

GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

★

EXECUTIVE ORDER

Executive Order 2021-11

Ensuring Parents' Rights Are Protected

WHEREAS, Article V, Section 4 of the Arizona State Constitution vests the Governor with authority to “take care that the laws be faithfully executed;” and

WHEREAS, Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor; and

WHEREAS, Article XI, Section 3, of the Arizona State Constitution vests the Arizona State Board of Education with “the powers [and] duties...as may be prescribed by law;” and

WHEREAS, A.R.S. § 15-203 directs that the Arizona State Board of Education shall “Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose;” and

WHEREAS, A.R.S. § 1-601, declares that “[t]he liberty of parents to direct the upbringing, education, health care and mental health of their children is a fundamental right” and “[t]his state, any political subdivision of this state or any other governmental entity shall not infringe on these rights without demonstrating that the compelling governmental interest as applied to the child involved is of the highest order, is narrowly tailored and is not otherwise served by a less restrictive means;” and

WHEREAS, A.R.S. § 1-602(D), declares that “Unless those rights have been legally waived or legally terminated, parents have inalienable rights that are more comprehensive than those listed in this section. This chapter does not prescribe all rights of parents. Unless otherwise required by law, the rights of parents of minor children shall not be limited or denied;” and

WHEREAS, pursuant to A.R.S. § 15-102(A)(2) and (3), the governing bodies of schools are required to establish procedures for parents to learn about a school’s proposed course of study for their children, and procedures for allowing a parent to object to a proposed course of study on the basis that the subject matter is harmful to their child; and

WHEREAS, pursuant to A.R.S. § 15-102(A)(5), when schools provide instruction or presentations on sexuality in courses other than formal sex education, the governing bodies of schools must also establish procedures to notify parents in advance, and give parents the opportunity to withdraw from any such instruction; and

WHEREAS, A.R.S. § 15-102(A)(7)(a) requires that the governing bodies of schools must also create procedures by which parents may learn of their right to allow children to opt in to a sex education curriculum, if provided by the school; and

WHEREAS, Arizona Administrative Code (A.A.C) R7-2-303, provides mandatory requirements adopted by the Arizona State Board of Education for public schools in Arizona that offer sex education; and

WHEREAS, A.R.S. § 15-113 grants a parent whose child attends a public educational institute the right to review learning materials in advance, and if the parent objects to their child's proposed course of study on the basis that the subject matter is harmful, they may ask for their child to be withdrawn from the subject and request an alternate assignment; and

WHEREAS, the procedures that have been adopted to notify parents of their rights under these statutes and the information being provided to their children, have not been adequate to keep parents informed and apprised as Arizona law requires; and

WHEREAS, to comply with parental rights as protected under Arizona law, it is necessary for the Arizona State Board of Education to exercise general supervision over and regulate the conduct of the public school system regarding the procedures adopted to notify parents and provide them with a meaningful opportunity to evaluate, review and make educated decisions regarding sex education curriculum being provided to their children.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of the State, do hereby order that effective immediately:

1. Consistent with this order, the Arizona State Board of Education shall develop, adopt or amend the current procedures adopted under A.R.S. § 15-203, to provide parents with a meaningful opportunity to participate, review and provide input on any proposed sex education course of study before it is adopted as follows:
 - a. Require that all meetings of committees that are authorized for the purposes of reviewing and selecting the sex education course of study be publicly noticed at least two weeks before occurring and be open to the public pursuant to A.R.S. Title 38, Chapter 3, Article 3.1.
 - b. Make any proposed sex education course of study available and accessible for review and public comment for at least sixty days before the governing board or governing body decides whether to approve that course of study.
 - c. Conduct at least two public hearings within the sixty-day period before the governing board or governing body decides whether to approve any course of study. Public comment may include written comments, oral comments and comments submitted electronically.
 - d. Once a course of study has been approved, a school district or charter school shall make the sex education curricula available for parental review, both online and in-person pursuant to A.R.S. § 15-102, Subsection A, paragraph 2 at least two weeks before any instruction is offered.

- e. Make any existing sex education course of study available and accessible for review both online and in person by June 30, 2021.
 - f. Nothing in this order shall be construed to require that a school district or charter school provide sex education instruction to pupils.
 - g. Any regulation adopted by the Arizona State Board of Education pursuant to this order shall apply if a school district or charter school decides to provide sex education instruction after school hours.
2. The Arizona State Board of Education shall report to the Governor the efforts it has made to comply with this order by June 30, 2021.

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



Douglas R. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this twentieth day of April in the year Two Thousand and Twenty-one and of the Independence of the United States of America the Two Hundred and Forty-Fifth.

ATTEST:

[Signature]

Secretary of State