

PROPOSITION 203

OFFICIAL TITLE AN INITIATIVE MEASURE

TITLE 15, CHAPTER 7, ARTICLE 3.1, ARIZONA REVISED STATUTES, IS REPEALED. SEC. 3. TITLE 15, CHAPTER 7, ARIZONA REVISED STATUTES, IS AMENDED BY ADDING A NEW ARTICLE 3.1, ENGLISH LANGUAGE EDUCATION FOR CHILDREN IN PUBLIC SCHOOLS

TEXT OF PROPOSED AMENDMENT

Sec. 1. Findings and Declarations

The People of Arizona find and declare:

1. The English language is the national public language of the United States of America and of the state of Arizona. It is spoken by the vast majority of Arizona residents, and is also the leading world language for science, technology, and international business, thereby being the language of economic opportunity; and

2. Immigrant parents are eager to have their children acquire a good knowledge of English, thereby allowing them to fully participate in the American Dream of economic and social advancement; and

3. The government and the public schools of Arizona have a moral obligation and a constitutional duty to provide all of Arizona's children, regardless of their ethnicity or national origins, with the skills necessary to become productive members of our society. Of these skills, literacy in the English language is among the most important.

4. The public schools of Arizona currently do an inadequate job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over the past two decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children.

5. Young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.

6. Therefore it is resolved that: all children in Arizona public schools shall be taught English as rapidly and effectively as possible.

7. Under circumstances in which portions of this statute are subject to conflicting interpretations, these Findings and Declarations shall be assumed to contain the governing intent of the statute.

Sec. 2. Repeal

Title 15, chapter 7, article 3.1, Arizona Revised Statutes, is repealed.

Sec. 3. Title 15, chapter 7, Arizona Revised Statutes, is amended by adding a new article 3.1, to read:

ARTICLE 3.1. ENGLISH LANGUAGE EDUCATION FOR CHILDREN IN PUBLIC SCHOOLS

SECTION 15-751. DEFINITIONS

IN THIS ARTICLE,

1. "BILINGUAL EDUCATION/NATIVE LANGUAGE INSTRUCTION" MEANS A LANGUAGE ACQUISITION PROCESS FOR STUDENTS IN WHICH MUCH OR ALL INSTRUCTION, TEXTBOOKS, OR TEACHING MATERIALS ARE IN THE CHILD'S NATIVE LANGUAGE OTHER THAN ENGLISH.

2. "ENGLISH LANGUAGE CLASSROOM" MEANS A CLASSROOM IN WHICH ENGLISH IS THE LANGUAGE OF INSTRUCTION USED BY THE TEACHING PERSONNEL, AND IN WHICH SUCH TEACHING PERSONNEL POSSESS A GOOD KNOWLEDGE OF THE ENGLISH LANGUAGE. ENGLISH LANGUAGE CLASSROOMS ENCOMPASS BOTH ENGLISH LANGUAGE MAINSTREAM CLASSROOMS AND SHELTERED ENGLISH IMMERSION CLASSROOMS

3. "ENGLISH LANGUAGE MAINSTREAM CLASSROOM" MEANS A CLASSROOM IN WHICH THE STUDENTS EITHER ARE NATIVE ENGLISH LANGUAGE SPEAKERS OR ALREADY HAVE ACQUIRED REASONABLE FLUENCY IN ENGLISH.

4. "ENGLISH LEARNER" OR "LIMITED ENGLISH PROFICIENT STUDENT" MEANS A CHILD WHO DOES NOT SPEAK ENGLISH OR WHOSE NATIVE LANGUAGE IS NOT ENGLISH, AND WHO IS NOT CURRENTLY ABLE TO PERFORM ORDINARY CLASSROOM WORK IN ENGLISH.

5. "SHELTERED ENGLISH IMMERSION" OR "STRUCTURED ENGLISH IMMERSION" MEANS AN ENGLISH LANGUAGE ACQUISITION PROCESS FOR YOUNG CHILDREN IN WHICH NEARLY ALL CLASSROOM INSTRUCTION IS IN ENGLISH BUT WITH THE CURRICULUM AND PRESENTATION DESIGNED FOR CHILDREN WHO ARE LEARNING THE LANGUAGE. BOOKS AND INSTRUCTIONAL MATERIALS ARE IN ENGLISH AND ALL READING, WRITING, AND SUBJECT MATTER ARE TAUGHT IN ENGLISH. ALTHOUGH TEACHERS MAY USE A MINIMAL AMOUNT OF THE CHILD'S NATIVE LANGUAGE WHEN NECESSARY, NO SUBJECT MATTER SHALL BE TAUGHT IN ANY LANGUAGE OTHER THAN ENGLISH, AND CHILDREN IN THIS PROGRAM LEARN TO READ AND WRITE SOLELY IN ENGLISH. THIS EDUCATIONAL METHODOLOGY REPRESENTS THE STANDARD DEFINITION OF "SHELTERED ENGLISH" OR "STRUCTURED ENGLISH" FOUND IN EDUCATIONAL LITERATURE.

SECTION 15-752. ENGLISH LANGUAGE EDUCATION

SUBJECT TO THE EXCEPTIONS PROVIDED IN SECTION 15-753, ALL CHILDREN IN ARIZONA PUBLIC SCHOOLS SHALL BE TAUGHT ENGLISH BY BEING TAUGHT IN ENGLISH AND ALL CHILDREN SHALL BE PLACED IN ENGLISH LANGUAGE CLASSROOMS. CHILDREN WHO ARE ENGLISH LEARNERS SHALL BE EDUCATED THROUGH SHELTERED ENGLISH IMMERSION DURING A TEMPORARY TRANSITION PERIOD NOT NORMALLY INTENDED TO EXCEED ONE YEAR. LOCAL SCHOOLS SHALL BE PERMITTED BUT NOT REQUIRED TO PLACE IN THE SAME CLASSROOM ENGLISH LEARNERS OF DIFFERENT AGES BUT WHOSE DEGREE OF ENGLISH PROFICIENCY IS SIMILAR. LOCAL SCHOOLS SHALL BE ENCOURAGED TO MIX TOGETHER IN THE SAME CLASSROOM ENGLISH LEARNERS FROM DIFFERENT NATIVE-LANGUAGE GROUPS BUT WITH THE SAME DEGREE OF ENGLISH FLUENCY. ONCE ENGLISH LEARNERS HAVE ACQUIRED A GOOD WORKING KNOWLEDGE OF ENGLISH AND ARE ABLE TO DO REGULAR SCHOOL WORK IN ENGLISH, THEY SHALL NO LONGER BE CLASSIFIED AS ENGLISH LEARNERS AND SHALL BE TRANSFERRED TO ENGLISH LANGUAGE MAINSTREAM CLASSROOMS. AS MUCH AS POSSIBLE, CURRENT PER CAPITA SUPPLEMENTAL FUNDING FOR ENGLISH LEARNERS SHALL BE MAINTAINED. FOREIGN LANGUAGE CLASSES FOR CHILDREN WHO ALREADY KNOW ENGLISH SHALL BE COMPLETELY UNAFFECTED, AS SHALL SPECIAL EDUCATIONAL PROGRAMS FOR PHYSICALLY- OR MENTALLY-IMPAIRED STUDENTS.

SECTION 15-753. PARENTAL WAIVERS

A. THE REQUIREMENTS OF SECTION 15-752 MAY BE WAIVED WITH THE PRIOR WRITTEN INFORMED CONSENT, TO BE PROVIDED ANNUALLY, OF THE CHILD'S PARENTS OR LEGAL GUARDIAN UNDER THE CIRCUMSTANCES SPECIFIED IN THIS SECTION. SUCH INFORMED CONSENT SHALL REQUIRE THAT SAID PARENTS OR LEGAL GUARDIAN PERSONALLY VISIT THE SCHOOL TO APPLY FOR THE WAIVER AND THAT THEY THERE BE PROVIDED A FULL DESCRIPTION OF THE EDUCATIONAL MATERIALS TO BE USED IN THE DIFFERENT EDUCATIONAL PROGRAM CHOICES AND ALL THE EDUCATIONAL OPPORTUNITIES AVAILABLE TO THE CHILD. IF A PARENTAL WAIVER HAS

BEEN GRANTED, THE AFFECTED CHILD SHALL BE TRANSFERRED TO CLASSES TEACHING ENGLISH AND OTHER SUBJECTS THROUGH BILINGUAL EDUCATION TECHNIQUES OR OTHER GENERALLY RECOGNIZED EDUCATIONAL METHODOLOGIES PERMITTED BY LAW. INDIVIDUAL SCHOOLS IN WHICH 20 STUDENTS OR MORE OF A GIVEN GRADE LEVEL RECEIVE A WAIVER SHALL BE REQUIRED TO OFFER SUCH A CLASS; IN ALL OTHER CASES, SUCH STUDENTS MUST BE PERMITTED TO TRANSFER TO A PUBLIC SCHOOL IN WHICH SUCH A CLASS IS OFFERED.

B. THE CIRCUMSTANCES IN WHICH A PARENTAL EXCEPTION WAIVER MAY BE APPLIED FOR UNDER THIS SECTION ARE AS FOLLOWS:

1. CHILDREN WHO ALREADY KNOW ENGLISH: THE CHILD ALREADY POSSESSES GOOD ENGLISH LANGUAGE SKILLS, AS MEASURED BY ORAL EVALUATION OR STANDARDIZED TESTS OF ENGLISH VOCABULARY COMPREHENSION, READING, AND WRITING, IN WHICH THE CHILD SCORES APPROXIMATELY AT OR ABOVE THE STATE AVERAGE FOR HIS GRADE LEVEL OR AT OR ABOVE THE 5TH GRADE AVERAGE, WHICHEVER IS LOWER; OR

2. OLDER CHILDREN: THE CHILD IS AGE 10 YEARS OR OLDER, AND IT IS THE INFORMED BELIEF OF THE SCHOOL PRINCIPAL AND EDUCATIONAL STAFF THAT AN ALTERNATE COURSE OF EDUCATIONAL STUDY WOULD BE BETTER SUITED TO THE CHILD'S OVERALL EDUCATIONAL PROGRESS AND RAPID ACQUISITION OF BASIC ENGLISH LANGUAGE SKILLS; OR

3. CHILDREN WITH SPECIAL INDIVIDUAL NEEDS: THE CHILD ALREADY HAS BEEN PLACED FOR A PERIOD OF NOT LESS THAN THIRTY CALENDAR DAYS DURING THAT SCHOOL YEAR IN AN ENGLISH LANGUAGE CLASSROOM AND IT IS SUBSEQUENTLY THE INFORMED BELIEF OF THE SCHOOL PRINCIPAL AND EDUCATIONAL STAFF THAT THE CHILD HAS SUCH SPECIAL AND INDIVIDUAL PHYSICAL OR PSYCHOLOGICAL NEEDS, ABOVE AND BEYOND THE CHILD'S LACK OF ENGLISH PROFICIENCY, THAT AN ALTERNATE COURSE OF EDUCATIONAL STUDY WOULD BE BETTER SUITED TO THE CHILD'S OVERALL EDUCATIONAL DEVELOPMENT AND RAPID ACQUISITION OF ENGLISH. A WRITTEN DESCRIPTION OF NO LESS THAN 250 WORDS DOCUMENTING THESE SPECIAL INDIVIDUAL NEEDS FOR THE SPECIFIC CHILD MUST BE PROVIDED AND PERMANENTLY ADDED TO THE CHILD'S OFFICIAL SCHOOL RECORDS, AND THE WAIVER APPLICATION MUST CONTAIN THE ORIGINAL AUTHORIZING SIGNATURES OF BOTH THE SCHOOL PRINCIPAL AND THE LOCAL SUPERINTENDENT OF SCHOOLS. ANY SUCH DECISION TO ISSUE SUCH AN INDIVIDUAL WAIVER IS TO BE MADE SUBJECT TO THE EXAMINATION AND APPROVAL OF THE LOCAL SCHOOL SUPERINTENDENT, UNDER GUIDELINES ESTABLISHED BY AND SUBJECT TO THE REVIEW OF THE LOCAL GOVERNING BOARD AND ULTIMATELY THE STATE BOARD OF EDUCATION. TEACHERS AND LOCAL SCHOOL DISTRICTS MAY REJECT WAIVER REQUESTS WITHOUT EXPLANATION OR LEGAL CONSEQUENCE, THE EXISTENCE OF SUCH SPECIAL INDIVIDUAL NEEDS SHALL NOT COMPEL ISSUANCE OF A WAIVER, AND THE PARENTS SHALL BE FULLY INFORMED OF THEIR RIGHT TO REFUSE TO AGREE TO A WAIVER.

SECTION 15-754. LEGAL STANDING AND PARENTAL ENFORCEMENT

AS DETAILED IN SECTIONS 15-752 AND 15-753, ALL ARIZONA SCHOOL CHILDREN HAVE THE RIGHT TO BE PROVIDED AT THEIR LOCAL SCHOOL WITH AN ENGLISH LANGUAGE PUBLIC EDUCATION. THE PARENT OR LEGAL GUARDIAN OF ANY ARIZONA SCHOOL CHILD SHALL HAVE LEGAL STANDING TO SUE FOR ENFORCEMENT OF THE PROVISIONS OF THIS STATUTE, AND IF SUCCESSFUL SHALL BE AWARDED NORMAL AND CUSTOMARY ATTORNEY'S FEES AND ACTUAL AND COMPENSATORY DAMAGES, BUT NOT PUNITIVE OR CONSEQUENTIAL DAMAGES. ANY SCHOOL BOARD MEMBER OR OTHER ELECTED OFFICIAL OR ADMINISTRATOR WHO WILLFULLY AND REPEATEDLY REFUSES TO IMPLEMENT THE TERMS OF THIS STATUTE MAY BE HELD PERSONALLY LIABLE FOR FEES AND ACTUAL AND COMPENSATORY DAMAGES BY THE CHILD'S PARENTS OR LEGAL GUARDIAN, AND CANNOT BE SUBSEQUENTLY INDEMNIFIED FOR SUCH ASSESSED DAMAGES BY ANY PUBLIC OR PRIVATE THIRD PARTY. ANY INDIVIDUAL FOUND SO LIABLE SHALL BE IMMEDIATELY REMOVED FROM OFFICE, AND SHALL BE BARRED FROM HOLDING ANY POSITION OF AUTHORITY ANYWHERE WITHIN THE ARIZONA PUBLIC SCHOOL SYSTEM FOR AN ADDITIONAL PERIOD OF FIVE YEARS.

SECTION 15-755. STANDARDIZED TESTING FOR MONITORING EDUCATION PROGRESS

IN ORDER TO ENSURE THAT THE EDUCATIONAL PROGRESS OF ALL ARIZONA STUDENTS IN ACADEMIC SUBJECTS AND IN LEARNING ENGLISH IS PROPERLY MONITORED, A STANDARDIZED, NATIONALLY-NORMED WRITTEN TEST OF ACADEMIC SUBJECT MATTER GIVEN IN ENGLISH SHALL BE ADMINISTERED AT LEAST ONCE EACH YEAR TO ALL ARIZONA PUBLIC SCHOOLCHILDREN IN GRADES 2 AND HIGHER. ONLY STUDENTS CLASSIFIED AS SEVERELY LEARNING DISABLED MAY BE EXEMPTED FROM THIS TEST. THE PARTICULAR TEST TO BE USED SHALL BE SELECTED BY THE OFFICE OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND IT IS INTENDED THAT THE TEST SHALL GENERALLY REMAIN THE SAME FROM YEAR TO YEAR. THE NATIONAL PERCENTILE SCORES OF STUDENTS SHALL BE CONFIDENTIALLY PROVIDED TO INDIVIDUAL PARENTS, AND THE AGGREGATED PERCENTILE SCORES AND DISTRIBUTIONAL DATA FOR INDIVIDUAL SCHOOLS AND SCHOOL DISTRICTS SHALL BE MADE PUBLICLY AVAILABLE ON AN INTERNET WEB SITE; THE SCORES FOR STUDENTS CLASSIFIED AS "LIMITED-ENGLISH" SHALL BE SEPARATELY SUB-AGGREGATED AND MADE PUBLICLY AVAILABLE THERE AS WELL. ALTHOUGH ADMINISTRATION OF THIS TEST IS REQUIRED SOLELY FOR MONITORING EDUCATIONAL PROGRESS, ARIZONA PUBLIC OFFICIALS AND ADMINISTRATORS MAY UTILIZE THESE TEST SCORES FOR OTHER PURPOSES AS WELL IF THEY SO CHOOSE.

Sec. 4. Severability

If a provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 5. Application

The provisions of this act cannot be waived, modified, or set aside by any elected or appointed official or administrator, except as through the amendment process provided for in the Arizona constitution.