



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
Second Regular Session

House: ED DP 6-4-0-1

## **HB 2161: parental rights; schools; educational records**

**Sponsor: Representative Kaiser, LD 15**

**Caucus & COW**

### **Overview**

Expands statutory parental rights regarding the upbringing, education, health care and mental health of a parent's minor child.

### **History**

Statute declares that all parental rights are reserved to a parent of a minor child without obstruction or interference from the state, a state political subdivision and any other governmental entity or institution. Statute outlines numerous parental rights (this is often referred to as the parents' bill of rights) and declares that unless otherwise required by law, the rights of parents of minor children may not be limited or denied ([A.R.S. § 1-602](#)).

A school district governing board, in consultation with parents, teachers and administrators, is required to adopt policies to promote the involvement of parents of children enrolled in the school district. These policies must include procedures by which parents may learn about parental rights and responsibilities, including, but not limited to: the right to opt in to a sex education curriculum, the right to opt out of immunizations and the right to review test results ([A.R.S. § 15-102](#)).

School districts and charter schools must obtain written informed consent from a pupil's parent before administering any survey that is retained by the school or the Arizona Department of Education for longer than one year and that solicits personal information. Currently, a school must obtain written informed consent from the pupil's parent at the beginning of every school year for the pupil to participate in any survey that falls under the aforementioned criteria ([A.R.S. § 15-117](#)).

### **Provisions**

#### ***Parental Rights***

1. Prohibits an employee of the state, any state political subdivision, governmental entity or other institution from withholding from a minor child's parent any information that is relevant to the physical, emotional or mental health of the parent's child. (Sec. 1)
2. States an employee who withholds relevant information from a minor child's parent is subject to grounds for discipline. (Sec. 1)
3. Prohibits the state, a state political subdivision or any other governmental entity, or any state official, state political subdivision or other governmental entity acting under color of law, from interfering with or usurping a parent's fundamental right to direct the upbringing, education, health care and mental health of their children. (Sec. 1)
4. Allows a parent to bring suit against a governmental entity or official based on any violation of statutory parental rights in superior court, federal court or before an administrative tribunal of appropriate jurisdiction. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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5. Permits a parent to raise a violation of statutory parental rights as a claim or defense. (Sec. 1)
6. Establishes that a governmental entity or official has the burden of proof of demonstrating:
  - a) That an interference or usurpation is essential to accomplish a compelling government interest of the highest order, as long recognized in the history and traditions of Arizona in the operation of its regulatory powers; and
  - b) The method of interference or usurpation used by the government is narrowly tailored and is not otherwise served by a less restrictive means. (Sec. 1)
7. Permits a governmental entity or official to interfere with or usurp the fundamental right of parents to direct the upbringing, education, health care and mental health of their children only if the government entity or official successfully demonstrates that there is a compelling government interest and the interference or usurpation is narrowly tailored. (Sec. 1)
8. Directs the court to grant appropriate relief if a governmental entity is unsuccessful in demonstrating that there is a compelling government interest or the interference or usurpation is narrowly tailored. (Sec. 1)
9. Provides that statute does not preempt or foreclose claims or remedies in support of parental rights that are available under the Arizona constitution, statutes or common law. (Sec. 1)

***Parental Access to Written and Electronic Records***

10. Specifies that parental rights include the right to access all written and electronic medical records of their minor child, including access to medical records for services that do not require parental consent. (Sec. 1)
11. Mandates a health care entity give a parent equivalent access to any electronic portal and any other health care delivery platform throughout the minority of the parent's child. (Sec. 1)
12. Entitles a parent to access to all written and electronic records of a school district or charter school or employee concerning the parent's child and to all electronic accounts of the parent's child, including:
  - a) Attendance records, test scores and grades;
  - b) Extracurricular activities or club participation;
  - c) Disciplinary, counseling and psychological records;
  - d) Applications for admission;
  - e) Health and immunization information;
  - f) Teacher and counselor evaluations and behavioral pattern reports; and
  - g) Email accounts and online or virtual accounts or data. (Sec. 4)
13. Requires a school district's policies to include procedures by which parents may learn about the right to access all written and electronic records of a school district or school district employee concerning the parent's child. (Sec. 2)
14. Prohibits a school district or charter school employee from withholding information from, or facilitating students to withhold or conceal information from, the student's parents about:
  - a) The student's physical, emotional or mental health; or
  - b) The student's purported gender identity or requested transition if the student's purported gender identity or expression is incongruous with the student's biological sex. (Sec. 4)
15. Allows a parent to file suit against a school district or charter school that fails to provide access to all written and electronic records concerning the parent's child or if the school district, charter school or employee withholds or conceals information from the student's parents about the student's physical, emotional or mental health or the student's purported gender identity or requested transition. (Sec. 4)

16. States that a parent who successfully asserts a claim may recover:
  - a) Declaratory, injunctive or any other appropriate relief; and
  - b) Reasonable attorney fees and costs. (Sec.4)

***Parental Consent for Surveys***

17. Requires each school district and charter school to obtain written informed consent from a pupil's parent before administering *any* survey that solicits personal information about a pupil, including surveys regarding gender expression, perceptions or stereotypes. (Sec. 3)
18. Requires, at least seven days before administering any survey to a pupil, every school district and charter school to:
  - a) Provide a copy of the survey to the pupil's parent along with a written informed consent form; and
  - b) Obtain written informed consent from the pupil's parent for the pupil to participate in the survey. (Sec. 3)

***Miscellaneous***

19. Makes technical changes. (Sec. 1, 2, 3)
20. Makes conforming changes. (Sec. 1, 3)