**Unfunded Mandate? Do What The Arizona Department of Education Does - Just Ignore It!**

**Arizonans for Charter School Accountability**

School are plagued with unfunded mandates – for example they are required to serve all special education students but are underfunded by over $100 million a year to do so. All of the teacher training and hoops that districts had to jump through to implement Common Core came out of the general school budget – the state didn’t contribute an extra dime. In 2014 the Arizona School Boards Association estimated that districts spent $156 million that year to implement the state mandate requiring Common Core standards, money that could have gone to the classroom or to teacher salaries. The list goes on and on.

The Arizona Department of Education (ADE), on the other hand, has simply ignored the requirements for school report cards prescribed in ARS 15-746 for the last twenty years on the pretext that the state has not supplied funds to implement it.

School Report Cards have historically been where you find AzMerit test results and A-F Grades for schools. In December 2018 ADE announced a new School Report Card that includes information about enrollment, teacher experience, graduation rates, and student discipline in addition to state test results to meet the requirements of the federal Every Student Succeeds Act (ESSA) – required in order to continue to receive federal funds.

Here’s what Superintendent Diane Douglas said about the new School Report Card 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.”[[1]](#footnote-1)

The state mandate requiring school report cards is ARS 15-746 that was passed in the late 1990’s.[[2]](#footnote-2) The statue provides a comprehensive list of important information about every school to be sent home with every student and posted by ADE:

|  |
| --- |
| **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:[[3]](#footnote-3)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.

Schools do not have the authority to ignore state 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:[[4]](#footnote-4)

***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.[[5]](#footnote-5) 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. 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, 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 has requested that the Arizona 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) should be given the license to only comply with the statutes that meet officials’ political agendas or that they believe are properly funded - like ADE has done for the last twenty years with School Report Cards.

1. Audio is available at <https://asbcs.az.gov/board-staff-information/meeting-dates-materials/archive> [↑](#footnote-ref-1)
2. Found at: <https://www.azleg.gov/ars/15/00746.htm> [↑](#footnote-ref-2)
3. Available at: <https://www.azleg.gov/legtext/53leg/1R/bills/hb2385s.pdf> [↑](#footnote-ref-3)
4. Found at: <https://www.azag.gov/outreach/publications/agency-handboo>k [↑](#footnote-ref-4)
5. Lisa Graham Keegan, Jaime Molera, Tom Horne, John Huppenthal, and Diane Douglas [↑](#footnote-ref-5)