

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
Fifth Special Session  
2002

CHAPTER 4

# SENATE BILL 1008

AN ACT

AMENDING SECTIONS 13-3990, 15-183 AND 41-1758, ARIZONA REVISED STATUTES;  
AMENDING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS  
2001, CHAPTER 350, SECTION 6; MAKING AN APPROPRIATION; RELATING TO CHARTER  
SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 13-3990, Arizona Revised Statutes, is amended to  
3 read:

4 13-3990. Notice of conviction of teachers

5 On the conviction of a person of an offense in this title or of any  
6 felony, if the person is certified to teach by the state board of education  
7 or state board of directors for community colleges, OR IS TEACHING IN A  
8 CHARTER SCHOOL, a copy of the judgment and sentence, and of the opinion of  
9 the court or magistrate, if any opinion is filed, shall be sent by the clerk  
10 of the court, or by the magistrate, to the certifying board OR TO THE CHARTER  
11 SCHOOL.

12 Sec. 2. Section 15-183, Arizona Revised Statutes, is amended to read:

13 15-183. Charter schools; application; requirements; immunity;  
14 exemptions; renewal of application; reprisal

15 A. An applicant seeking to establish a charter school shall submit a  
16 written application to a proposed sponsor as prescribed in subsection C of  
17 this section. The application shall include a detailed business plan for the  
18 charter school and may include a mission statement for the charter school,  
19 a description of the charter school's organizational structure and the  
20 governing body, a financial plan for the first three years of operation of  
21 the charter school, a description of the charter school's hiring policy, the  
22 name of the charter school's applicant or applicants and requested sponsor,  
23 a description of the charter school's facility and the location of the  
24 school, a description of the grades being served and an outline of criteria  
25 designed to measure the effectiveness of the school.

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

29 C. The sponsor of a charter school may be either a school district  
30 governing board, the state board of education or the state board for charter  
31 schools, subject to the following requirements:

32 1. For charter schools that submit an application for sponsorship to  
33 a school district governing board:

34 (a) An applicant for a charter school may submit its application to  
35 a school district governing board, which shall either accept or reject  
36 sponsorship of the charter school within ninety days. An applicant may  
37 submit a revised application for reconsideration by the governing board. If  
38 the governing board rejects the application, the governing board shall notify  
39 the applicant in writing of the reasons for the rejection. The applicant may  
40 request, and the governing board may provide, technical assistance to improve  
41 the application.

42 (b) In the first year that a school district is determined to be out  
43 of compliance with the uniform system of financial records, within fifteen  
44 days of the determination of noncompliance, the school district shall notify  
45 by certified mail each charter school sponsored by the school district that

1 the school district is out of compliance with the uniform system of financial  
2 records. The notification shall include a statement that if the school  
3 district is determined to be out of compliance for a second consecutive year,  
4 the charter school will be required to transfer sponsorship to another entity  
5 pursuant to subdivision (c) of this paragraph.

6 (c) In the second consecutive year that a school district is  
7 determined to be out of compliance with the uniform system of financial  
8 records, within fifteen days of the determination of noncompliance, the  
9 school district shall notify by certified mail each charter school sponsored  
10 by the school district that the school district is out of compliance with the  
11 uniform system of financial records. A charter school that receives a  
12 notification of school district noncompliance pursuant to this subdivision  
13 shall file a written sponsorship transfer application within forty-five days  
14 with the state board of education, the state board for charter schools or THE  
15 school district governing board if the charter school is located within the  
16 geographic boundaries of that school district. A charter school that  
17 receives a notification of school district noncompliance may request an  
18 extension of time to file a sponsorship transfer application and the state  
19 board of education, the state board for charter schools or a school district  
20 governing board may grant an extension of not more than an additional thirty  
21 days if good cause exists for the extension. The state board of education  
22 and the state board for charter schools shall approve a sponsorship transfer  
23 application pursuant to this paragraph.

24 (d) Beginning July 1, 2000, a school district governing board shall  
25 not grant a charter to a charter school that is located outside the  
26 geographic boundaries of that school district.

27 (e) A school district that has been determined to be out of compliance  
28 with the uniform system of financial records during either of the previous  
29 two fiscal years shall not sponsor a new or transferring charter school.

30 2. The applicant may submit the application to the state board of  
31 education or the state board for charter schools. The state board of  
32 education or the state board for charter schools may approve the application  
33 if the application meets the requirements of this article and may approve the  
34 charter if the proposed sponsor determines, within its sole discretion, that  
35 the applicant is sufficiently qualified to operate a charter school. The  
36 state board of education or the state board for charter schools may approve  
37 any charter schools transferring charters. The state board of education and  
38 the state board for charter schools shall approve any charter schools  
39 transferring charters from a school district that is determined to be out of  
40 compliance with the UNIFORM system of financial records pursuant to this  
41 section, but may require the charter school to sign a new charter that is  
42 equivalent to the charter awarded by the former sponsor. If the state board  
43 of education or the state board for charter schools rejects the preliminary  
44 application, the state board of education or the state board for charter  
45 schools shall notify the applicant in writing of the reasons for the

1 rejection and of suggestions for improving the application. An applicant may  
2 submit a revised application for reconsideration by the state board of  
3 education or the state board for charter schools. The applicant may request,  
4 and the state board of education or the state board for charter schools may  
5 provide, technical assistance to improve the application.

6 3. Each applicant seeking to establish a charter school shall submit  
7 a full set of fingerprints to the approving agency for the purpose of  
8 obtaining a state and federal criminal records check pursuant to section  
9 41-1750 and Public Law 92-544. IF AN APPLICANT WILL HAVE DIRECT CONTACT WITH  
10 STUDENTS, THE APPLICANT SHALL POSSESS A VALID CLASS ONE OR CLASS TWO  
11 FINGERPRINT CLEARANCE CARD THAT IS ISSUED PURSUANT TO TITLE 41, CHAPTER 12,  
12 ARTICLE 3.1. The department of public safety may exchange this fingerprint  
13 data with the federal bureau of investigation. The criminal records check  
14 shall be completed before the issuance of a charter.

15 ~~4. All noncertificated personnel shall be fingerprint checked pursuant~~  
16 ~~to section 15-512.~~

17 4. ALL PERSONS ENGAGED IN INSTRUCTIONAL WORK DIRECTLY AS A CLASSROOM,  
18 LABORATORY OR OTHER TEACHER OR INDIRECTLY AS A SUPERVISORY TEACHER, SPEECH  
19 THERAPIST OR PRINCIPAL SHALL HAVE A VALID CLASS ONE OR CLASS TWO FINGERPRINT  
20 CLEARANCE CARD THAT IS ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.  
21 A CHARTER SCHOOL SHALL NOT EMPLOY A TEACHER WHOSE CERTIFICATE HAS BEEN  
22 REVOKED FOR A VIOLATION OF SECTION 15-507 OR 15-550 OR FOR ANY OFFENSE THAT  
23 PLACED A PUPIL IN DANGER. ALL OTHER PERSONNEL SHALL BE FINGERPRINT CHECKED  
24 PURSUANT TO SECTION 15-512. BEFORE EMPLOYMENT, THE CHARTER SCHOOL SHALL MAKE  
25 DOCUMENTED, GOOD FAITH EFFORTS TO CONTACT PREVIOUS EMPLOYERS OF A PERSON TO  
26 OBTAIN INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT TO A PERSON'S  
27 FITNESS FOR EMPLOYMENT AS PRESCRIBED IN SECTION 15-512, SUBSECTION F. THE  
28 CHARTER SCHOOL SHALL NOTIFY THE DEPARTMENT OF PUBLIC SAFETY IF THE CHARTER  
29 SCHOOL OR SPONSOR RECEIVES CREDIBLE EVIDENCE THAT A PERSON WHO POSSESSES A  
30 VALID CLASS ONE OR CLASS TWO FINGERPRINT CLEARANCE CARD IS ARRESTED FOR OR  
31 IS CHARGED WITH AN OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B OR F.

32 5. If a charter school operator is not already subject to a public  
33 meeting or hearing by the municipality in which the charter school is  
34 located, the operator of a charter school shall conduct a public meeting at  
35 least thirty days before the charter school operator opens a site or sites  
36 for the charter school. The charter school operator shall post notices of  
37 the public meeting in at least three different locations that are within  
38 three hundred feet of the proposed charter school site.

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

44 E. The charter of a charter school shall ensure the following:

1           1. Compliance with federal, state and local rules, regulations and  
2 statutes relating to health, safety, civil rights and insurance. The  
3 department of education shall publish a list of relevant rules, regulations  
4 and statutes to notify charter schools of their responsibilities under this  
5 paragraph.

6           2. That it is nonsectarian in its programs, admission policies and  
7 employment practices and all other operations.

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

13           4. That it designs a method to measure pupil progress, toward the  
14 pupil outcomes adopted by the state board of education pursuant to section  
15 15-741.01 including participation in the Arizona instrument to measure  
16 standards test and the nationally standardized norm-referenced achievement  
17 test as designated by the state board and the completion and distribution of  
18 an annual report card as prescribed in chapter 7, article 3 of this title.

19           5. That, except as provided in this article and in its charter, it is  
20 exempt from all statutes and rules relating to schools, governing boards and  
21 school districts.

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

36           7. Compliance with all federal and state laws relating to the  
37 education of children with disabilities in the same manner as a school  
38 district.

39           8. That it provides for a governing body for the charter school that  
40 is responsible for the policy decisions of the charter school.

41           9. That it provides a minimum of one hundred seventy-five  
42 instructional days before June 30 of each fiscal year unless it is operating  
43 on an alternative calendar approved by its sponsor. The superintendent of  
44 public instruction shall adjust the apportionment schedule accordingly to  
45 accommodate a charter school utilizing an alternative calendar.

1 F. The charter of a charter school shall include a description of the  
2 charter school's personnel policies, personnel qualifications and method of  
3 school governance and the specific role and duties of the sponsor of the  
4 charter school. A charter school shall keep on file the resumes of all  
5 current and former employees who provide instruction to pupils at the charter  
6 school. Resumes shall include an individual's educational and teaching  
7 background and experience in a particular academic content subject area. A  
8 charter school shall inform parents and guardians of the availability of the  
9 resume information and shall make these THE RESUME INFORMATION available for  
10 inspection on request of parents and guardians of pupils enrolled at the  
11 charter school. Nothing in this subsection shall be construed to require any  
12 charter school to release personally identifiable information in relation to  
13 any teacher or employee including the teacher's or employee's address,  
14 salary, social 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 sponsor.

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

18 I. An approved plan to establish a charter school is effective for  
19 fifteen years from the first day of operation. At the conclusion of the  
20 first fourteen years of operation, the charter school may apply for renewal.  
21 In addition to any other requirements, the application for renewal shall  
22 include a detailed business plan for the charter school. The sponsor may  
23 deny the request for renewal if, in its judgment, the charter school has  
24 failed to complete the obligations of the contract or has failed to comply  
25 with this article. A sponsor shall give written notice of its intent not to  
26 renew the charter school's request for renewal to the charter school at least  
27 twelve months before the expiration of the approved plan to allow the charter  
28 school an opportunity to apply to another sponsor to transfer the operation  
29 of the charter school. If the operation of the charter school is transferred  
30 to another sponsor, the fifteen year period of the current charter shall be  
31 maintained. A sponsor shall review a charter at five year intervals and may  
32 revoke a charter at any time if the charter school breaches one or more  
33 provisions of its charter. At least ninety days before the effective date  
34 of the proposed revocation the sponsor shall give written notice to the  
35 operator of the charter school of its intent to revoke the charter. Notice  
36 of the sponsor's intent to revoke the charter shall be delivered personally  
37 to the operator of the charter school or sent by certified mail, return  
38 receipt requested, to the address of the charter school. The notice shall  
39 incorporate a statement of reasons for the proposed revocation of the  
40 charter. The sponsor shall allow the charter school at least ninety days to  
41 correct the problems associated with the reasons for the proposed revocation  
42 of the charter. The final determination of whether to revoke the charter  
43 shall be made at a public hearing called for such purpose.

44 J. After renewal of the charter at the end of the fifteen year period  
45 described in subsection I of this section, the charter may be renewed for

1 successive periods of fifteen years if the charter school and its sponsor  
2 deem that the school is in compliance with its own charter and the provisions  
3 of this article.

4 K. A charter school that is sponsored by the state board of education  
5 or the state board for charter schools may not be located on the property of  
6 a school district unless the district governing board grants this authority.

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

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

21 (a) Disciplinary or corrective action.

22 (b) Detail, transfer or reassignment.

23 (c) Suspension, demotion or dismissal.

24 (d) An unfavorable performance evaluation.

25 (e) A reduction in pay, benefits or awards.

26 (f) Elimination of the employee's position without a reduction in  
27 force by reason of lack of monies or work.

28 (g) Other significant changes in duties or responsibilities that are  
29 inconsistent with the employee's salary or employment classification.

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

32 (a) Suspension or termination of the program.

33 (b) Transfer or reassignment of the program to a less favorable  
34 department.

35 (c) Relocation of the program to a less favorable site within the  
36 school or school district.

37 (d) Significant reduction or termination of funding for the program.

38 M. Charter schools shall secure insurance for liability and property  
39 loss. The governing body of a charter school that is sponsored by the state  
40 board of education or the state board for charter schools may enter into an  
41 intergovernmental agreement or otherwise contract to participate in an  
42 insurance program offered by a risk retention pool established pursuant to  
43 section 11-952.01 or 41-621.01 or the charter school may secure its own  
44 insurance coverage. The pool may charge the requesting charter school

1 reasonable fees for any services it performs in connection with the insurance  
2 program.

3 N. Charter schools do not have the authority to acquire property by  
4 eminent domain.

5 O. A sponsor, including members, officers and employees of the  
6 sponsor, is immune from personal liability for all acts done and actions  
7 taken in good faith within the scope of their ITS authority.

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

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

19 R. The sponsoring entity of a charter school shall have oversight and  
20 administrative responsibility for the charter schools that it sponsors.

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

23 T. All property accumulated by a charter school shall remain the  
24 property of the charter school.

25 U. Charter schools may not locate a school on property that is less  
26 than one-fourth mile from agricultural land regulated pursuant to section  
27 3-365, except that the owner of the agricultural land may agree to comply  
28 with the buffer zone requirements of section 3-365. If the owner agrees in  
29 writing to comply with the buffer zone requirements and records the agreement  
30 in the office of the county recorder as a restrictive covenant running with  
31 the title to the land, the charter school may locate a school within the  
32 affected buffer zone. The agreement may include any stipulations regarding  
33 the charter school, including conditions for future expansion of the school  
34 and changes in the operational status of the school that will result in a  
35 breach of the agreement.

36 V. A transfer of a charter to another sponsor, a transfer of a charter  
37 school site to another sponsor or the A transfer of a charter school site to  
38 a different charter shall be completed before the beginning of the fiscal  
39 year that the transfer is scheduled to become effective. An entity that  
40 sponsors charter schools may accept a transferring school after the beginning  
41 of the fiscal year if the transfer is approved by the superintendent of  
42 public instruction. The superintendent of public instruction shall have the  
43 discretion to consider each transfer during the fiscal year on a case by case  
44 basis. If a charter school is sponsored by a school district that is  
45 determined to be out of compliance with this title, the uniform system of

1 financial records or any other state or federal law, the charter school may  
2 transfer to another sponsoring entity at any time during the fiscal year.

3 Sec. 3. Section 41-1758, Arizona Revised Statutes, is amended to read:  
4 41-1758. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Agency" means the supreme court, the department of economic  
7 security, the department of education, the department of health services or  
8 the department of juvenile corrections.

9 2. "Division" means the fingerprinting division in the department of  
10 public safety.

11 3. "Facility or program" means state facilities or programs that  
12 provide direct services to adults with developmental disabilities or to  
13 juveniles.

14 4. "Good cause exception" means the issuance of a fingerprint  
15 clearance card to an employee pursuant to section 41-619.55.

16 5. "Person" means a person who is required to be fingerprinted  
17 pursuant to any of the following:

18 (a) Section 8-322.

19 (b) SECTION 15-183.

20 (c) Section 15-512.

21 (d) Section 15-534.

22 (e) Section 15-1330.

23 (f) Section 36-425.03.

24 (g) Section 36-594.01.

25 (h) Section 36-882.

26 (i) Section 36-883.02.

27 (j) Section 36-897.01.

28 (k) Section 36-897.03.

29 (l) Section 36-3008.

30 (m) Section 41-1964.

31 (n) Section 41-1967.01.

32 (o) Section 41-2814.

33 (p) Section 46-141, subsection A.

34 (q) Section 46-321.

35 6. "Vulnerable adult" has the same meaning prescribed in section  
36 13-3623.

37 Sec. 4. Section 41-1758.01, Arizona Revised Statutes, as amended by  
38 Laws 2001, chapter 350, section 6, is amended to read:

39 41-1758.01. Fingerprinting division; duties

40 The fingerprinting division is established in the department of public  
41 safety and shall:

42 1. Conduct fingerprint background checks for persons and applicants  
43 who are seeking employment with licensees, contract providers and state  
44 agencies that require fingerprint background checks pursuant to sections  
45 8-322, 15-183, 15-534, 15-1330, 36-411, 36-425.03, 36-594.01, 36-882,

1 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-1964 and 41-2814, section  
2 46-141, subsection A and section 46-321.

3 2. Issue fingerprint clearance cards.

4 3. Inform in writing each person who submits fingerprints for a  
5 fingerprint background check of the person's right to petition the board of  
6 fingerprinting for a good cause exception pursuant to section 41-1758.03.

7 4. Administer and enforce this article.

8 Sec. 5. Applicability

9 Notwithstanding section 15-183, subsection C, paragraph 4, Arizona  
10 Revised Statutes, as amended by this act, a charter school may employ a  
11 person who does not have a valid class one or class two fingerprint clearance  
12 card to engage in instructional work directly as a classroom, laboratory or  
13 other teacher or indirectly as a supervisory teacher, speech therapist or  
14 principal if:

15 1. The person is employed by the charter school on the effective date  
16 of this act, the person applies for a class one or class two fingerprint  
17 clearance card on or before October 1, 2002 and the person's application has  
18 not been denied.

19 2. The person begins employment with the charter school after October  
20 1, 2002 and before May 1, 2003, the person applies for a class one or class  
21 two fingerprint clearance card on or before the seventh day following the  
22 date the person was hired and the person's application has not been denied.

23 3. The person is employed by the charter school, has timely applied  
24 for a class one or class two fingerprint clearance card as provided in this  
25 section, and is awaiting the outcome of a good cause exception determination  
26 pursuant to section 41-619.55, Arizona Revised Statutes.

27 Sec. 6. Transfer; appropriation; purpose

28 The sum of \$197,400 is transferred from the fingerprint clearance card  
29 fund to the board of fingerprinting fund and appropriated from the board of  
30 fingerprinting fund in fiscal year 2002-2003 to the board of fingerprinting  
31 for additional staff and costs associated with the board of fingerprinting  
32 and for the purposes of this act.

33 Sec. 7. Department of public safety; report of information to  
34 department of education

35 The department of public safety shall report to the department of  
36 education information about class one and class two fingerprint clearance  
37 cards that are required to be obtained by charter school teachers under  
38 section 15-183, Arizona Revised Statutes.

39 Sec. 8. Emergency

40 This act is an emergency measure that is necessary to preserve the  
41 public peace, health or safety and is operative immediately as provided by  
42 law.

APPROVED BY THE GOVERNOR AUGUST 5, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE AUGUST 5, 2002.

Passed the House August 1, 20 02,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting  
*with emergency*

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate August 1, 20 02,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

[Signature] *with Emergency*  
President of the Senate

Chaimin Bellinger  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
1 day of August, 20 02,

at 1:30 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 5<sup>th</sup> day of  
August, 20 02,

at 2:42 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 5 day of August, 20 02,

at 3:59 o'clock P M.

[Signature]  
Secretary of State

S.B. 1008  
Fifth Special Session