

House Engrossed Senate Bill

State of Arizona  
Senate  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 339

# SENATE BILL 1365

AN ACT

AMENDING SECTIONS 15-341 AND 15-710, ARIZONA REVISED STATUTES; RELATING TO  
SCHOOL CURRICULUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-341, Arizona Revised Statutes, is amended to  
3 read:

4 15-341. General powers and duties; immunity; delegation

5 A. The governing board shall:

6 1. Prescribe and enforce policies and procedures for the governance  
7 of the schools, not inconsistent with law or rules prescribed by the state  
8 board of education.

9 2. Maintain the schools established by it for the attendance of each  
10 pupil for a period of not less than one hundred seventy-five school days or  
11 two hundred school days, as applicable, or its equivalent as approved by the  
12 superintendent of public instruction for a school district operating on a  
13 year-round operation basis, to offer an educational program on the basis of  
14 a four day school week or to offer an alternative kindergarten program on the  
15 basis of a three day school week, in each school year, and if the funds of  
16 the district are sufficient, for a longer period, and as far as practicable  
17 with equal rights and privileges.

18 3. Exclude from schools all books, publications, papers or audiovisual  
19 materials of a sectarian, partisan or denominational character.

20 4. Manage and control the school property within its district.

21 5. Acquire school furniture, apparatus, equipment, library books and  
22 supplies for the use of the schools.

23 6. Prescribe the curricula and criteria for the promotion and  
24 graduation of pupils as provided in sections 15-701 and 15-701.01.

25 7. Furnish, repair and insure, at full insurable value, the school  
26 property of the district.

27 8. Construct school buildings on approval by a vote of the district  
28 electors.

29 9. Make in the name of the district conveyances of property belonging  
30 to the district and sold by the board.

31 10. Purchase school sites when authorized by a vote of the district at  
32 an election conducted as nearly as practicable in the same manner as the  
33 election provided in section 15-481 and held on a date prescribed in section  
34 15-491, subsection E, but such authorization shall not necessarily specify  
35 the site to be purchased and such authorization shall not be necessary to  
36 exchange unimproved property as provided in section 15-342, paragraph 23.

37 11. Construct, improve and furnish buildings used for school purposes  
38 when such buildings or premises are leased from the national park service.

39 12. Purchase school sites or construct, improve and furnish school  
40 buildings from the proceeds of the sale of school property only on approval  
41 by a vote of the district electors.

42 13. Hold pupils to strict account for disorderly conduct on school  
43 property.

44 14. Discipline students for disorderly conduct on the way to and from  
45 school.

1 15. Except as provided in section 15-1224, deposit all monies received  
2 by the district as gifts, grants and devises with the county treasurer who  
3 shall credit the deposits as designated in the uniform system of financial  
4 records. If not inconsistent with the terms of the gifts, grants and devises  
5 given, any balance remaining after expenditures for the intended purpose of  
6 the monies have been made shall be used for reduction of school district  
7 taxes for the budget year, except that in the case of accommodation schools  
8 the county treasurer shall carry the balance forward for use by the county  
9 school superintendent for accommodation schools for the budget year.

10 16. Provide that, if a parent or legal guardian chooses not to accept  
11 a decision of the teacher as provided in section 15-521, paragraph 3, the  
12 parent or legal guardian may request in writing that the governing board  
13 review the teacher's decision. Nothing in this paragraph shall be construed  
14 to release school districts from any liability relating to a child's  
15 promotion or retention.

16 17. Provide for adequate supervision over pupils in instructional and  
17 noninstructional activities by certificated or noncertificated personnel.

18 18. Use school monies received from the state and county school  
19 apportionment exclusively for payment of salaries of teachers and other  
20 employees and contingent expenses of the district.

21 19. Make an annual report to the county school superintendent on or  
22 before October 1 each year in the manner and form and on the blanks  
23 prescribed by the superintendent of public instruction or county school  
24 superintendent. The board shall also make reports directly to the county  
25 school superintendent or the superintendent of public instruction whenever  
26 required.

27 20. Deposit all monies received by school districts other than student  
28 activities monies or monies from auxiliary operations as provided in sections  
29 15-1125 and 15-1126 with the county treasurer to the credit of the school  
30 district except as provided in paragraph 21 of this subsection and sections  
31 15-1223 and 15-1224, and the board shall expend the monies as provided by law  
32 for other school funds.

33 21. Establish a bank account in which the board may during a month  
34 deposit miscellaneous monies received directly by the district. The board  
35 shall remit monies deposited in the bank account at least monthly to the  
36 county treasurer for deposit as provided in paragraph 20 of this subsection  
37 and in accordance with the uniform system of financial records.

38 22. Employ an attorney admitted to practice in this state whose  
39 principal practice is in the area of commercial real estate, or a real estate  
40 broker who is licensed by this state and who is employed by a reputable  
41 commercial real estate company, to negotiate a lease of five or more years  
42 for the school district if the governing board decides to enter into a lease  
43 of five or more years as lessor of school buildings or grounds as provided  
44 in section 15-342, paragraph 7 or 10. Any lease of five or more years  
45 negotiated pursuant to this paragraph shall provide that the lessee is

1 responsible for payment of property taxes pursuant to the requirements of  
2 section 42-11104.

3 23. Prescribe and enforce policies and procedures for disciplinary  
4 action against a teacher who engages in conduct which is a violation of the  
5 policies of the governing board but which is not cause for dismissal of the  
6 teacher or for revocation of the certificate of the teacher. Disciplinary  
7 action may include suspension without pay for a period of time not to exceed  
8 ten school days. Disciplinary action shall not include suspension with pay  
9 or suspension without pay for a period of time longer than ten school days.  
10 The procedures shall include notice, hearing and appeal provisions for  
11 violations which are cause for disciplinary action. The governing board may  
12 designate a person or persons to act on behalf of the board on these matters.

13 24. Prescribe and enforce policies and procedures for disciplinary  
14 action against an administrator who engages in conduct which is a violation  
15 of the policies of the governing board regarding duties of administrators but  
16 which is not cause for dismissal of the administrator or for revocation of  
17 the certificate of the administrator. Disciplinary action may include  
18 suspension without pay for a period of time not to exceed ten school days.  
19 Disciplinary action shall not include suspension with pay or suspension  
20 without pay for a period of time longer than ten school days. The procedures  
21 shall include notice, hearing and appeal provisions for violations which are  
22 cause for disciplinary action. The governing board may designate a person  
23 or persons to act on behalf of the board on these matters. For violations  
24 which are cause for dismissal, the provisions of notice, hearing and appeal  
25 in chapter 5, article 3 of this title shall apply. The filing of a timely  
26 request for a hearing suspends the imposition of a suspension without pay or  
27 a dismissal pending completion of the hearing.

28 25. Notwithstanding section 13-3108, prescribe and enforce policies and  
29 procedures that prohibit a person from carrying or possessing a weapon on  
30 school grounds unless the person is a peace officer or has obtained specific  
31 authorization from the school administrator.

32 26. Prescribe and enforce policies and procedures relating to the  
33 health and safety of all pupils participating in district sponsored practice  
34 sessions, games or other interscholastic athletic activities, including the  
35 provision of water. A school district and its employees are immune from  
36 civil liability for the consequences of the good faith adoption and  
37 implementation of policies and procedures pursuant to this paragraph.

38 27. Prescribe and enforce policies and procedures regarding the smoking  
39 of tobacco within school buildings. The policies and procedures shall be  
40 adopted in consultation with school district personnel and members of the  
41 community and shall state whether smoking is prohibited in school buildings.  
42 If smoking in school buildings is not prohibited, the policies and procedures  
43 shall clearly state the conditions and circumstances under which smoking is  
44 permitted, those areas in a school building which may be designated as

1 smoking areas and those areas in a school building which may not be  
2 designated as smoking areas.

3 28. Establish an assessment, data gathering and reporting system as  
4 prescribed in chapter 7, article 3 of this title.

5 29. Provide special education programs and related services pursuant  
6 to section 15-764, subsection A to all children with disabilities as defined  
7 in section 15-761.

8 30. Administer competency tests prescribed by the state board of  
9 education for the graduation of pupils from high school.

10 31. Secure insurance coverage for all construction projects for  
11 purposes of general liability, property damage and workers' compensation and  
12 secure performance and payment bonds for all construction projects.

13 32. Keep on file the resumes of all current and former employees who  
14 provide instruction to pupils at a school. Resumes shall include an  
15 individual's educational and teaching background and experience in a  
16 particular academic content subject area. A school district shall inform  
17 parents and guardians of the availability of the resume information and shall  
18 make the resume information available for inspection on request of parents  
19 and guardians of pupils enrolled at a school. Nothing in this paragraph  
20 shall be construed to require any school to release personally identifiable  
21 information in relation to any teacher or employee including the teacher's  
22 or employee's address, salary, social security number or telephone number.

23 33. Report to local law enforcement agencies any suspected crime  
24 against a person or property that is a serious offense as defined by IN  
25 section 13-604 or that involves a deadly weapon or dangerous instrument or  
26 serious physical injury and any conduct that poses a threat of death or  
27 serious physical injury to employees, students or anyone on the property of  
28 the school. A school district and its employees are immune from liability  
29 for any good faith actions taken in furtherance of this paragraph. This  
30 paragraph does not limit or preclude the reporting by a school district or  
31 an employee of a school district of suspected crimes other than those  
32 required to be reported by this paragraph. For the purposes of this  
33 paragraph, "dangerous instrument", "deadly weapon" and "serious physical  
34 injury" have the same meaning prescribed in section 13-105.

35 34. In conjunction with local law enforcement agencies and local  
36 medical facilities, develop an emergency response plan for each school in the  
37 school district in accordance with minimum standards developed jointly by the  
38 department of education and the division of emergency management within the  
39 department of emergency and military affairs.

40 35. Annually assign at least one school district employee to  
41 participate in a multihazard crisis training program developed or selected  
42 by the governing board.

43 36. Provide written notice to the parents or guardians of all students  
44 affected in the school district at least thirty days prior to a public  
45 meeting to discuss closing a school within the school district. The notice

1 shall include the reasons for the proposed closure and the time and place of  
2 the meeting. The governing board shall fix a time for a public meeting on  
3 the proposed closure no less than thirty days before voting in a public  
4 meeting to close the school. The school district governing board shall give  
5 notice of the time and place of the meeting. At the time and place  
6 designated in the notice, the school district governing board shall hear  
7 reasons for or against closing the school. The school district governing  
8 board is exempt from the provisions of this paragraph if it is determined by  
9 the governing board that the school shall be closed because it poses a danger  
10 to the health or safety of the pupils or employees of the school.

11 37. INCORPORATE INSTRUCTION ON NATIVE AMERICAN HISTORY INTO  
12 APPROPRIATE EXISTING CURRICULA.

13 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this  
14 section, the county school superintendent may construct, improve and furnish  
15 school buildings or purchase or sell school sites in the conduct of an  
16 accommodation school.

17 C. If any school district acquires real or personal property, whether  
18 by purchase, exchange, condemnation, gift or otherwise, the governing board  
19 shall pay to the county treasurer any taxes on the property that were unpaid  
20 as of the date of acquisition, including penalties and interest. The lien  
21 for unpaid delinquent taxes, penalties and interest on property acquired by  
22 a school district:

23 1. Is not abated, extinguished, discharged or merged in the title to  
24 the property.

25 2. Is enforceable in the same manner as other delinquent tax liens.

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

37 E. A school district's governing board members and its school council  
38 members are immune from civil liability for the consequences of adoption and  
39 implementation of policies and procedures pursuant to subsection A of this  
40 section and section 15-342. This waiver does not apply if the school  
41 district's governing board members or its school council members are guilty  
42 of gross negligence or intentional misconduct.

43 F. A governing board may delegate in writing to a superintendent,  
44 principal or head teacher the authority to prescribe procedures that are  
45 consistent with the governing board's policies.

1 G. Notwithstanding any other provision of this title, a school  
2 district governing board shall not take any action that would result in an  
3 immediate reduction or a reduction within three years of pupil square footage  
4 that would cause the school district to fall below the minimum adequate gross  
5 square footage requirements prescribed in section 15-2011, subsection C,  
6 unless the governing board notifies the school facilities board established  
7 by section 15-2001 of the proposed action and receives written approval from  
8 the school facilities board to take the action. A reduction includes an  
9 increase in administrative space that results in a reduction of pupil square  
10 footage or sale of school sites or buildings, or both. A reduction includes  
11 a reconfiguration of grades that results in a reduction of pupil square  
12 footage of any grade level. This subsection does not apply to temporary  
13 reconfiguration of grades to accommodate new school construction if the  
14 temporary reconfiguration does not exceed one year. The sale of equipment  
15 that results in an immediate reduction or a reduction within three years that  
16 falls below the equipment requirements prescribed in section 15-2011,  
17 subsection B is subject to commensurate withholding of school district  
18 capital outlay revenue limit monies pursuant to the direction of the school  
19 facilities board. Except as provided in section 15-342, paragraph 10,  
20 proceeds from the sale of school sites, buildings or other equipment shall  
21 be deposited in the school plant fund as provided in section 15-1102.

22 H. Subsections C through G of this section apply to a county board of  
23 supervisors and a county school superintendent when operating and  
24 administering an accommodation school.

25 I. Until the state board of education and the auditor general adopt  
26 rules pursuant to section 15-213, subsection J, a school district may procure  
27 construction services, including services for new school construction  
28 pursuant to section 15-2041, by the construction-manager-at-risk,  
29 design-build and job-order-contracting methods of project delivery as  
30 provided in title 41, chapter 23, except that the rules adopted by the  
31 director of the department of administration do not apply to procurements  
32 pursuant to this subsection. Any procurement commenced pursuant to this  
33 subsection may be completed pursuant to this subsection.

34 Sec. 2. Section 15-710, Arizona Revised Statutes, is amended to read:

35 15-710. Instruction in state and federal constitutions,

36 American institutions and history of Arizona

37 All schools shall give instruction in the essentials, sources and  
38 history of the Constitutions of the United States and Arizona and instruction  
39 in American institutions and ideals and in the history of Arizona, INCLUDING  
40 THE HISTORY OF NATIVE AMERICANS IN ARIZONA. The instruction shall be given  
41 in accordance with the state course of study for at least one year of the  
42 common school grades and high school grades respectively.

~~APPROVED BY THE GOVERNOR JUNE 4, 2004.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 4, 2004.~~

Passed the House May 3, 20 04

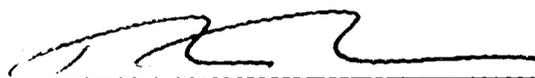
by the following vote: 33 Ayes,

20 Nays, 7 Not Voting

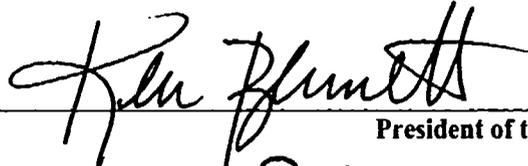
Passed the Senate March 29, 20 04

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

  
Speaker of the House  
Pro Tempore

  
Forman L. Moore  
Chief Clerk of the House

  
President of the Senate

  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

S.B. 1365

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

Passed the Senate May 26, 2004,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Kate Blumett  
President of the Senate  
Charmine Bellin  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

27th day of May, 2004

at 8:40 o'clock a. M.

Jennifer Urbata  
Secretary to the Governor

Approved this 4 day of

June, 2004,

at 9:40 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2004,

at 11:15 o'clock A. M.

[Signature]  
Secretary of State

S.B. 1365