

POLICY PAGES

Educational Freedom in Arizona

September 4, 2019

OVERVIEW

Parents have the fundamental right, as well as the responsibility, to direct the education of their children. As the U.S. Supreme Court has recognized, a “child is not the mere creature of the State;” rather, parents have the fundamental right to “direct the upbringing and education” of their children and as those “who nurture [their children] and direct [their] destiny have the right, coupled with the high duty, to recognize and prepare [them] for additional obligations.”¹ Arizona law recognizes this “fundamental right”— the right of parents to direct the upbringing of their children, including their education ([A.R.S. § 1-601\(A\)](#)).

Center for Arizona Policy (CAP) supports a parent’s right to choose from a wide variety of school options, including district, charter, online, private, or homeschool. Parents are in the best position to make these choices, as they are most familiar with the educational needs, personalities, learning styles, and interests of their children.

Expanding educational options for children is one of the best strategies for improving education for all children in the state. Studies have shown that the availability of various schooling options improves educational outcomes for all children.²

ANALYSIS

To find the educational environment that best meets the needs of their children, parents need educational options to choose from, *and* the opportunity to access those options. Arizona has been a national leader in providing parents with a wide variety of educational options, as well as actual access to them through Arizona’s Scholarship Tax Credit program and the Empowerment Scholarship Account program.



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EDUCATIONAL OPTIONS UNDER ARIZONA LAW

Under Arizona law, every child between the ages of six and sixteen must attend a school and be provided instruction in at least reading, grammar, mathematics, social studies, and science ([A.R.S. § 15-802\(A\)](#)). The instruction may take place in a district school, charter school, online, private school, through the Empowerment Scholarship Account (ESA) program, or homeschool ([A.R.S. § 15-802\(A\)](#)).

1. District Schools and Open Enrollment

District schools are publicly funded schools regulated by local school boards and the state government. Although district school students usually attend their neighborhood school, students can benefit from Arizona's "open enrollment" policy ([A.R.S. § 15-816.01](#)). Open enrollment allows students to apply for admission to any district school, based on available classroom space. A 2017 study in Maricopa County found that 37% of district students participate in open enrollment.³

Arizona has more than 200 public school districts, with more than 1,700 schools and over 950,000 students. For more information on district schools, visit the Arizona Department of Education at www.azed.gov.

2. Charter Schools

Charter schools are publicly funded schools operated independently from school districts by nonprofit or for-profit organizations, though school districts may sponsor charter schools as well.

Created through legislation in 1994, the [Arizona State Board of Charter Schools](#) grants charter status to qualifying applicants and oversees charter schools. As with district schools, charter schools may not charge tuition.

As of the 2016-2017 school year, 185,900 students attended 556 Arizona charter schools, which is about 17 percent of Arizona's public school students and 30 percent of public schools.⁴ For more information on charter schools, visit the Arizona Charter Schools Association at azcharters.org.

3. Online Learning

The Arizona Online Instruction (AOI) program allows students to take public school classes online. Arizona law authorizes the Arizona State Board of Education and the Arizona State Board of Charter Schools to approve school districts and charter schools to be online course providers or online schools ([A.R.S. § 15-808](#)).

As of March 2019, there were 66 online programs offered by school districts⁵ and nineteen online charter schools.⁶

For more information on the AOI program, visit the [Arizona State Board of Education](#) and the [Arizona State Board of Charter Schools](#).

4. Private Schools

Arizona law defines “private school” as “a nonpublic institution, other than the child’s home, where academic instruction is provided for at least the same number of days and hours each year as a public school” ([A.R.S. § 15-802\(G\)\(3\)](#)). These schools usually require annual tuition and include religious and non-religious schools.

Arizona’s Scholarship Tax Credit program has made it possible for thousands of Arizona students to attend a private school that best meets their needs. The program allows individuals and corporations to receive tax credits for donations to school tuition organizations (STOs), which in turn the STOs award as scholarships for private school tuition.

- **Individual Tax Credit** — Allows Arizona residents to claim a dollar-for-dollar credit⁷ against their yearly state income tax liability on donations made to a STO ([A.R.S. § 43-1089](#)).
- **Individual PLUS Tax Credit** — Allows Arizona residents to receive an additional credit⁸ against their personal income tax for donations to a STO if the donor’s contribution exceeds the amount of credit allowed under the original Individual Tax Credit ([A.R.S. § 43-1089.03](#)).
- **Corporate Tax Credit (Original)** — Corporations may receive a credit against corporate income tax ([A.R.S. § 43-1183](#)) and insurance companies may receive a credit against their premium tax ([A.R.S. § 20-224.06](#)) for donations to STOs.
- **Lexie’s Law** — Corporations may receive a credit against corporate income tax ([A.R.S. § 43-1184](#)) and insurance companies may receive a credit against their premium tax ([A.R.S. § 20-224.07](#)) for donations to STOs. Scholarships are reserved for displaced students or students with disabilities.

Because most private schools work with specific STOs, parents should contact a school for this information before seeking a STO scholarship.

For more information on STOs and available scholarships, visit the Arizona School Tuition Organization Association at www.astoa.com.

5. Empowerment Scholarship Account (ESA) program ([A.R.S. § 15-2401](#), [-2402](#), [-2403](#), [-2404](#))

In addition to Arizona’s Scholarship Tax Credit program, another source of scholarships for private school tuition is through the ESA program. The ESA program allows parents to withdraw their child from a district or charter school and receive ninety percent of state funds allocated for their child for a variety of educational expenses, including tuition for private school ([A.R.S. § 15-2402\(B\)\(4\)](#), [-2402\(B\)\(6\)](#)). However, students may not receive STO scholarships while enrolled in the ESA program.

Under current law, the ESA program is available to ([A.R.S. § 15-2401\(7\)](#)):

- Students with disabilities
- Students in foster care
- Students living on an Indian reservation
- Students in failing or underperforming school districts
- Students with a parent who is on active military duty or was killed in the line of duty
- Students with a parent who is legally blind, deaf, or hard of hearing
- Students with a sibling who is a current or former ESA recipient

With the exceptions of military families and students in preschool or entering kindergarten, the ESA program requires that students meet certain public school attendance requirements ([A.R.S. § 15-2401\(7\)](#)). ESA contract students may receive instruction at home by their parents or tutors, but they are not “homeschool” students under Arizona law. Homeschool students and ESA contract students are two separate legal classifications under Arizona law.⁹

For more information about the ESA program, visit the Arizona Department of Education’s ESA page at <http://www.azed.gov/esa/>.

6. Homeschool

Arizona law defines “homeschool” as “a nonpublic school conducted primarily by the parent, guardian or other person who has custody of the child or nonpublic instruction provided in the child’s home” ([A.R.S. § 15-802\(G\)\(2\)](#)). Parents who decide to homeschool are required to file an affidavit of intent to homeschool and provide additional documentation with the county school superintendent, but may wait to begin homeschooling until their child is eight years of age ([A.R.S. §§ 15-802\(G\)\(2\); -828](#)). Homeschooled students:

- Are eligible to participate in interscholastic activities in their local public school ([A.R.S. § 15-802.01](#)).
- May be eligible for special education services provided through the local school district or charter school, if federal monies are available for such purposes ([A.R.S. § 15-763](#)).
- Are not subject to standardized testing requirements ([A.R.S. § 15-745](#)).
- May participate in the dual enrollment program, including receipt of college credit ([A.R.S. § 15-1821.01](#)).

For more information or assistance with homeschooling in Arizona, visit Arizona Families for Home Education (AFHE) at afhe.org and the Home School Legal Defense Association (HSLDA) at hsllda.org.

FINDING THE RIGHT SCHOOL

Here are some helpful resources to assist parents in finding the right school for their children:

- “GreatSchools” provides school ratings and information at www.greatschools.org.
- Arizona Department of Education provides “Arizona Report Cards” on district and charter schools at www.azreportcards.com.
- Arizona Charter Schools Association has an interactive public school evaluator at www.educationevaluator.org.
- U.S. News & World Report ranks Arizona public high schools on several factors including graduation rate and college readiness at: <https://www.usnews.com/education/best-high-schools/arizona>.
- For information on private schools in Arizona, see www.privateschoolreview.com.
- For information on private Christian schools in Arizona, see Association of Christian Schools International at www.acsi.org.
- To learn more about school options in Arizona, go to: <https://www.loveyourschool.org/>.

CONCLUSION

Parents have the right, and are in the best position, to determine what kind of education is best for their child. Every child is unique and has their own educational needs. Arizona is a national leader in providing parents with educational options including district, charter, online, private, ESA, or homeschool. Selecting the right educational option will have a lifelong impact on the child’s future, and a choice of that magnitude should be left to parents, not geography or government bureaucrats.

TALKING POINTS

- **Parents should be empowered to make the best educational decision for their children.** Whether they choose to send their children to district, charter, online, private, or homeschool, Arizona should be a state with diverse options to serve our diverse community.
- **When it comes to education, one size doesn’t fit all.** That’s why it’s important for parents to have options when deciding how to educate their children.

¹[Pierce v. Soc'y of Sisters, 268 U.S. 510, 535 \(1925\).](#)

²See Anna J. Egalite, *The Competitive Effects of the Louisiana Scholarship Program on Public School Performance*, 14-05 Program on Education Policy and Governance Working Papers Series, Harvard University (2016), available at https://sites.hks.harvard.edu/pepg/PDF/Papers/PEPG14_05_Egalite.pdf; Nathan L. Gray, John D. Merrifield, and Kerry A. Adzima, *A Private Universal Voucher Program's Effects on Traditional Public Schools*, 40(2) *Journal of Economics and Finance*, 319–344 (2016), available at <https://link.springer.com/article/10.1007%2Fs12197-014-9309-z>; Matthew M. Chingos and Paul E. Peterson, *The Effects of School Vouchers on College Enrollment: Experimental Evidence from New York City*, The Brown Center on Education Policy at Brookings, and Harvard's Program on Education Policy and Governance (August 2012), available at https://www.brookings.edu/wp-content/uploads/2016/06/Impacts_of_School_Vouchers_FINAL.pdf

³Kelly Powell and Ildi Laczkó-Kerr, *Are District Attendance Zones Obsolete?*, Arizona Charter Schools Association (Nov. 2, 2017), available at <https://azcharters.org/are-district-attendance-zones-obsolete/>.

⁴<https://azcharters.org/about-charter-schools/>

⁵<https://azsbe.az.gov/resources/arizona-online-instruction>

⁶<https://asbcs.az.gov/parent-resources>

⁷For the 2019 tax year, the maximum credit allowed is \$569 for an individual and \$1,138 for a married couple. See Arizona Department of Revenue at <https://azdor.gov/tax-credits/credits-contributions-certified-school-tuition-organizations>

⁸For the 2019 tax year, the maximum credit allowed is \$566 for an individual and \$1,131 for a married couple. See Arizona Department of Revenue at <https://azdor.gov/tax-credits/credits-contributions-certified-school-tuition-organizations>

⁹See [A.R.S. §15-802](#) (distinguishing “homeschool” student from student participating in the ESA program). Also, in order to enroll a qualified student in the ESA program, parents must sign an agreement stating, in part, that they will not file an affidavit of intent to homeschool, as is required of homeschool students under A.R.S. § 15-802. See [A.R.S. §15-2402\(B\)\(5\)](#).