
FAMILY ISSUE FACT SHEET

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SCHOOL ZONING EQUITY HB 2461 ZONING REGULATIONS; PRIVATE SCHOOLS

EXECUTIVE SUMMARY

Private schools provide a valuable educational opportunity for children in our state, and should not be singled out for more onerous zoning restrictions. HB 2461 ensures that municipalities and counties do not adopt or enforce zoning regulations on private schools that they do not likewise apply to charter schools.

BACKGROUND AND OVERVIEW

Current Arizona law allows counties and municipalities to impose more onerous zoning requirements on private schools that do not apply to other types of schools, thereby making it more difficult to open and operate private schools. For example, Tucson's Unified Development Code requires private schools in residential zones to have at least five acres in order to operate, while charter schools only need one acre.¹

This Tucson ordinance recently became a heavy burden on Veritas Academy of Tucson (VAT) that operates on the campus of The Book of Life Community Church (BOLCC). The campus was the historic site of Palo Verde Christian School from 1957 to 2007. VAT began to operate on the campus in 2015, but soon after got a notice of violation for not complying with zoning ordinances. VAT was able to mitigate the minor violations, except for the five-acre requirement because the church only owned 4.46 acres. BOLCC had originally owned 5 acres, but yielded half an acre to the city of Tucson for a city well, and .04 acres were taken when the city installed a roundabout type of interchange. The city eventually granted VAT a special exception, but not after a laborious and time-consuming application process for a zoning examiner special exception.

Since 1996, with the passage of A.R.S. § 15-189.01, it has been a priority for the state legislature to protect charter schools from being overburdened by zoning restrictions.² Therefore, charter schools must be classified as district schools for zoning purposes.³ Municipalities and counties may "not enforce, or attempt to enforce, any ordinance, procedure or process against a charter school that cannot be legally enforced against a school district."⁴ However, the statute contains some exceptions. For example, a county or municipality may prohibit a charter school from operating on less than an acre within a single family residence zoning district.⁵ Also, a charter school cannot be "established or operated on commercial or residential property in an age

¹ Unified Development Code 4.9.3.D.2.

² 1996 Ariz. Sess. Laws ch. 356, § 3.

³ A.R.S. § 15-189.01.

⁴ *Id.*

⁵ *Id.*

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restricted community that is located in unorganized territory.”⁶ In spite of these exceptions, it is clear that the Arizona legislature has made it a priority to prevent charter schools from being singled out for onerous zoning restrictions. This protection should be extended to private schools.

HB 2461 does not seek special treatment for private schools but only equal treatment. First, the bill prohibits municipalities and counties from adopting or enforcing “a land use regulation” on private schools that are not placed on charter schools. Second, the bill prohibits counties and municipalities from imposing “any condition for the issuance of a building or use permit or other approval” on a private school that would not be imposed on a charter school “in the same or a similar location.”

TALKING POINTS

1. Private schools provide a valuable educational opportunity for children in our state, and should not be unfairly singled out for more onerous zoning restrictions.
2. Without the protection that this bill provides, counties and municipalities can unintentionally (or intentionally) make it much more difficult to open or operate private schools. Current law allows counties and municipalities to undermine the legislature’s policy objective of increasing educational choices for children.
3. Children should be able to pursue the education that will help them achieve their fullest potential. For some, this might be in a private school. However, burdensome zoning restrictions on private schools limit the choices that families may have.

CONCLUSION

The Arizona legislature has prioritized the expansion of different educational opportunities for children in our state. However, current law allows municipalities and counties to single out private schools for more onerous zoning restrictions, thereby making it more difficult to open or operate private schools. This bill ensures that private schools are treated fairly, at least for zoning purposes.

⁶ *Id.*

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