 32 3. Offenses that have been expunged by a court of competent
33 jurisdiction, if the person has been pardoned or if the person's sentence
34 has been commuted.
- 35 4. The employment record of the person since the commission of the
36 crime if the crime was committed more than ten years before the governing
37 board's consideration of whether to hire or terminate the person.
- 38 5. The reliability of the evidence of an admission of a crime
39 unless made under oath in a court of competent jurisdiction.
- 40 F. Before ~~employment~~ A PERSON IS EMPLOYED with the school district,
41 the district shall make documented, good faith efforts to contact previous
42 employers of ~~a~~ THE person to obtain information and recommendations that
43 may be relevant to ~~a~~ THE person's fitness for employment, INCLUDING
44 CONDUCTING A SEARCH OF THE EDUCATOR INFORMATION SYSTEM THAT IS MAINTAINED
45 BY THE DEPARTMENT OF EDUCATION PURSUANT TO SECTION 15-505. A SCHOOL

1 DISTRICT MAY NOT EMPLOY IN A POSITION THAT REQUIRES A VALID FINGERPRINT
2 CLEARANCE CARD A PERSON AGAINST WHOM THE STATE BOARD OF EDUCATION HAS
3 TAKEN DISCIPLINARY ACTION AS PRESCRIBED IN SECTION 15-505 OR WHOSE
4 CERTIFICATE HAS BEEN SUSPENDED, SURRENDERED OR REVOKED, UNLESS THE STATE
5 BOARD HAS SUBSEQUENTLY REINSTATED THE PERSON'S CERTIFICATE. A governing
6 board shall adopt procedures for conducting background investigations
7 required by this subsection, including one or more standard forms for use
8 by school district officials to document their efforts to obtain
9 information from previous employers. A school district may provide
10 information received as a result of a background investigation required by
11 this section to any other school district, to any other public school and
12 to any public entity that agrees pursuant to a contract or
13 intergovernmental agreement to perform background investigations for
14 school districts or other public schools. School districts and other
15 public schools may enter into intergovernmental agreements pursuant to
16 section 11-952 and cooperative purchasing agreements pursuant to rules
17 adopted in accordance with section 15-213 for the purposes of performing
18 or contracting for the performance of background investigations and for
19 sharing the results of background investigations required by this
20 subsection. Information obtained about an employee or applicant for
21 employment by any school district or other public school in the
22 performance of a background investigation, including any records
23 indicating that a current or former employee of a school or school
24 district was disciplined for violating policies of the school district
25 governing board pursuant to section 15-153, may be retained by that school
26 district or the other public school or by any public entity that agrees
27 pursuant to contract to perform background investigations for school
28 districts or other public schools and may be provided to any school
29 district or other public school that is performing a background
30 investigation required by this subsection.

31 G. A school district may fingerprint or require any other employee
32 of the district to obtain a fingerprint clearance card, whether paid or
33 not, or any other applicant for employment with the school district not
34 otherwise required by this section to be fingerprinted or obtain a
35 fingerprint clearance card on the condition that the school district may
36 not charge the costs of the fingerprint check or fingerprint clearance
37 card to the fingerprinted applicant or nonpaid employee.

38 H. A contractor, subcontractor or vendor or any employee of a
39 contractor, subcontractor or vendor who is contracted to provide services
40 on a regular basis at an individual school shall obtain a valid
41 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.
42 A school district governing board shall adopt policies to exempt a person
43 from the requirements of this subsection if the person's normal job duties
44 are not likely to result in independent access to or unsupervised contact
45 with pupils. A school district, its governing board members, its school

1 council members and its employees are exempt from civil liability for the
2 consequences of adoption and implementation of policies and procedures
3 pursuant to this subsection unless the school district, its governing
4 board members, its school council members or its employees are guilty of
5 gross negligence or intentional misconduct.

6 I. Subsection A of this section does not apply to a person who
7 provides instruction or other education services to a pupil, with the
8 written consent of the parent or guardian of the pupil, under a work
9 release program, advance placement course or other education program that
10 occurs off school property.

11 J. Public entities that agree pursuant to contract to perform
12 background investigations, public schools, the department of education and
13 previous employers who provide information pursuant to this section are
14 immune from civil liability unless the information provided is false and
15 is acted on by the school district to the harm of the employee and the
16 public entity, the public school, the previous employer or the department
17 of education knows the information is false or acts with reckless
18 disregard of the information's truth or falsity. A school district that
19 relies on information obtained pursuant to this section in making
20 employment decisions is immune from civil liability for use of the
21 information unless the information obtained is false and the school
22 district knows the information is false or acts with reckless disregard of
23 the information's truth or falsity.

24 K. The superintendent of a school district or chief administrator
25 of a charter school or the person's designee who is responsible for
26 implementing the governing board's policy regarding background
27 investigations required by subsection F of this section and who fails to
28 carry out that responsibility is guilty of unprofessional conduct and is
29 subject to disciplinary action by the state board.

30 L. A school district may hire noncertificated personnel before
31 receiving the results of the fingerprint check or a fingerprint clearance
32 card but may terminate employment if the information on the form provided
33 in subsection D of this section is inconsistent with the information
34 received from the fingerprint check or the fingerprint clearance card. In
35 addition to any other conditions or requirements deemed necessary by the
36 superintendent of public instruction to protect the health and safety of
37 pupils, a school district may hire noncertificated personnel who are
38 required or allowed unsupervised contact with pupils before the results of
39 a fingerprint check are received or a fingerprint clearance card is issued
40 if the school district does all of the following:

41 1. Documents in the applicant's file the necessity for hiring and
42 placing the applicant before a fingerprint check could be completed or a
43 fingerprint clearance card could be issued.

44 2. Ensures that the department of public safety completes a
45 statewide criminal history information check on the applicant every one

1 hundred twenty days until the date that the fingerprint check is completed
2 or the fingerprint clearance card is issued or denied.

3 3. Obtains references from the applicant's current employer and two
4 most recent previous employers except for applicants who have been
5 employed for at least five years by the applicant's most recent employer.

6 4. Provides general supervision of the applicant until the date
7 that the fingerprint check is completed or the fingerprint clearance card
8 is issued or denied.

9 5. Reports to the superintendent of public instruction on June 30
10 and December 31 each year the number of applicants hired before the
11 completion of a fingerprint check or the issuance of a fingerprint
12 clearance card. In addition, the school district shall report the number
13 of applicants for whom fingerprint checks were not received or fingerprint
14 clearance cards were not issued after one hundred twenty days and after
15 one hundred seventy-five days of hire.

16 M. Notwithstanding any other law, this section does not apply to
17 pupils who attend school in a school district and who are also employed by
18 a school district.

19 N. A person who makes a false statement, representation or
20 certification in any application for employment with the school district
21 is guilty of a class 3 misdemeanor.

22 O. For the purposes of this section, "background investigation"
23 means any communication with an employee's or applicant's former employer
24 that concerns the education, training, experience, qualifications and job
25 performance of the employee or applicant and that is used for the purpose
26 of evaluating the employee or applicant for employment. Background
27 investigation does not include the results of any state or federal
28 criminal history records check.

29 Sec. 7. Section 15-514, Arizona Revised Statutes, is amended to
30 read:

31 15-514. Immoral or unprofessional conduct; duty to report;
32 immunity; definition

33 A. Any certificated **OR NONCERTIFICATED** person or governing board
34 member who reasonably suspects or receives a reasonable allegation that a
35 person certificated by the state board of education **OR A NONCERTIFICATED**
36 **PERSON** has engaged in conduct involving minors that would be subject to
37 the reporting requirements of section 13-3620 shall report or cause
38 reports to be made to the department of education in writing as soon as is
39 reasonably practicable but not later than three business days after the
40 person first suspects or receives an allegation of the conduct.

41 B. The superintendent of a school district or the chief
42 administrator of a charter school who reasonably suspects or receives a
43 reasonable allegation that an act of immoral or unprofessional conduct
44 that would constitute grounds for dismissal or criminal charges by a

1 certificated OR NONCERTIFICATED person has occurred shall report the
2 conduct to the department of education.

3 C. A person who IN GOOD FAITH reports or provides information
4 pursuant to this section regarding the immoral or unprofessional conduct
5 of a certificated OR NONCERTIFICATED person ~~in good faith~~ is not subject
6 to an action for civil damages as a result.

7 D. A governing board or school or school district employee who has
8 control over personnel decisions shall not take unlawful reprisal against
9 an employee because the employee reports in good faith information as
10 required by this section. For the purposes of this subsection, "unlawful
11 reprisal" means an action that is taken by a governing board as a direct
12 result of a lawful report pursuant to this section and, with respect to
13 the employee, results in one or more of the following:

- 14 1. Disciplinary action.
- 15 2. Transfer or reassignment.
- 16 3. Suspension, demotion or dismissal.
- 17 4. An unfavorable performance evaluation.
- 18 5. Other significant changes in duties or responsibilities that are
19 inconsistent with the employee's salary or employment classification.

20 E. Failure to report information as required by this section by a
21 certificated OR NONCERTIFICATED person constitutes grounds for
22 disciplinary action by the state board of education.

23 F. A governing board or school district employee who has control
24 over personnel decisions and who reasonably suspects or receives a
25 reasonable allegation that a person certificated by the state board of
26 education OR A NONCERTIFICATED PERSON has engaged in conduct involving
27 minors that would be subject to the reporting requirements of section
28 13-3620 and this article shall not accept the resignation of the
29 certificate holder OR NONCERTIFICATED PERSON until these suspicions or
30 allegations have been reported to the state board of education.

31 G. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS
32 THE SAME MEANING PRESCRIBED IN SECTION 15-505.

33 Sec. 8. Section 15-534.02, Arizona Revised Statutes, is amended to
34 read:

35 15-534.02. Restrictions on applications for certification
36 after the surrender, revocation or denial of
37 certificate; definition

38 A. A person shall not submit an application for certification with
39 the state board of education for a period of five years if ~~either~~ ANY of
40 the following occurs:

41 1. The person surrenders a certificate issued by the state board of
42 education.

43 2. The person's certificate is revoked by the state board of
44 education on grounds of immoral or unprofessional conduct pursuant to
45 rules adopted by the state board of education pursuant to section 15-203.

1 3. THE STATE BOARD OF EDUCATION PROHIBITS A NONCERTIFICATED PERSON
2 FROM EMPLOYMENT IN A SCHOOL DISTRICT OR CHARTER SCHOOL AS DESCRIBED IN
3 SECTION 15-505 FOR A PERIOD OF FIVE YEARS.

4 B. If a person's application for certification is denied by the
5 state board of education on grounds of immoral or unprofessional conduct
6 pursuant to rules adopted by the state board of education pursuant to
7 section 15-203, the state board of education shall determine that the
8 person is prohibited from submitting an application for certification for
9 a specified period up to five years.

10 C. The periods of time prescribed in subsections A and B of this
11 section begin on the date that the state board of education accepts a
12 surrendered certificate, makes a final decision to revoke a certificate or
13 makes a final determination to deny an application for certification.

14 D. A person ~~who has had a certificate revoked~~ AGAINST WHOM THE
15 STATE BOARD OF EDUCATION HAS TAKEN DISCIPLINARY ACTION pursuant to section
16 15-550 is not eligible to apply for certification with the state board of
17 education.

18 E. The department of education shall not process an application for
19 certification submitted by a person who is prohibited from submitting an
20 application pursuant to subsection A, B or D of this section.

21 F. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS
22 THE SAME MEANING PRESCRIBED IN SECTION 15-505.

23 Sec. 9. Section 15-534.04, Arizona Revised Statutes, is amended to
24 read:

25 15-534.04. Reciprocal discipline; definition

26 A. A final adjudication or judgment in another jurisdiction that a
27 certificated OR NONCERTIFICATED person has engaged in immoral or
28 unprofessional conduct shall be treated as immoral or unprofessional
29 conduct for the purposes of any disciplinary proceeding conducted against
30 that person in this state.

31 B. An applicant for certification who has been disciplined in
32 another jurisdiction for immoral or unprofessional conduct shall
33 successfully complete the disciplinary process in that jurisdiction before
34 that person may apply for certification in this state.

35 C. After receiving notification that a person's educator
36 certificate has been revoked in another jurisdiction, the state board of
37 education may revoke all certificates issued in this state to that person
38 in a manner that is consistent with the terms of revocation in the other
39 jurisdiction, unless that person requests a hearing pursuant to title 41,
40 chapter 6, article 6. After conducting a hearing requested pursuant to
41 this subsection, the state board of education shall determine whether to
42 uphold the revocation or to decline the revocation.

43 D. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS
44 THE SAME MEANING PRESCRIBED IN SECTION 15-505.

1 Sec. 10. Section 15-550, Arizona Revised Statutes, is amended to
2 read:

3 15-550. Unprofessional conduct; penalty; definition

4 A. A ~~teacher~~ PERSON who has been convicted of a dangerous crime
5 against children as defined in section 13-705 or has been convicted of a
6 violation of section 13-1404 or 13-1406 in which the victim was a minor or
7 section 13-1405 or an act committed in another state or territory that if
8 committed in this state would have been a dangerous crime against children
9 or a violation of section 13-1404 or 13-1406 in which the victim was a
10 minor or a violation of section 13-1405 is guilty of unprofessional
11 conduct and the ~~teacher's~~ PERSON'S certificate shall be revoked
12 permanently immediately on notification of conviction by the clerk of the
13 court or the magistrate.

14 B. A ~~teacher~~ PERSON who has been convicted of a preparatory offense
15 as prescribed in section 13-1001 of any of the offenses prescribed in
16 subsection A of this section or any crime that requires the ~~teacher~~ PERSON
17 to register as a sex offender is guilty of unprofessional conduct and the
18 ~~teacher's~~ PERSON'S certificate shall be permanently revoked on
19 notification of the conviction by a court of competent jurisdiction.

20 C. THE STATE BOARD OF EDUCATION SHALL PERMANENTLY PROHIBIT A
21 NONCERTIFICATED PERSON WHO IS CONVICTED OF AN OFFENSE DESCRIBED IN
22 SUBSECTION A OR B OF THIS SECTION FROM EMPLOYMENT AT A SCHOOL DISTRICT OR
23 CHARTER SCHOOL.

24 ~~D.~~ D. A person who is employed by a school district or who is an
25 applicant for employment with a school district, who is arrested for or
26 charged with any nonappealable offense listed in section 41-1758.03,
27 subsection B and who does not immediately report the arrest or charge to
28 the person's supervisor or potential employer is guilty of unprofessional
29 conduct and the person shall be immediately dismissed from employment with
30 the school district or immediately excluded from potential employment with
31 the school district. This subsection does not entitle a person dismissed
32 pursuant to this subsection to a right to a hearing pursuant to section
33 15-539, subsection F.

34 ~~D.~~ E. A person who is employed by a school district and who is
35 convicted of any nonappealable offense listed in section 41-1758.03,
36 subsection B or is convicted of any nonappealable offense that amounts to
37 unprofessional conduct under this section shall immediately do all of the
38 following:

- 39 1. Surrender any certificates issued by the department of
40 education.
- 41 2. Notify the person's employer or potential employer of the
42 conviction.
- 43 3. Notify the department of public safety of the conviction.
- 44 4. Surrender the person's fingerprint clearance card.

1 F. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS
2 THE SAME MEANING PRESCRIBED IN SECTION 15-505.

3 Sec. 11. Section 41-1092.02, Arizona Revised Statutes, is amended
4 to read:

5 41-1092.02. Appealable agency actions; application of
6 procedural rules; exemption from article

7 A. This article applies to all contested cases as defined in
8 section 41-1001 and all appealable agency actions, except contested cases
9 with or appealable agency actions of:

- 10 1. The state department of corrections.
- 11 2. The board of executive clemency.
- 12 3. The industrial commission of Arizona.
- 13 4. The Arizona corporation commission.
- 14 5. The Arizona board of regents and institutions under its
15 jurisdiction.
- 16 6. The state personnel board.
- 17 7. The department of juvenile corrections.
- 18 8. The department of transportation, except as provided in title
19 28, chapter 30, article 2.
- 20 9. The department of economic security except as provided in
21 section 46-458.
- 22 10. The department of revenue regarding:
 - 23 (a) Income tax or withholding tax.
 - 24 (b) Any tax issue related to information associated with the
25 reporting of income tax or withholding tax unless the taxpayer requests in
26 writing that this article apply and waives confidentiality under title 42,
27 chapter 2, article 1.
- 28 11. The board of tax appeals.
- 29 12. The state board of equalization.
- 30 13. The state board of education, but only in connection with
31 contested cases and appealable agency actions related to applications for
32 issuance or renewal of a certificate and discipline of certificate holders
33 AND NONCERTIFICATED PERSONS pursuant to sections 15-203, 15-505, 15-534,
34 15-534.01, 15-535, 15-545 and 15-550.
- 35 14. The board of fingerprinting.
- 36 15. The department of child safety except as provided in sections
37 8-506.01 and 8-811.

38 B. Unless waived by all parties, an administrative law judge shall
39 conduct all hearings under this article, and the procedural rules set
40 forth in this article and rules made by the director apply.

41 C. Except as provided in subsection A of this section:

- 42 1. A contested case heard by the office of administrative hearings
43 regarding taxes administered under title 42 shall be subject to section
44 42-1251.

1 2. A final decision of the office of administrative hearings
2 regarding taxes administered under title 42 may be appealed by either
3 party to the director of the department of revenue, or a taxpayer may file
4 and appeal directly to the board of tax appeals pursuant to section
5 42-1253.

6 D. Except as provided in subsections A, B, E, F and G of this
7 section and notwithstanding any other administrative proceeding or
8 judicial review process established in statute or administrative rule,
9 this article applies to all appealable agency actions and to all contested
10 cases.

11 E. Except for a contested case or an appealable agency action
12 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and
13 41-1092.09 do not apply to the department of revenue.

14 F. The board of appeals established by section 37-213 is exempt
15 from:

16 1. The time frames for hearings and decisions provided in section
17 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

18 2. The requirement in section 41-1092.06, subsection A to hold an
19 informal settlement conference at the appellant's request if the sole
20 subject of an appeal pursuant to section 37-215 is the estimate of value
21 reported in an appraisal of lands or improvements.

22 G. Auction protest procedures pursuant to title 37, chapter 2,
23 article 4.1 are exempt from this article.

APPROVED BY THE GOVERNOR FEBRUARY 5, 2021.

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