



New School Year, New Legal Updates

Welcome to the 2023-24 school year! Although there were not a lot of legislative changes that impact charter schools last year, there were a few, which we discuss below. In addition, there have been some additional legal actions that we wanted to make sure you were aware of. The legislative changes discussed below will be **effective as of October 30, 2023**.

Legislative changes

HB2060 Changes

- **Website posting requirement.** As you likely already know, [HB2060](#) added a new statutory provision, A.R.S. § 15-120.04, that simplifies and consolidates all of the statutory website posting requirements (average teacher salaries, parental rights handbook, ASBCS dashboards, etc.). Prior to this change, inconsistency in the statutory language of the posting requirements resulted in confusion. Under the new law, schools can now satisfy all website posting requirements, regardless of the statutory language, by posting a link to the required information on the school's home page. In the alternative, all required information may be consolidated onto a separate webpage, with a link to that page listed on the school's homepage under a title such as "Statutorily Required Information" (or something similar).
- **Previous school documents.** [HB2060](#) also made a small change to the enrollment requirements, giving schools 10 school days, instead of the current 5 school days, to request a new student's records from the student's previous school.

Open Meeting Law Update

- A change to the Open Meeting Law requires all public entities (including charter schools) to provide "sufficient seating to accommodate the reasonably anticipated attendance" at upcoming public meetings. *See* [SB1270](#). A school is not required, however, to find a new location if the school is already using the largest room available – additional seating is only required "when feasible." In addition, schools only need to provide seating for *anticipated* turnout.
- The meeting's agenda must also provide notice of the time

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when the public can access the meeting's physical location (the time the meeting room will first be opened to the public) unless the meeting is only held virtually. You may want to consider adding language like the following to your meeting agendas: "The meeting location will be open to the public at [TIME] at the latest." The meeting room may be opened before then, but it should not be opened after the time specified on the agenda.



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Mandatory Reporting Update

- In the 2022 legislative session, a change was made to the definition of "neglect" for mandatory reporting purposes that has not received much attention. We wanted to make certain that schools are aware of this change, particularly because DCS's website still includes the outdated standard.
- Under [A.R.S. § 8-201\(25\)](#), "neglect" is now defined as the "the inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes *substantial* risk of harm to the child's health or welfare." (Emphasis added.) Prior to 2022, neglect was defined to include anything that caused an *unreasonable* risk of harm. The legislative history indicates that the change was intended to better promote family preservation through preventative services and minimize disruption of the child's home.
- Admittedly, the change is subtle and may not necessarily change schools' calculus when deciding to report suspected neglect. But this update should remove some doubts about the obligation to report a child who appears in poverty, but not necessarily neglected by their parents or guardians.

New Family Law Education Order

- After several years of collaboration with the family court and school groups, the Arizona Supreme Court has approved a new "Education Order" for family law disputes, which will be effective as of January 1, 2024. See [In re Rules 44.1\(c\), 45\(c\), 78\(g\), & 91.3, Rules of Fam. L. Pro., No. R-23-0007 \(Ariz. Aug. 24, 2023\)](#). The Order is intended to "eliminate or at least reduce the involvement of school officials and teachers in disputes between parents." Parents will now be required to complete a court-ordered Education Order that anticipates potential conflicts between the parents and how to resolve them without school intervention. Parents are required to deliver a copy of any Education Order to their children's school.
- The Order addresses child pick-ups, emergency contacts, access to school grounds, extra-curriculars, school records access and parent portals, parent-teacher conferences, curriculum disputes, special education services, school selection, and minimizing school involvement in future litigation.
- As a reminder, family court orders are not binding on schools because schools are not a party to the matter (the orders are only binding on the parents). For the same reason, the Education Orders will not be binding on schools. Instead, they are meant to bind the parents to their choices and to offer guidance to schools.
- The Supreme Court will consider potential revisions to the Education Order after its effective date and will continue to take public comment about its provisions and implementation until

Update on School "Surveys" Definition

- A recent Attorney General Opinion, [No. I23-006 \(Aug. 15, 2023\)](#), clarifies the scope of "school surveys" governed by [A.R.S. § 15-117\(A\)](#). That statute requires schools to obtain written informed consent from a parent before administering any survey "that solicits personal information" about a student regarding their "[m]ental health history or mental health information," among other topics.
- The Opinion addressed a scenario in which an Arizona high school implemented a web-based questionnaire that enabled students to respond to the question "How are you feeling?" by clicking an emoji. Use of the platform was optional, parents had access to their child's response, and parents could disable the feature at any time. The school district asked the Attorney General whether this constituted a "survey" as contemplated by A.R.S. § 15-117(A).
- The Attorney General determined that the questionnaire was not a survey under A.R.S. § 15-117(A) because it did not ask for mental health information, but instead merely asked about students' present emotional states. The Opinion stated that mental health information, as contemplated by the statute, refers only to healthcare related to mental health issues, not questions about student's "present emotional state" or their general feelings.
- This holding does not provide guidance about any of the other potentially unclear provisions of the statute, but it does confirm that schools can inquire into student's general emotional wellbeing or present emotional state without parental permission.

Update on Amendments to the K-4 Discipline Statute (coming soon)

David Garner will be providing a separate Client Alert on recent changes to school discipline for students in grades K-4, providing some much-needed (though limited) flexibility for schools. Please keep an eye out for this update.

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