House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 76

HOUSE BILL 2663

AN ACT

AMENDING SECTION 15-241, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-241, Arizona Revised Statutes, is amended to read:

15-241. School and school district accountability; failing schools tutoring fund; classification label for school districts and charter school operators

A. The department of education shall compile an annual achievement profile for each public school and school district.

B. Each school and school district shall submit to the department any data that is required and requested and that is necessary to compile the achievement profile. A school or school district that fails to submit the information that is necessary is not eligible to receive monies from the classroom site fund established by section 15-977.

C. The department shall establish a baseline achievement profile for each school and school district. The baseline achievement profile shall be used to determine a standard measurement of acceptable academic progress for each school and school district and a school and school district classification pursuant to subsection H of this section. Any disclosure of educational records compiled by the department of education pursuant to this section shall comply with the family educational RIGHTS and privacy ~~rights~~ act of 1974 (20 United States Code section 1232g).

D. The achievement profile for schools and school districts that offer instruction in kindergarten programs and grades one through eight, or any combination of those programs or grades, shall include the following school academic performance indicators:

1. The Arizona measure of academic progress. The department shall compute the extent of academic progress made by the pupils in each school and school district during the course of each year.

2. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education. The superintendent of public instruction and the department may calculate academic gain on the Arizona instrument to measure standards test according to each of the school classifications prescribed in subsection G of this section on a statewide basis, for each school district in this state and for each school by determining the average scale scores for students in the current academic year as compared to the average scale scores for the previous academic year for the same students.

3. The results of English language learners tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

E. The achievement profile for schools and school districts that offer instruction in grades nine through twelve, or any combination of those grades, shall include the following school academic performance indicators:

1. The Arizona measure of academic progress. The department shall compute the extent of academic progress made by the pupils at each school.

2. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils pursuant to subsection G of this section who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education. The superintendent of public instruction and the department may calculate academic gain on the Arizona instrument to measure standards test according to each of the school classifications prescribed in subsection G of this section on a statewide basis, for each school district in this state and for each school by determining the average scale scores for students in the current academic year as compared to the average scale scores for the previous academic year for the same students.

3. The annual dropout rate.

4. The annual graduation rate.

5. The results of English language learners tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

F. Schools and school districts that offer instruction in all or a combination of the grades specified in subsections D and E of this section shall include a single achievement profile for that school and school district that includes the school academic performance indicators specified in subsections D and E of this section.

G. Subject to final adoption by the state board of education, the department shall determine the criteria for each school and school district classification using a research based methodology. The methodology shall include the performance of pupils at all achievement levels, account for pupil mobility, account for the distribution of pupil achievement at each school and school district and include longitudinal indicators of academic performance. Fifty per cent of the school and school district classification determination shall consist of academic performance measurements. Fifty per cent of the academic performance measurement shall consist of a measurement of academic gain for all pupils enrolled at the school or school district and fifty per cent of the academic performance measurements shall consist of a measurement of the twenty-five per cent of pupils with the lowest academic performance measurement enrolled at the school or school district. For the purposes of this subsection, "research based methodology" means the systematic and objective application of statistical and quantitative research principles to determine a standard measurement of acceptable academic progress for each school and school district.

H. Except as provided in subsection EE of this section, the achievement profile shall be used to determine a school and school district classification that uses a letter grade system as follows:

1. A school or school district assigned a letter grade of A shall demonstrate an excellent level of performance.

2. A school or school district assigned a letter grade of B shall demonstrate an above average level of performance.

3. A school or school district assigned a letter grade of C shall demonstrate an average level of performance.

4. A school or school district assigned a letter grade of D shall demonstrate a below average level of performance.

5. A school or school district assigned a letter grade of F shall demonstrate a failing level of performance. The state board of education may also assign a school a letter grade of F if the state board of education determines that the school is among the "persistently lowest-achieving schools" in the state under the federal school accountability requirements pursuant to section 1003(g) of the elementary and secondary education act (20 United States Code section 6303).

I. The classification for each school and the criteria used to determine classification pursuant to subsection G of this section shall be included on the school report card prescribed in section 15-746.

J. Subject to final adoption by the state board of education, the department of education shall develop a parallel achievement profile for accommodation schools, alternative schools as defined by the state board of education and extremely small schools as defined by the state board of education for the purposes of this section.

K. If a school is assigned a letter grade of D, within ninety days after receiving notice of the designation, the governing board shall develop an improvement plan for the school, submit a copy of the plan to the superintendent of public instruction and the county educational service agency and supervise the implementation of the plan. The plan shall include necessary components as identified by the state board of education. Within thirty days after submitting the improvement plan to the superintendent of public instruction and the county educational service agency, the governing board shall hold a special public meeting in each school that has been assigned a letter grade of D and shall present the respective improvement plans that have been developed for each school. The school district governing board, within thirty days of receiving notice of the designation, shall provide written notification of the classification to each residence within the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection.

L. A school that has not submitted an improvement plan pursuant to subsection K of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection K of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

M. If a charter school is assigned a letter grade of D, within thirty days the school shall notify the parents of the students attending the school of the classification. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection. Within ninety days of receiving the classification, the charter holder shall present an improvement plan to the charter sponsor at a public meeting and submit a copy of the plan to the superintendent of public instruction. The improvement plan shall include necessary components as identified by the state board of education. For every day that an improvement plan is not received by the superintendent of public instruction and the county educational service agency, the school is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection K of this section plus an additional ninety days. The charter holder shall appear before the sponsoring board and explain why the improvement plan has not been submitted.

N. The department of education shall establish an appeals process, to be approved by the state board of education, for a school to appeal data used to determine the achievement profile of the school. The criteria established shall be based on mitigating factors and may include a visit to the school site by the department of education.

O. If a school is assigned a letter grade of D for a third consecutive year, the department of education shall visit the school site to confirm the classification data and to review the implementation of the school's improvement plan. The school shall be assigned a letter grade of F unless an alternate letter grade is assigned after an appeal pursuant to subsection N of this section. A SCHOOL THAT IS ASSIGNED A LETTER GRADE OF D FOR LESS THAN THREE CONSECUTIVE YEARS MAY ALSO BE ASSIGNED A LETTER GRADE OF F IF THE STATE BOARD OF EDUCATION DETERMINES THAT THERE IS NO REASONABLE LIKELIHOOD THAT THE SCHOOL WILL ACHIEVE AN AVERAGE LEVEL OF PERFORMANCE WITHIN THE NEXT TWO YEARS.

P. The school district governing board, within thirty days of receiving notice of the school being assigned a letter grade of F, shall provide written notification of the classification to each residence in the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by subsection S of this section.

Q. The superintendent of public instruction in collaboration with the county educational service agency, based on need, shall assign a solutions team to a school assigned a letter grade of D, a school assigned a letter grade of F or any other school pursuant to a mutual agreement between the department of education and the school comprised of master teachers, fiscal analysts and curriculum assessment experts who are certified by the state board of education as Arizona academic standards technicians. The department of education or the county educational service agency may hire or contract

with administrators, principals and teachers who have demonstrated experience with the characteristics and situations in a school assigned a letter grade of D or F and may use these personnel as part of the solutions team. The department of education shall work with staff at the school to assist in curricula alignment and shall instruct teachers on how to increase pupil academic progress, considering the school's achievement profile. The solutions team shall consider the existing improvement plan to assess the need for changes to curriculum, professional development and resource allocation and shall present a statement of its findings to the school administrator and district superintendent. Within forty-five days after the presentation of the solutions team's statement of findings, the school district governing board, in cooperation with each school within the school district that is assigned a letter grade of D and its assigned solutions team representative, shall develop and submit to the department of education and the county educational service agency an action plan that details the manner in which the school district will assist the school as the school incorporates the findings of the solutions team into the improvement plan. The department of education shall review the action plan and shall either accept the action plan or return the action plan to the school district for modification. If the school district does not submit an approved action plan within forty-five days, the state board of education may direct the superintendent of public instruction to withhold up to ten per cent of state monies that the school district would otherwise be entitled to receive each month until the plan is submitted to the department of education and the county educational service agency, at which time those monies shall be returned to the school district.

R. The parent or the guardian of the pupil may apply to the department of education, in a manner determined by the department of education, for a certificate of supplemental instruction from the failing schools tutoring fund established by this section. Pupils attending a school assigned a letter grade of D or F or a pupil who has failed to pass one or more portions of the Arizona instrument to measure standards test in grades eight through twelve in order to graduate from high school may select an alternative tutoring program in academic standards from a provider that is certified by the state board of education. To qualify, the provider must state in writing a level of academic improvement for the pupil that includes a timeline for improvement that is agreed to by the parent or guardian of the pupil. The state board of education shall annually review academic performance levels for providers certified pursuant to this subsection and may remove a provider at a public hearing from an approved list of providers if that provider fails to meet its stated level of academic improvement. The state board of education shall determine the application guidelines and the maximum value for each certificate of supplemental instruction. The state board of education shall annually complete a market survey in order to determine the maximum value for each certificate of supplemental instruction. ~~Nothing in~~

This subsection shall NOT be construed to require the state to provide additional monies beyond the monies provided pursuant to section 42-5029, subsection E, paragraph 7.

S. Within sixty days of receiving notification of a school being assigned a letter grade of F, the school district governing board shall evaluate needed changes to the existing improvement plan for the school, consider recommendations from the solutions team, submit a copy of the plan to the superintendent of public instruction and the county educational service agency and supervise the implementation of the plan. Within thirty days after submitting the improvement plan to the superintendent of public instruction, the governing board shall hold a public meeting in each school that has been assigned a letter grade of F and shall present the respective improvement plans that have been developed for each school.

T. A school that has not submitted an improvement plan pursuant to subsection S of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection S of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

U. If a charter school is assigned a letter grade of F, the department of education shall immediately notify the charter school's sponsor. The charter school's sponsor shall either take action to restore the charter school to acceptable performance or revoke the charter school's charter. Within thirty days the school shall notify the parents of the students attending the school of the classification and of any pending public meetings to review the issue.

V. A school that has been assigned a letter grade of F shall be evaluated by the department of education to determine if the school failed to properly implement its school improvement plan, align the curriculum with academic standards, provide teacher training, prioritize the budget or implement other proven strategies to improve academic performance. After visiting the school site pursuant to subsection O of this section, the department of education shall submit to the state board of education a recommendation to proceed pursuant to subsections Q, R and S of this section or that the school be subject to a public hearing to determine if the school failed to properly implement its improvement plan and the reasons for the department's recommendation.

W. If the department does recommend a public hearing, the state board of education shall meet and may provide by a majority vote at the public hearing for the continued operation of the school as allowed by this subsection. The state board of education shall determine whether governmental, nonprofit and private organizations may submit applications to

the state board to fully or partially manage the school. The state board's determination shall include:

1. If and to what extent the local governing board may participate in the operation of the school including personnel matters.

2. If and to what extent the state board of education shall participate in the operation of the school.

3. Resource allocation pursuant to subsection Y of this section.

4. Provisions for the development and submittal of a school improvement plan to be presented in a public meeting at the school.

5. A suggested time frame for the alternative operation of the school.

X. The state board shall periodically review the status of a school that is operated by an organization other than the school district governing board to determine whether the operation of the school should be returned to the school district governing board. Before the state board makes a determination, the state board or its designee shall meet with the school district governing board or its designee to determine the time frame, operational considerations and the appropriate continuation of existing improvements that are necessary to assure a smooth transition of authority from the other organization back to the school district governing board.

Y. If an alternative operation plan is provided pursuant to subsection W of this section, the state board of education shall pay for the operation of the school and shall adjust the school district's soft capital allocation pursuant to section 15-962, capital outlay revenue limit pursuant to section 15-961, base support level pursuant to section 15-943, monies distributed from the classroom site fund established by section 15-977 and transportation support level pursuant to section 15-945 to accurately reflect any reduction in district services that are no longer provided to that school by the district. The state board of education may modify the school district's revenue control limit, the district support level and the general budget limit calculated pursuant to section 15-947 by an amount that corresponds to this reduction in services. The state board of education shall retain the portion of state aid that would otherwise be due the school district for the school and shall distribute that portion of state aid directly to the organization that contracts with the state board of education to operate the school.

Z. If the state board of education determines that a charter school failed to properly implement its improvement plan, the sponsor of the charter school shall revoke the charter school's charter.

AA. If there are more than two schools in a district and more than one-half, or in any case more than five, of the schools in the district are assigned a letter grade of F for more than two consecutive years, in the next election of members of the governing board the election ballot shall contain the following statement immediately above the listing of governing board candidates:

Within the last five years, (number of schools) schools in the _____ school district have been ASSIGNED A LETTER GRADE OF F OR designated as "schools failing to meet academic standards" by the superintendent of public instruction.

BB. At least twice each year the department of education shall publish in a newspaper of general circulation in each county of this state a list of schools that are assigned a letter grade of F.

CC. The failing schools tutoring fund is established consisting of monies collected pursuant to section 42-5029, subsection E as designated for this purpose. The department of education shall administer the fund. The department of education may use monies from the fund to purchase materials designed to assist students to meet the Arizona academic standards and to achieve a passing score on the Arizona instrument to measure standards test in order to graduate from high school.

DD. The department of education may develop a classification label for school districts and charter school operators. If the department of education develops a classification label for school districts and charter school operators, the classification label may be developed from the following components:

1. Measures of academic progress.

2. Pupil assessment data.

3. The attendance rates and graduation rates of pupils who are educated in that charter school operator's charter schools or in that school district's schools.

4. The percentage of the parents of pupils enrolled in that charter school operator's charter schools or in that school district's schools that categorizes the quality of their child's education as excellent on a parental rating of school quality.

EE. The state board of education shall determine appropriate modifications to the criteria used to calculate achievement profiles for schools that participate in the board examination system prescribed in chapter 7, article 6 of this title.

FF. The state board of education shall adopt guidelines to include supplementary training in reading instruction for teachers who provide instruction to pupils in a kindergarten program or grade one, two or three in an improvement plan pursuant to subsection K of this section.

APPROVED BY THE GOVERNOR MARCH 21, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2012.

Passed the House February 23, 2012

by the following vote: 55 Ayes,

1 Nays, 3 Not Voting vacant

Speaker of the House

Chief Clerk of the House

Passed the Senate March 20, 2012

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of March, 2012

at 3 o'clock P M.

Secretary to the Governor

Approved this 21st day of

March

at 1:42 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 22nd day of March, 2012

at 8:14 o'clock a M.

Secretary of State

H.B. 2663