Arizonans for Charter School Accountability

June 11, 2019

Complaint re: Arizona Department of Education failure to implement ARS 15-746

Intelligent school choice depends on giving parents timely information about district and charter schools. The School Report Card issued by the Arizona Department of Education (ADE) is the only centralized area where comparative data about schools can be found and the Federal Government requires all schools to have a school report card to meet the mandates of the Every Child Succeeds Act (ESSA) in order to receive federal funds.

The school report card in Arizona has historically been the place where state test results and A-F grades were posted. ESSA set a deadline of December 2018 for all states to create a state report card system that contained specific information – test scores, teacher experience, numbers of student disciplinary actions, per pupil expenditures, dropout rates, etc.[[1]](#footnote-1) Superintendent of Public Instruction Diane Douglas announced in December 2018 that Arizona had met the deadline and that a new School Report Card was available online. She noted at the December 10, 2018 meeting of the Arizona State Board for Charter Schools:

“There are federal mandates and state report card mandates. The report we will be releasing is the Federal version because, as of yet, there has not been funding from the State to fulfill the requirements for the state report card mandate.”[[2]](#footnote-2)

The state mandate requiring school report cards is ARS 15-746 that was passed in the late 1990’s.[[3]](#footnote-3) The statue provides a comprehensive list of important information about every school to be sent home with every student and posted by ADE:

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| --- |
| **ARS 15-746** |
| * Description of regular, magnet, and special education programs * Current academic goals * Three years of testing data with trends in gains or losses in core subjects * Attendance rate * Number of referrals to law enforcement \* * Percentage promoted to the next grade level * Percentage graduated \* * If K-3, report pupil teacher ratio * Average class size K-8 * Description of social services * School Calendar, length of day, hours of operation * Total enrollment \* * Transportation services available * Responsibilities of the school to parents and students * Responsibilities of parents and students * Student report card dates * Description of the school council * Average per expenditures for administration   The bill was amended in 2017 and 2018 to include data that will be available when school-level financial reporting is implemented:[[4]](#footnote-4)  Beginning in 2020-21:   * Amounts budgeted for teacher pay and benefits, classroom supplies, student support and other expenditures * Total state revenue generated by weighted count * Total Federal, State, Local revenue * Allocation of classroom site funds * Comparison of school's funding with other schools in the LEA |

The three items highlighted in red are included in the new school report card. None of the other mandated data are reported in the new version.

Since 1999, the Arizona school report card has only reported test results and A-F grades for district and charter schools. None of the remaining requirements of ARS 15-746 were included in the reports, apparently, as Superintendent Douglas stated, because it was an unfunded mandate. ADE was forced to revise the Report Card to prevent the loss of federal education funding but included almost none of the requirements of state law.

There is no indication that the Arizona Department of Education made a request for funds to create the required report card 1999-2017. In 2018 ADE requested $1.4 million for:

*“Arizona Department of Education (the Department) requests $1,400,000 for FY18, and an additional3.0 full-time equivalent (FTE) employees, to support the implementation of a more robust and transparent state A-F Report Card accountability system. Background A.R.S. § 15-241, requires the Department to compile an annual achievement profile for each Arizona public school and local education agency(LEA). The annual achievement profile is used to determine a school and LEA classification based on the Arizona A-F letter grade system, which is subsequently included on the school report card prescribed in A.R.S. § 15-746”[[5]](#footnote-5)*

It appears that the request was mainly to deal with creating a “more robust A-F Report Card accountability system” and did not specifically address the need to create the required ESSC report card. This is the only instance we have found where ADE requested funds to implement ARS 15-746 in any way.

Schools do not have the authority to ignore state (and federal) laws because they are unfunded mandates. State agencies are required to follow state law, even if officials do not believe it is appropriate. The 2018 Agency Handbook prepared by Arizona Attorney General Mark Brnovich states:[[6]](#footnote-6)

***2.4 Duties and Responsibilities of Public Officers.***

***“****Public officers must impartially execute all laws and rules for which they are responsible. The Arizona Supreme Court stated as follows in Button v. Nevin, 44 Ariz. 247, 257, 36 P.2d 568, 571 (1934):* ***Public officials may not violate the plain terms of a statute because in their opinion better results will be attained by doing so. They have but one duty, and that is to enforce the law as it is written, and, if the effect of their action is disastrous, the responsibility is upon the Legislature and not upon them.***

*Public officers must therefore familiarize themselves with the laws and rules that relate to public officers' duties and responsibilities generally as well as with those that pertain to their particular offices and agencies. Public officers are obligated to discharge the duties of their offices and may not delegate those duties to their subordinates unless they are authorized by law to do so.”*

Public officers are defined in the Agency Handbook as:

***2.2 Definition of "Public Officer."*** *A "public officer" is "the incumbent of any office, member of any board or commission, or his deputy or assistant exercising the powers and duties of the officer, other than clerks or mere employees of the officer." A.R.S. § 38-101(3). The executive heads of all state agencies and the members of all state boards and commissions are considered "public officers."*

The Superintendents of Public Instruction (“public officers”) since 1995 have been Republican and were all great supporters of school choice in the form of charter schools. Charter schools are not generally not comprehensive schools - for example, in 2018, 43 charter holders, out of 409, reported spending less than $5,000 for Special Education instruction and 293 had no expenditures for extra-curricular activities.[[7]](#footnote-7) Most charter schools do not provide transportation, have school councils, or provide social services. Charter schools would have a difficult time comparing themselves to comprehensive public districts that provide all educational services for children.

Charter holders are also reluctant to report spending on classroom instruction and administration. Compliance with ARS 15-746 would have provided much needed transparency into charter finances and program offerings.

Whatever the motivation, ADE has not followed state law for the last twenty years. ARS 15-746 was amended in 2017 by Republican sponsored HB 2385 to remove the requirement for reporting per pupil spending for classroom instruction, administration, support services, and operations. The bill instead mandated that school-level funding information be required in the future. Per pupil spending information had never been reported on school report cards since 1999 so it is incredible that the Legislature would amend a statue that had never been followed in the first place.

ADE also failed to report per pupil spending as required by the new ESSA report card guidelines, even though reporting per pupil spending data has been mandated since 1999 in ARS 15-746. The ESSA school report card guide explains the disclosure of spending required:[[8]](#footnote-8)

*J-3. Current per pupil expenditures are comprised of expenditures for the day-to-day operation of schools and LEAs for public elementary and secondary education, including, but not limited to, expenditures for:*

*•Administration*

*•Instruction*

*•Instructional support*

*•Student support services*

*•Pupil transportation services*

*•Operation and maintenance of plant*

*•Fixed charges*

*•Preschool*

*•Net expenditures to cover deficits for food services and student body activities*

*•Capital outlay(e.g., purchases of land, school construction, and equipment)*

*•Debt service*

Arizona did not provide data on per pupil spending as required. Arizona’s new School Report Card gives this explanation why per pupil spending was not reported:

***Per Pupil Expenditure of Federal, State and Local Funds***

*The Arizona Department of Education is working with the Arizona Auditor General’s Office and Local Education Agencies to provide a template for the reporting of school level expenditures from all school districts and charter districts for Fiscal Year 2018-2019. These expenditures will be used to determine per pupil expenditures for the 2018-2019 school year report cards.*

Reporting spending per pupil is not rocket science. District and charter holder per- pupil spending in 2018 could have easily been reported by ADE in the new 2018 School Report Card. All charter holders and districts submitted a 2018 Annual Financial Report (AFR) that detailed spending and an October 1 Enrollment Report that detailed student enrollment. Arizonans for Charter School Accountability compiled per pupil spending data for 2018 by manually looking up each charter AFR and cutting and pasting data from the AFR Excel spreadsheets.[[9]](#footnote-9) The total process took less than 40 man-hours. ADE has access to master computer files that would make this process easy. In fact, ADE publishes district and charter holder per pupil expenditures for classroom instruction, administration, student support, etc. in Volume I of the Superintendents Annual Report every year. Despite this, they chose to ignore the federal ESSA requirement to report spending.

The Arizona Department of Education, under the direction of the Superintendent of Public Instruction, has blatantly refused to provide parents with critical data required in making informed school choices by failing to fulfill the mandate of ARS 15-746 since 1999. Arizonans for Charter School Accountability requests that the Ombudsman Office investigates ADE and require the new Superintendent of Public Instruction to follow state law.

If this does not occur – every state agency (including school districts) will be given the license to only comply with the statutes that meet officials’ political agendas or that they believe are properly funded.

1. ESSA Report Card Guidelines can be found at: <https://www2.ed.gov/policy/elsec/leg/essa/essastatereportcard.pdf> [↑](#footnote-ref-1)
2. Audio is available at <https://asbcs.az.gov/board-staff-information/meeting-dates-materials/archive> [↑](#footnote-ref-2)
3. Found at: <https://www.azleg.gov/ars/15/00746.htm> [↑](#footnote-ref-3)
4. Available at: <https://www.azleg.gov/legtext/53leg/1R/bills/hb2385s.pdf> [↑](#footnote-ref-4)
5. Found at: <http://www.azed.gov/wp-content/uploads/2017/06/FY18-Electronic-Budget-ADE.pdf> [↑](#footnote-ref-5)
6. Found at: <https://www.azag.gov/outreach/publications/agency-handboo> [↑](#footnote-ref-6)
7. Lisa Graham Keegan, Jaime Molera, Tom Horne, John Huppenthal, and Diane Douglas [↑](#footnote-ref-7)
8. An example using the Alhambra Elementary District 2018 Report Card: <https://azreportcards.azed.gov/Districts/detail/4280> [↑](#footnote-ref-8)
9. The 2018 Charter AFR data set with per pupil expenditures is available at azca.org under the “Data Sets” tab [↑](#footnote-ref-9)