

POLICY PAGES

Educational Freedom in Arizona

February, 2023

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 a 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 home education. 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 (STO) program and the Empowerment Scholarship Account (ESA) program.

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.](#)



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[§ 15-802\(A\)](#)). The instruction may take place in a district, private, charter, homeschool or through the ESA program ([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 percent of district students participate in open enrollment.³

Arizona has 238 public school districts, with more than 2,000 schools and approximately 1,111,000 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 2021 school year, 232,000+ students attended approximately 560 Arizona charter schools. Arizona charter students make up about 28 percent of the public school population in the state.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 120 online programs offered by school districts⁵ and 39 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 STO 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 STOs, which in turn STOs award as scholarships for private school tuition.

- **Individual Tax Credit** — Allows Arizona residents to claim 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 Love Your School STO information at <https://www.loveyourschool.org/resources/arizona-tuition-tax-credit-scholarships/>.

5. Empowerment Scholarship Account (ESA) program ([A.R.S. § 15-2401](#), [-2501.01](#); [-2402](#), [-2403](#), [-2404](#), [-2405](#))

In addition to Arizona's STO program, another source of scholarships for private school tuition is the ESA program. The ESA program allows parents to receive ninety percent of state funds allocated for their child to provide a nonpublic education to their child. The program is available to every student in Arizona without limitation. Parents who sign ESA contracts for their students may use the scholarship for a variety of educational expenses, including tuition for private school ([A.R.S. § 15-2402\(B\)\(4\)](#), [-2402\(B\)\(6\)](#)). *However, ESA contract students may not receive STO scholarships while enrolled in the ESA program.*

ESA contract students may receive instruction at home by their parents or tutors, just like traditional homeschool students. However, homeschool students and ESA contract students are two separate legal classifications under Arizona law; parents must choose to do one or the other⁹

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 a child between age 6 and 16 are required to file an affidavit of intent to homeschool with the county school superintendent within 30 days from the time the child begins to homeschool. ([A.R.S. § 15-802\(B\)\(2\)](#)). They may wait to begin homeschooling until their child is eight years of age but must still file an affidavit of intent stating as much ([A.R.S. § 15-802\(C\)](#)).

Homeschool students have many rights under state law. 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](#)).
- May participate in the dual enrollment program, including receipt of college credit ([A.R.S. § 15-1821.01](#)).
- Are not subject to standardized testing requirements ([A.R.S. § 15-745](#)).
- Must have their diplomas and transcripts recognized just like those from other school options by the state, any political subdivisions or agency of the state, and any other governmental entity ([A.R.S. § 1-701](#)).

For more information or assistance with homeschooling in Arizona, visit Arizona Families for Home Education at [afhe.org](#) and the Home School Legal Defense Association 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 <https://azreportcards.azed.gov/>.
- 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](#).
- For general information about school options in Arizona, go to: <https://www.loveyourschool.org/>.

TALKING POINTS

- **Public policy should empower parents to make the best educational decision for their children.** Whether they choose to send their children to district, charter, online, or private school, or home education, Arizona should be a state with diverse options to serve our diverse community.
- **Arizona law recognizes the fundamental right of parents to direct the upbringing of their children, including their education.** It makes sense, then, for parents to have options from which to choose the best educational environment for their family.
- **When it comes to education, one size doesn’t fit all. Parents know what is best for their child.** That’s why it’s important for them to have options when deciding how to educate their children.

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 his or her own educational needs. Arizona is a national leader in providing parents with educational options including district, private, charter, online, 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.

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://www.hks.harvard.edu/sites/default/files/Taubman/PEPG/research/PEPG14_05.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 Laczko-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/impact/>.

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

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

⁷For the 2021 tax year, the maximum credit allowed is \$611 for an individual and \$1,221 for a married couple. See Arizona Department of Revenue at <https://azdor.gov/tax-credits/credits-contributions-certified-school-tuition-organizations>

⁸ See Arizona Department of Revenue at <https://azdor.gov/tax-credits/credits-contributions-certified-school-tuition-organizations>

⁹See A.R.S. § 15-2402(5) (prohibiting parents participating in the ESA program from filing an affidavit of intent to homeschool).