

REFERENCE TITLE: **schools; personally identifiable information; prohibition**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2044

Introduced by
Representatives Finchem, Borrelli, Senator Burges: Representatives Cobb,
Leach, Livingston

AN ACT

AMENDING SECTION 15-102, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-143; RELATING TO EDUCATIONAL RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-102, Arizona Revised Statutes, is amended to
3 read:

4 15-102. Parental involvement in the school; definition

5 A. The governing board, in consultation with parents, teachers and
6 administrators, shall develop and adopt a policy to promote the involvement
7 of parents and guardians of children enrolled in the schools within the
8 school district, including:

9 1. A plan for parent participation in the schools ~~which~~ **THAT** is
10 designed to improve parent and teacher cooperation in such areas as homework,
11 attendance and discipline.

12 2. Procedures by which parents may learn about the course of study for
13 their children and review learning materials, including the source of any
14 supplemental educational materials.

15 3. Procedures by which parents who object to any learning material or
16 activity on the basis that it is harmful may withdraw their children from the
17 activity or from the class or program in which the material is used.
18 Objection to a learning material or activity on the basis that it is harmful
19 includes objection to a material or activity because it questions beliefs or
20 practices in sex, morality or religion.

21 4. If a school district offers any sex education curricula pursuant to
22 section 15-711 or 15-716 or pursuant to any rules adopted by the state board
23 of education, procedures to prohibit a school district from providing sex
24 education instruction to a pupil unless the pupil's parent provides written
25 permission for the child to participate in the sex education curricula.

26 5. Procedures by which parents will be notified in advance of and
27 given the opportunity to withdraw their children from any instruction or
28 presentations regarding sexuality in courses other than formal sex education
29 curricula.

30 6. Procedures by which parents may learn about the nature and purpose
31 of clubs and activities that are part of the school curriculum,
32 extracurricular clubs and activities that have been approved by the school.

33 7. Procedures by which parents may learn about parental rights and
34 responsibilities under the laws of this state, including the following:

35 (a) The right to opt in to a sex education curriculum if one is
36 provided by the school district.

37 (b) Open enrollment rights pursuant to section 15-816.01.

38 (c) The right to opt out of assignments pursuant to this section.

39 (d) The right to opt out of immunizations pursuant to section 15-873.

40 (e) The promotion requirements prescribed in section 15-701.

41 (f) The minimum course of study and competency requirements for
42 graduation from high school prescribed in section 15-701.01.

43 (g) The right to opt out of instruction on the acquired immune
44 deficiency syndrome pursuant to section 15-716.

45 (h) The right to review test results pursuant to section 15-743.

1 (i) The right to participate in gifted programs pursuant to section
2 15-779.01.

3 (j) The right to access instructional materials pursuant to section
4 15-730.

5 (k) The right to receive a school report card pursuant to section
6 15-746.

7 (l) The attendance requirements prescribed in sections 15-802, 15-803
8 and 15-821.

9 (m) The right to public review of courses of study and textbooks
10 pursuant to section 15-721.

11 (n) The right to be excused from school attendance for religious
12 purposes pursuant to section 15-806.

13 (o) Policies related to parental involvement pursuant to this section.

14 (p) The right to seek membership on school councils pursuant to
15 section 15-351.

16 (q) The right to participate in a parental satisfaction survey
17 pursuant to section 15-353.

18 (r) Information about the student accountability information system as
19 prescribed in section ~~15-1042~~ 15-1041.

20 (s) The right to access the failing schools tutoring fund pursuant to
21 section 15-241.

22 8. PROCEDURES CONCERNING THE ADMINISTRATION OF SURVEYS TO PUPILS,
23 WHICH SHALL INCLUDE ALL OF THE FOLLOWING:

24 (a) PROCEDURES BY WHICH PARENTS WILL BE NOTIFIED IN ADVANCE OF ALL OF
25 THE FOLLOWING:

26 (i) THE PROPOSED ADMINISTRATION OF THE SURVEY.

27 (ii) THE RIGHT OF A PARENT TO OPT IN TO THE ADMINISTRATION OF EACH
28 SURVEY TO THE PARENT'S CHILD. A SURVEY MAY NOT BE ADMINISTERED TO A PUPIL
29 UNLESS THE PARENT PROVIDES WRITTEN PERMISSION FOR THAT PARENT'S CHILD TO BE
30 ADMINISTERED THAT SURVEY.

31 (iii) THE FULL TEXT OF THE SURVEY.

32 (iv) A FULL AND COMPLETE LIST OF THE PERSONS AND ENTITIES THAT WILL
33 RECEIVE THE SURVEY RESULTS. IN ACCORDANCE WITH SECTION 15-143, IF THE SURVEY
34 INCLUDES PERSONALLY IDENTIFIABLE PUPIL INFORMATION, THE PERSONALLY
35 IDENTIFIABLE INFORMATION MAY NOT BE DISTRIBUTED BEYOND THE SCHOOL DISTRICT.

36 (v) A FULL AND ACCURATE DESCRIPTION OF THE PURPOSE OF THE SURVEY.

37 (b) PROCEDURES TO IDENTIFY PERSONS AND ENTITIES THAT MISHANDLE OR
38 MISUSE INFORMATION FROM SURVEYS THAT ARE ADMINISTERED TO PUPILS.

39 (c) DISCIPLINARY PROCEDURES, INCLUDING TERMINATION OF EMPLOYMENT, FOR
40 TEACHERS AND ADMINISTRATORS WHO VIOLATE THIS PARAGRAPH.

41 B. The policy adopted by the governing board pursuant to this section
42 may also include the following components:

43 1. A plan by which parents will be made aware of the district's
44 parental involvement policy and this section, including:

1 (a) Rights under the family educational rights and privacy act of 1974
2 (20 United States Code section 1232g) relating to access to children's
3 official records.

4 (b) The parent's right to inspect the school district policies and
5 curriculum.

6 2. Efforts to encourage the development of parenting skills.

7 3. The communication to parents of techniques designed to assist the
8 child's learning experience in the home.

9 4. Efforts to encourage access to community and support services for
10 children and families.

11 5. The promotion of communication between the school and parents
12 concerning school programs and the academic progress of the parents'
13 children.

14 6. Identifying opportunities for parents to participate in and support
15 classroom instruction at the school.

16 7. Efforts to support, with appropriate training, parents as shared
17 ~~decision-makers~~ DECISION-MAKERS and to encourage membership on school
18 councils.

19 8. The recognition of the diversity of parents and the development of
20 guidelines that promote widespread parental participation and involvement in
21 the school at various levels.

22 9. The development of preparation programs and specialized courses for
23 certificated employees and administrators that promote parental involvement.

24 10. The development of strategies and programmatic structures at
25 schools to encourage and enable parents to participate actively in their
26 children's education.

27 C. The governing board may adopt a policy to provide to parents the
28 information required by this section in an electronic form.

29 D. A parent shall submit a written request for information pursuant to
30 this section during regular business hours to either the school principal at
31 the school site or the superintendent of the school district at the office of
32 the school district. Within ten days of receiving the request for
33 information, the school principal or the superintendent of the school
34 district shall either deliver the requested information to the parent or
35 submit to the parent a written explanation of the reasons for the denial of
36 the requested information. If the request for information is denied or the
37 parent does not receive the requested information within fifteen days after
38 submitting the request for information, the parent may submit a written
39 request for the information to the school district governing board, which
40 shall formally consider the request at the next scheduled public meeting of
41 the governing board if the request can be properly noticed on the agenda. If
42 the request cannot be properly noticed on the agenda, the governing board
43 shall formally consider the request at the next subsequent public meeting of
44 the governing board.

1 E. A PARENT MAY COMMENCE A CIVIL ACTION FOR DAMAGES IN SUPERIOR COURT
2 ON THE PARENT'S OWN BEHALF OR ON BEHALF OF THE PARENT'S CHILD, OR BOTH,
3 AGAINST ANY PERSON OR ENTITY WHO IS ALLEGED TO BE IN VIOLATION OF SUBSECTION
4 A, PARAGRAPH 8 OF THIS SECTION. IN ANY ACTION UNDER THIS SUBSECTION, THE
5 PLAINTIFF HAS THE BURDEN OF PROOF. THE COURT, IN ISSUING ANY FINAL ORDER IN
6 ANY ACTION BROUGHT PURSUANT TO THIS SUBSECTION, MAY:

7 1. AWARD COSTS OF LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT
8 WITNESS FEES, TO ANY PARTY IF THE COURT DETERMINES SUCH AN AWARD IS
9 APPROPRIATE AND, IN ADDITION, TO THE DEFENDANT IN THE CASE OF A FRIVOLOUS
10 ACTION.

11 2. PROVIDE FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF.

12 ~~E.~~ F. For the purposes of this section, "parent" means the natural or
13 adoptive parent or legal guardian of a minor child.

14 Sec. 2. Title 15, chapter 1, article 4, Arizona Revised Statutes, is
15 amended by adding section 15-143, to read:

16 15-143. Personally identifiable pupil information; distribution
17 prohibited; definitions

18 A. NOTWITHSTANDING ANY OTHER LAW, A SCHOOL DISTRICT OR CHARTER SCHOOL
19 MAY NOT DISTRIBUTE PERSONALLY IDENTIFIABLE INFORMATION THAT IT COLLECTS ABOUT
20 A PUPIL, INCLUDING NONCOGNITIVE DATA, BEYOND THE SCHOOL DISTRICT OR CHARTER
21 SCHOOL. THIS SUBSECTION DOES NOT PROHIBIT A SCHOOL DISTRICT OR CHARTER
22 SCHOOL FROM DISTRIBUTING AGGREGATED COGNITIVE DATA AND ASSESSMENTS TO THE
23 ARIZONA DEPARTMENT OF EDUCATION, THE STATE BOARD OF EDUCATION, THE
24 SUPERINTENDENT OF PUBLIC INSTRUCTION, THE UNITED STATES DEPARTMENT OF
25 EDUCATION OR ANY OTHER GOVERNMENTAL ENTITY.

26 B. FOR THE PURPOSES OF THIS SECTION:

27 1. "COGNITIVE DATA AND ASSESSMENTS" MEANS TEST SCORES, SCORES FOR A
28 SPECIFIC ACADEMIC ASSIGNMENT OR TASK, SCORES OR GRADES FOR A SPECIFIC COURSE
29 OR OTHER MEASUREMENTS OF ACADEMIC PERFORMANCE.

30 2. "NONCOGNITIVE DATA" MEANS ANY OF THE FOLLOWING INFORMATION:

31 (a) THE PUPIL'S BIRTH WEIGHT.

32 (b) THE RELIGIOUS AFFILIATION OF THE PUPIL OR THE PUPIL'S FAMILY
33 MEMBERS.

34 (c) PARTICIPATION BY THE PUPIL OR THE PUPIL'S FAMILY MEMBERS IN ANY
35 PRIVATE ORGANIZATION, GROUP, CLASS OR CLUB.

36 (d) THE POLITICAL AFFILIATION OF THE PUPIL OR THE PUPIL'S FAMILY
37 MEMBERS.

38 (e) ANY OTHER PERSONAL INFORMATION ABOUT THE PUPIL OR THE PUPIL'S
39 FAMILY MEMBERS.