

# **A Summary of Arizona's Education Laws Designed to Promote School Choice**

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## **I. Arizona's Open Enrollment Law (A.R.S. §15-816)**

- A. School districts must adopt and implement a policy that allows students who reside in the district or outside of the district, but in the State, to enroll in any school in the district. Also, a school district may not prevent a student who resides in the district from enrolling in a school in another district.
- B. The policy must include admission criteria, application procedures, and transportation provisions. A school district may give enrollment preference to and reserve capacity for pupils who are children of persons who are employed by or at a school in the school district.
- C. A school operated by a school district may deny enrollment to any child who has been expelled or is in the process of being expelled by another education institution. (A.R.S. §15-841(C))
- D. The Federal Office of Civil Rights has issued a ruling that implies acceptance of school districts' authority to limit enrollment of students from outside of a school's attendance area on the basis of the school's capacity to enroll additional students by grade, class, or program, including special education programs. See Winslow USD, OCR Western Division No. 08-10-1229, 57 IDLER 110 (April 10, 2011)
- E. For any disabled student with an Individualized Education Program (IEP) who resides outside of the district, the district must provide transportation if required by the student's IEP. The transportation obligation is limited to 20 miles each way from the school to the location where the student's bus stops.
- F. A school district must accept the credits earned by an open enrollment student while attending another charter school or school district. However, the school district may determine which credits will be accepted as an elective or core credit. With respect to any course in which core credit is denied, the student must be afforded the opportunity to demonstrate proficiency in the subject based on an examination for the course prepared by a qualified teacher of the school district. (A.R.S. §15-701.01(I))

## II. Arizona's Charter School Laws (A.R.S. §15-181 – §15-189)

- A. Charter schools are “public schools that serve as alternatives to traditional public schools.” Their purpose is to “provide a learning environment that will improve pupil achievement” and “to provide additional academic choices for parents and pupils.”
- B. Charter schools must apply for and obtain a charter to operate and receive State funds from a “sponsor.” A profit or nonprofit corporation may apply for a charter.
- C. The entities that may sponsor charter schools are:
  - State Board for Charter Schools
  - School districts
  - ASU, U of A, NAU, and any future university governed by the Arizona Board of Regents
  - Community colleges with enrollment of 15,000 or more
  - A group of community colleges with combined enrollment of 15,000 or more
- D. The charter, or contract, establishes between the school and the sponsor the terms and conditions by which the school may operate and receive State funding. Among the mandatory commitments of a charter are to:
  - Not charge students tuition to attend the school
  - Teach the curriculum prescribed by the State Board of Education
  - Operate in a nonsectarian manner in regard to programs, instruction, and employment
  - Not discriminate on the basis of race, ethnicity, religion, gender, or disability
  - Comply with all state and federal laws applicable to charter schools
  - Administer AIMS and other State-mandated assessments
  - Have a governing body that is responsible for policy decisions
- E. A sponsor may revoke a charter for violation of its terms or other good cause.
- F. Charter schools must serve students with disabilities and comply with IDEA.
- G. Charter schools are not obligated to employ certificated administrators or teachers.
- H. Charter schools must enroll all eligible students who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. If applications exceed capacity, the school must select

by lottery or other equitable process, but may give preference for siblings of enrolled students. Charters cannot “limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language or athletic ability.”

- I. Charter schools may deny enrollment to any child who has been expelled or is in the process of being expelled by another education institution.
- J. A charter school must accept the credits earned by a student while attending another charter school or school district. However, the charter school may determine which credits will be accepted as an elective or core credit. With respect to any course in which core credit is denied, the student must be afforded the opportunity to demonstrate proficiency in the subject based on an examination for the course prepared by a qualified teacher of the charter school.

### **III. Individual and Corporate Income Tax Credits for Private School Tuition**

#### **The Individual Income Tax Credit (A.R.S. §43-1089)**

- A. An individual may claim a credit on individual Arizona income taxes for donations to School Tuition Organizations (STOs), privately run nonprofit organizations that distribute private school scholarships.
- B. Individual taxpayers contributing to STOs may claim a dollar-for-dollar credit of up to \$500, and married couples filing jointly may claim up to \$1,000.
- C. Each STO may set its own eligibility guidelines. Some STOs give to students based solely on financial need; others concentrate on a specific location or group of private or religious schools.
- D. An individual taxpayer may not make a contribution to an STO earmarked for his or her own child.

#### **The Corporate Income Tax Credit (A.R.S. §43-1183-1184)**

- A. A corporation may take a dollar-for-dollar credit on Arizona corporate income taxes for donations to STOs. This program works in tandem with the individual tax credit for donations to STOs.
- B. Students receiving scholarships through the corporate tax credit program must have family incomes below 185 percent of the income eligible for reduced-price lunch (\$76,493 for a family of four in 2011) and previously have attended a

public school or be entering kindergarten. The income requirement does not apply to the individual income tax-credit scholarship program.

- C. All organizations registered as STOs may participate in both programs. Corporate taxpayers contributing to STOs may claim a tax credit equal to the full amount of their contribution.

**IV. Arizona Empowerment Scholarships for Private Education Services (A.R.S. §15-891)**

- A. Arizona's Empowerment Scholarship Accounts allow parents of disabled children who qualify for an Individualized Education Program (IEP) to withdraw their children from public school districts or charter schools and receive a portion of their public funding deposited into an education savings account administered by the Arizona Department of Education and the State Treasurer. Beginning in the 2013-14 school year, eligibility will extend to students in a public school or school district with a letter grade of D or F, children of active military members, wards of the juvenile court, and previous recipients of an empowerment scholarship account.
- B. All students must have been previously (1) attending a public school for at least 100 days of the prior fiscal year, (2) receiving a special education scholarship from a School Tuition Organization, (3) participating in the Empowerment Scholarship Accounts program itself, or (4) receiving money from a school tuition organization under the Arizona Scholarship for Pupils With Disabilities program (such a scholarship has to be discontinued, however, if the student then receives an Empowerment Scholarship Account).
- C. Funds from the scholarship account may be used by the parent to pay for:
  - Tuition and fees for qualified schools
  - Textbooks, educational therapies, or services from a licensed provider
  - Tutoring from an accredited tutor
  - Curriculum, tuition, and fees for an online learning program
  - Fees to take an achievement test
  - Contributions to a qualified tuition program under federal law
  - Tuition/fees/textbooks for an eligible postsecondary institution
  - Fees for management of the scholarship account
  - Services provided by a public school (including extracurricular activities)

Impermissible expenses are:

- Computers or other technology
- Transportation for the student

- Consumable educational supplies, such as paper or pens
- D. "Qualified school" that is eligible to receive empowerment account funds for tuition and fees means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in Arizona and that does not discriminate on the basis of race, color, handicap, familial status, or national origin. The law, however, also states that a qualified school "shall not be required to alter its creed, practices or curriculum in order to redeem grants issued pursuant to this article or in order to participate as a qualified school."
  - E. The parent must sign an agreement stating that the child's scholarship account will be used to provide an education in at least the subjects of reading and grammar, math, social studies, and science. The parent must also agree not to enroll the student in a public school of any kind (including charter schools), or to accept a scholarship from a school tuition organization, or to use the scholarship account money for anything outside of the accepted purposes.
  - F. After the child graduates from college or four years have passed since high school graduation, any money remaining in a scholarship account returns to the State.
  - G. The Arizona Treasurer is empowered to conduct periodic random audits of scholarship accounts to ensure that money is being spent for the proper purposes. If misuse of funds is found, the Department of Education can remove the child's eligibility and refer the case to the Attorney General for prosecution.
  - H. The State is expressly prohibited from exercising "control or supervision over any nonpublic school or home school," and that a qualified school is not required to "alter its creed, practices, admissions policy or curriculum."
  - I. The constitutionality of this program has been challenged in *Niehaus v. Huppenthal*, (Maricopa County Superior Court CV2011-017911).

**V. Online Education Laws (A.R.S. §15-808)**

- A. The State Board of Education and the State Board for Charter Schools approve traditional school districts and charter schools, respectively, to be online course providers or online schools.
- B. The curriculum and instruction of online schools must meet the State curriculum standards established by the State Board of Education. However, online schools are not required to physically administer the final examination for a course to the student.

- C. Students in online courses are required by take the AIMS and other standardized tests. Such tests are administered according to the same test protocols applicable to traditional public schools.
- D. Schools selected for Arizona online instruction must ensure a daily log is maintained for each enrolled student. The daily log describes the amount of time spent by each student on academic tasks. The daily log is used by the school district or charter school to qualify the students in the school's average daily attendance calculations for state funding.
- E. If a student enrolls in an online school and another public school, the student's ADM must be apportioned according to USRF rules.
- F. A student enrolled full- or part-time in Arizona online instruction is funded for online instruction at 85 percent of the base support level that would be calculated for that student if that student were enrolled in a school district or charter school that does not participate in Arizona online instruction.

**VI. Arizona's Home-Schooling Law (A.R.S. §1-601 – 602; §15-802)**

- A. A parent has the right to educate his or her child at home, instead of sending the child to public or private school.
- B. The Arizona Department of Education has no authority to regulate home-schooling parents or to assess the academic progress of home-schooled students.
- C. A parent must register the child as being home-schooled with the County School Superintendent to avoid responsibility under Arizona's truancy laws.
- D. A home-schooled student who resides in the attendance area of a traditional public school may try out for interscholastic activities on behalf of the school in the same manner as a student attending the school. All requirements imposed on student participants in the interscholastic activity apply equally to the home-schooled student. (A.R.S. §15-802.01)