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## Background

(Laws 2023, Chapter 170) enacted during the 56th Legislature, First Regular Session, amended ARS § 15-249.16 which requires the Arizona Department of Education (Department) to develop and post a statutory handbook of parental rights outlining the rights of parents of children in school districts and charter schools. The statutory references to parental and student rights in public charter schools are delineated below:

### **Title 1, Chapter 6**

- [Section 1-601](#)
- [Section 1-602](#)
- [Section 1-611](#)

### **Title 15, Chapter 1**

- [Section 15-110](#)
- [Section 15-113](#)
- [Section 15-117](#)

This document contains the required statutes per fulfills the Department's role in developing and posting the parental rights handbook pursuant to A.R.S. § 15-249.16. In addition to posting on the Department's website, this document will be distributed to each public charter school for posting.

## Statutory Language

### *Title 1, Chapter 6*

#### **A.R.S. § 1-601 – Parents' rights protected**

A. The liberty of parents to direct the upbringing, education, health care and mental health of their children is a fundamental right.

B. This state, any political subdivision of this state or any other governmental entity shall not infringe on these rights without demonstrating that the compelling governmental interest as applied to the child involved is of the highest order, is narrowly tailored and is not otherwise served by a less restrictive means.

**A.R.S. § 1-602 – Parents’ bill of rights; definition**

A. All parental rights are exclusively reserved to a parent of a minor child without obstruction or interference from this state, any political subdivision of this state, any other governmental entity or any other institution, including:

1. The right to direct the education of the minor child.
2. All rights of parents identified in title 15, including the right to access and review all records relating to the minor child.
3. The right to direct the upbringing of the minor child.
4. The right to direct the moral or religious training of the minor child.
5. The right to make health care decisions for the minor child, including rights pursuant to sections 15-873, 36-2271 and 36-2272, unless otherwise prohibited by law.
6. The right to request, access and review all written and electronic medical records of the minor child unless otherwise prohibited by law or unless the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement official requests that the information not be released.
7. The right to consent in writing before a biometric scan of the minor child is made pursuant to section 15-109.
8. The right to consent in writing before any record of the minor child's blood or deoxyribonucleic acid is created, stored or shared, except as required by section 36-694, or before any genetic testing is conducted on the minor child pursuant to section 12-2803 unless authorized pursuant to section 13-610 or a court order.
9. The right to consent in writing before the state or any of its political subdivisions makes a video or voice recording of the minor child, unless the video or voice recording is made during or as a part of a court proceeding, by law enforcement officers during or as part of a law enforcement investigation, during or as part of an interview in a criminal or child safety services investigation or to be used solely for any of the following:

(a) Safety demonstrations, including the maintenance of order and discipline in the common areas of a school or on pupil transportation vehicles.

(b) A purpose related to a legitimate academic or extracurricular activity.

(c) A purpose related to regular classroom instruction.

(d) Security or surveillance of buildings or grounds.

(e) A photo identification card.

10. The right to be notified promptly if an employee of this state, any political subdivision of this state, any other governmental entity or any other institution suspects that a criminal offense has been committed against the minor child by someone other than a parent, unless the incident has first been reported to law enforcement and notifying the parent would impede a law enforcement or child safety services investigation. This paragraph does not create any new obligation for school districts and charter schools to report misconduct between students at school, such as fighting or aggressive play, that is routinely addressed as a student disciplinary matter by the school.

11. The right to obtain information about a child safety services investigation involving the parent pursuant to section 8-807.

B. This section does not authorize or allow a parent to engage in conduct that is unlawful or to abuse or neglect a child in violation of the laws of this state. This section does not prohibit courts, law enforcement officers or employees of a government agency responsible for child welfare from acting in their official capacity within the scope of their authority. This section does not prohibit a court from issuing an order that is otherwise permitted by law.

C. Any attempt to encourage or coerce a minor child to withhold information from the child's parent is grounds for discipline of an employee of this state, any political subdivision of this state, any other governmental entity or any other institution, except for law enforcement personnel.

D. Unless those rights have been legally waived or legally terminated, parents have inalienable rights that are more comprehensive than those listed in this section. This chapter does not prescribe all rights of parents or preempt or foreclose claims or remedies in support of parental rights that are available under the constitution, statutes or common law of this state. Unless otherwise required by law, the rights of parents of minor children shall not be limited or denied.

E. Except as prescribed in subsections F and G of this section, this state, a political subdivision of this state or any other governmental entity, or any official of this state, a

political subdivision of this state or any other governmental entity acting under color of law, shall not interfere with or usurp the fundamental right of parents to direct the upbringing, education, health care and mental health of their children. A parent may bring suit against a governmental entity or official described in this subsection based on any violation of the statutory rights set forth in this chapter or any other action that interferes with or usurps the fundamental right of parents to direct the upbringing, education, health care and mental health of their children in the superior court in the county in which the violation or other action occurs or in federal court, if authorized by federal law, or before an administrative tribunal of appropriate jurisdiction. A parent may raise a violation of this chapter as a claim or a defense.

F. In any action under subsection E of this section, the governmental entity or official described in subsection E of this section has the burden of proof to demonstrate both of the following:

1. That the interference of usurpation is essential to accomplish a compelling government interest of the highest order, as long recognized in the history and traditions of this state in the operation of its regulatory powers.
2. That the method of interference or usurpation used by the government is narrowly tailored and is not otherwise served by a less restrictive means.

G. A governmental entity or official described in subsection E of this section may 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 governmental entity or official successfully demonstrates both elements described in subsection F of this section. If the governmental entity or official is unsuccessful, the court shall grant appropriate relief, such as declaratory or injunctive relief, compensatory damages and attorney fees, based on the facts of the case and the law as applied to the facts.

H. For the purposes of this section, "parent" means the natural or adoptive parent or legal guardian of a minor child.

### **A.R.S. § 1-611 – Mask and face covering mandates; minors; consent of parent or guardian**

Notwithstanding any other law, this state, any political subdivision of this state, any other governmental entity, any school district or any charter school may not require that a mask or face covering be worn by a person under eighteen years of age without the express consent of the person's parent or guardian.

## *Title 15, Chapter 1*

### **A.R.S. § 15-110 – Rights of students at public educational institutions; limitations; definition**

A. A public educational institution shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression.

B. If an assignment requires a student's viewpoint to be expressed in coursework, artwork or other written or oral assignments, a public educational institution shall not penalize or reward a student on the basis of religious content or a religious viewpoint. In such an assignment, a student's academic work that expresses a religious viewpoint shall be evaluated based on ordinary academic standards of substance and relevance to the course curriculum or requirements of the coursework or assignment.

C. Students in public educational institutions may pray or engage in religious activities or religious expression before, during and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression.

D. Students in public educational institutions may wear clothing, accessories and jewelry that display religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories and jewelry that display messages or symbols are permitted.

E. This section shall not be construed to authorize this state or any of its political subdivisions to do either of the following:

1. Require any person to participate in prayer or in any other religious activity.
2. Violate the constitutional rights of any person.

F. This section shall not be construed to limit the authority of any public educational institution to do any of the following:

1. Maintain order and discipline on the campus of the public educational institution in a content and viewpoint neutral manner.
2. Protect the safety of students, employees and visitors of the public educational institution.
3. Adopt and enforce policies and procedures regarding student speech at school provided that the policies and procedures do not violate the rights of students as guaranteed by the United States and Arizona constitutions and laws.

4. Adopt and enforce policies and procedures that prohibit students from wearing any type of clothing, accessories and jewelry that is worn with the intent to convey affiliation with a criminal street gang as defined in section 13-105.

G. A student or a student's parent shall not initiate legal action to enforce this section unless the student or the student's parent has done the following:

1. The student or the student's parent shall submit a complaint in writing with the specific facts of the alleged violation to the principal of the school. The principal shall investigate the complaint and respond in writing, including a description of any action taken to resolve the complaint, within fifteen days of receiving the written complaint.

2. If the action taken by the principal of the school does not resolve the complaint of the student or the student's parent, the student or the student's parent shall submit a complaint in writing with the specific facts of the alleged violation to the superintendent or designated administrator. The superintendent or designated administrator shall investigate the complaint and respond in writing, including a description of any action taken to resolve the complaint, within twenty-five days of receiving the written complaint.

3. If the action taken by the superintendent or designated administrator does not resolve the complaint of the student or the student's parent, the student or the student's parent may pursue legal action to enforce this section.

H. For the purposes of this section, "public educational institution" means any of the following:

1. A school district, including its schools.
2. A charter school.
3. An accommodation school.
4. The Arizona state schools for the deaf and the blind.

#### **A.R.S. § 15-113 – Rights of parents; public educational institutions; definitions**

A. A parent of a student in a public educational institution has the right to review learning materials and activities in advance. A parent who objects to any learning material or activity on the basis that the material or activity is harmful may request to withdraw that parent's student from the activity or from the class or program in which the material is used and request an alternative assignment.

B. A charter school may require parents to waive the right to object to learning materials or activities pursuant to subsection A of this section as a condition of enrollment if the charter school provides a complete list of books and materials to be used each school year before the student enrolls. If the charter school introduces books or materials that were not disclosed prior to enrollment, the parent retains the right to object to those materials pursuant to subsection A of this section.

C. A charter school may require that any request to review learning materials or activities or to withdraw the student from learning materials or activities pursuant to subsection A of this section be made in writing.

D. A public educational institution shall obtain signed, written consent from a student's parent or guardian before doing either of the following:

1. Using video, audio or electronic materials that may be inappropriate for the age of the student.
2. Providing sex education instruction to the student. At the same time the public educational institution seeks consent, it shall inform the student's parent or guardian of the parent's or guardian's right to review the instructional materials and activities.

E. For the purposes of this section:

1. "Objects to any learning material or activity on the basis that the material or activity is harmful" means objecting to the material or activity because of sexual content, violent content or profane or vulgar language.
2. "Public educational institution" means any of the following:
  - (a) A school district, including its schools.
  - (b) A charter school.
  - (c) An accommodation school.
  - (d) The Arizona state schools for the deaf and the blind.

**A.R.S. § 15-117 – Surveys; pupil information; parental permission and informed consent; exceptions; penalties; definitions**

A. Notwithstanding any other law, each school district and charter school shall obtain written informed consent from the parent of a pupil before administering any survey that solicits personal information about the pupil regarding any of the following:

1. Critical appraisals of another person with whom a pupil has a close relationship.
2. Gun or ammunition ownership.
3. Illegal, antisocial or self-incriminating behavior.
4. Income or other financial information.
5. Legally recognized privileged or analogous relationships, such as relationships with a lawyer, physician or member of the clergy.
6. Medical history or medical information.
7. Mental health history or mental health information.
8. Political affiliations, opinions or beliefs.
9. Pupil biometric information.
10. The quality of home interpersonal relationships.
11. Religious practices, affiliations or beliefs.
12. Self-sufficiency as it pertains to emergency, disaster and essential services interruption planning.
13. Sexual behavior or attitudes.
14. Voting history.

B. At least seven days before administering any survey to a pupil, every school district and charter school shall provide a copy of the survey to the pupil's parent along with a written informed consent form and shall obtain written informed consent from the pupil's parent to participate in any survey pursuant to subsection A of this section. The pupil's parent may at any time revoke consent for the pupil to participate in any survey pursuant to subsection A of this section. For any pupil who is at least eighteen years of age, the permission or consent that would otherwise be required from the pupil's parent pursuant to this section is required only from the pupil. All surveys conducted pursuant to subsection A of this section shall be approved and authorized by the school district or charter school. The school district or charter school is subject to the penalties prescribed in subsection L of this section. A teacher or other school employee may not administer any survey pursuant to subsection A of this section without written authorization from the school district or charter school.

C. This section applies to all surveys conducted pursuant to subsection A of this section:



1. Regardless of the stated purpose of the survey.
2. Regardless of the quantity or percentage of questions that solicit data pursuant to subsection A of this section.
3. Including written or digital surveys.

D. This section does not apply to:

1. Mental health screening pursuant to section 15-104 or the identification of or programming for children with disabilities or gifted pupils pursuant to chapter 7, articles 4 and 4.1 of this title.
2. Class instruction, discussion or assignments on subjects within the purview of the course.
3. Private schools.
4. Any exam administered by a nationally recognized college entrance or career readiness exam provider that a student takes on public school property, regardless of whether the exam is taken during the school day.
5. Any survey conducted or implemented by the Arizona criminal justice commission if, at least seven days before the survey is administered to a pupil, the school district or charter school provides the pupil's parent with a paper or electronic copy of the survey or electronic access to the survey.
6. Any method of surveying a student that is conducted because a person has a reasonable belief that a minor is or has been a victim of abuse pursuant to section 13-3620.

E. A penalty may not be imposed on a pupil or the parent of a pupil who does not participate in any survey conducted pursuant to subsection A of this section. Participation in any survey pursuant to subsection A of this section is not required:

1. To demonstrate that a pupil has met competency requirements for any grade level, course or subject.
2. For a pupil to qualify for placement into any grade level, course or subject.
3. For a pupil to be promoted to the next grade.
4. For a pupil to receive credit for any course or as part of a letter grade for any course.

5. For a pupil to graduate from high school.

6. For a pupil to obtain a high school equivalency diploma.

F. A school district or charter school shall provide an alternative educational activity for any pupil whose parent does not consent for that pupil to participate in a survey conducted pursuant to subsection A of this section.

G. Any pupil whose parent does not give written informed consent for that pupil to participate in any survey pursuant to subsection A of this section and who attends the alternative educational activity pursuant to this section shall be counted toward daily attendance and average daily membership for the school pursuant to section 15-901 and may not be counted absent from school.

H. Responses to any survey pursuant to subsection A of this section may not be included:

1. As part of a school academic performance indicator pursuant to section 15-241, or as part of any other similar school rating system.

2. In the education learning and accountability system pursuant to section 15-249, or in any other similar system.

3. In the student accountability information system pursuant to section 15-756.10 or 15-1041, or in any other similar system.

I. A penalty may not be imposed on and a reward may not be granted to a teacher, administrator, other school employee, school district, school or charter school based on the pupil participation rate in any survey conducted pursuant to subsection A of this section.

J. On request, a charter school or school district shall provide any available information in a timely manner to the parent of a pupil regarding a survey administered pursuant to subsection A of this section including:

1. The name of the survey.

2. The date or dates on which the survey will be administered.

3. The method or methods of administering the survey.

4. The amount of time required to administer the survey.

5. The type of information collected by the survey.

6. The reasons for administering the survey.

K. A parent of a pupil that has a reasonable belief that a school district or charter school has violated this section may file a complaint with the attorney general or the county attorney for the county in which an alleged violation of this section occurred. The attorney general or the county attorney for the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the school district or charter school is located for the purpose of complying with this section. After receiving written notice of an alleged failure to comply with this section, a school district or charter school that determines that a violation has occurred is not subject to a penalty or cause of action under this section if the school district or charter school cures the violation. For the purposes of this subsection, "cure" means to destroy any information gathered in violation of this section and to provide written instruction to the individual circulating the survey, to be kept on file for one year after receipt of the written notice of the alleged failure to comply.

L. For each violation of this section, the court may impose a civil penalty not to exceed \$500. The school district or charter school determined to be out of compliance with this section shall be responsible for the payment of all penalties.

M. An attorney acting on behalf of a public school may request a legal opinion of the county attorney or attorney general as to whether the public school would violate this section.

N. All penalties collected by the court for a suit initiated in superior court by the attorney general shall be paid to the office of the attorney general for the use and reimbursement of costs of prosecution pursuant to this section. All penalties collected by the court for a suit initiated in superior court by a county attorney shall be paid to the county treasurer of the county in which the court is held for the use and reimbursement of costs of prosecution pursuant to this section.

O. For the purposes of this section:

1. "Parent" has the same meaning prescribed in section 15-101, except that parent does not mean this state if the pupil is a ward of the state.

2. "Survey" means:

- (a) When used as a noun, an instrument that investigates the attitudes, behaviors, beliefs, experiences, opinions or thoughts of a pupil or group of pupils.

- (b) When used as a verb, to use an instrument to investigate the attitudes, behaviors, beliefs, experiences, opinions or thoughts of a pupil or group of pupils.