

GOVERNOR KATIE HOBBS

STATE OF ARIZONA

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EXECUTIVE ORDER

Executive Order 2023-14

Improving School Facilities Inspections

WHEREAS, Article XI, Section 1 of the Arizona Constitution requires the State of Arizona to provide “for the establishment and maintenance of a general and uniform public school system;” and

WHEREAS, the Arizona Supreme Court held in *Hull v. Albrecht*, 190 Ariz. 520 (1997), that the duty under Article XI, Section 1, is a State responsibility that cannot be delegated to Arizona’s school districts; and

WHEREAS, the Arizona Supreme Court held that the State’s responsibility under Article XI, Section 1, of the Arizona Constitution requires the State to *ensure* that all districts maintain their facilities in compliance with the State’s building adequacy standards prescribed in A.R.S. § 41-5711 (the “Minimum Adequacy Guidelines”); and

WHEREAS, the Legislature enacted legislation (known as Students FIRST), which, in part required the State to conduct inspections or certify district self-inspections of every school in Arizona every five (5) years to ensure that each school building maintains compliance with the Minimum Adequacy Guidelines; and

WHEREAS, prior to budget cuts following the Great Recession, the State conducted inspections of various school facilities with qualified personnel, and such inspections were found to provide significant benefits including identifying issues at the schools that fell below the minimum guidelines and identifying problems at an early stage that, if promptly addressed, could prevent the development of more serious problems, saving the State and school district funds, promoting a safe and healthy environment for students and teachers, and avoiding disruption to the educational environment; and

WHEREAS, for some time, the State has not been inspecting school facilities in person or with appropriate frequency and the frequency of in-person inspections is a key issue in litigation that is currently pending against the State; and

WHEREAS, existing statutes authorize the Arizona Department of Administration’s Division of School Facilities (the “Division”) to contract with qualified personnel to conduct inspections of school facilities; and

WHEREAS, the Division is designing and implementing a self-inspection protocol, which, while beneficial in some circumstances, is not a viable option for all schools and should only be relied upon in appropriate circumstances; and

WHEREAS, inspections by qualified personnel provide benefits that will fulfill the statutory requirement for inspections, and will enhance the educational environment, produce long-term cost savings, and enhance the safety of Arizona's public schools.

NOW, THEREFORE, I, Katie Hobbs, Governor of the State of Arizona, by virtue of the power vested in me by the Arizona Constitution and the laws of this State, hereby order and direct as follows:

1. The Division shall inspect or contract with qualified outside personnel not employed by the school or school district being inspected to inspect all public district school buildings in the State not less than once every five (5) years as required by A.R.S. § 41-5702(A)(3).
2. Inspections required to be completed pursuant to Section 1 of this Order shall be conducted in person by employees of the Division or in person by qualified outside professionals with whom the Division has contracted pursuant to Section 1 of this Order.
3. In the summary delivered by the Division each year pursuant to A.R.S. § 41-5702(A)(6)(c), the Division shall include the number of school facilities inspected by the Division or agents of the Division in the preceding calendar year as well as what percentage such inspected school facilities comprise of the total number of school facilities within the State and such other information as may be specified by the Governor.
4. Notwithstanding any provision herein to the contrary, school facilities within the State that are due to be inspected pursuant to this Order may seek a waiver of such inspection requirement from the Division if such school facilities have been inspected within the immediately preceding three years and a report of such inspection is provided to the Division. The Division may exercise its reasonable discretion to accept or deny such a waiver request provided that the reported inspection otherwise satisfies A.R.S. § 41-5702(A)(3).

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona



GOVERNOR

DONE at the Capitol in Phoenix on this Twenty-Ninth day of June in the Year Two Thousand Twenty-Three and of the independence of the United States of America the Two Hundred and Forty-Seventh.

ATTEST:



SECRETARY OF STATE

