



August 31, 2022

BY EMAIL AND USPS MAIL

Michael S. Catlett
Deputy Solicitor General and
Chief Counsel to Special Litigation
Office of the Attorney General
2005 North Central Avenue
Phoenix, Arizona 85004
michael.catlett@azag.gov

Re: Request to Immediately Investigate and Stop Violation of A.R.S. § 15-511 -- School Districts Illegally Using District Resources to Influence Outcome of Election

Dear Mr. Catlett:

Arizona Revised Statute Section 15-511 prohibits school districts from spending or using district school resources to influence the outcomes of elections, including the support or opposition of ballot measures. But school districts are doing precisely that, and the Attorney General is statutorily empowered to stop it.

In blatant violation of A.R.S. § 15-511, school districts are using district resources to send representatives to the Arizona School Board Association (“ASBA”) Law Conference on September 7-9, 2022, at the J.W. Marriott Camelback Inn in Paradise Valley. The ASBA is an Arizona nonprofit that engages in political advocacy. *See* ASBA 2022 Political Agenda enclosed. But the ASBA has brought its political advocacy to a fine point in its upcoming Law Conference. It has enlisted – and integrated into its conference programming – a 501(c)(4) organization known as the “Friends of the ASBA.” *See* ASBA Law Conference Program enclosed.

The Friends of the ASBA has an overtly ideological mission: promote opposition to A.R.S. § 15-2401 *et seq.* (Arizona’s Empowerment Scholarship Account (“ESA”) statutes). Law Conference attendees are encouraged to join with the Friends of the ASBA to oppose the ESA expansion and thereby deprive Arizona families of their freedom of choice in education. *See* Instagram post of the Friends of the ASBA.

Based on our knowledge of this event, staff and other representatives from numerous school districts will attend the Law Conference, including Tolleson Elementary School District, Avondale Elementary School District, Deer Valley Unified School District. *See* enclosed Twitter posts from last year’s conference from representatives from those school districts. In addition, we expect many other

Michael S. Catlett
August 31, 2022
Page 2 of 2

school districts to attend, including unified school districts within Phoenix, Chandler, Mesa, Page, Gilbert, and Queen Creek.

Arizonans would rightly be appalled to learn that school districts will be using taxpayer resources to have district employees participate in an event clearly geared toward a political objective: undoing Arizona's innovative, new universal school-choice program. A.R.S. § 15-511 gives the Attorney General the power to end this, but only if your office acts promptly.

Based on the foregoing, we respectfully request that your office investigate the use of school district resources in connection with the participation of district employees in the upcoming ASBA/Friends of ASBA Law Conference on September 7-9, 2002. We further ask that your office take all appropriate legal action to enforce Arizona's law prohibiting school districts from using public recourses to support a ballot measure seeking to invalidate Arizona's universal ESA program.

Very truly yours,

A handwritten signature in black ink, reading "Scott Day Freeman". The signature is fluid and cursive, with the first name "Scott" being the most prominent.

Scott Day Freeman
Senior Attorney
Goldwater Institute Scharf-Norton Center for
Constitutional Litigation

2022 Political Agenda

Adopted by the ASBA Delegate Assembly | September 11, 2021

The Arizona School Boards Association represents and advocates for the diverse interests of the state's school district governing boards and the approximately 1 million Arizona children whose education is entrusted to their care. ASBA's legislative, regulatory and legal advocacy is based on the association's Political Agenda. A member-developed document, the Political Agenda is discussed, debated and approved by ASBA membership at the annual Delegate Assembly. Every district member board has the opportunity to influence the yearly agenda.

2022 Priority Issues

Adequately and Equitably Fund District Schools to at Least the National Median per Pupil Funding

**Improve Outcomes
for All Students**

**Preserve and Strengthen
Local Control**

**Require Public Accountability for
Taxpayer Dollars Spent on Education**

Adequately and Equitably Fund District Schools to at Least the National Median Per Pupil Funding

- Maximize state funding for nationally and locally competitive salaries to attract, recruit, and retain talented teachers and staff, including support for the AZ teacher's academy and efforts to increase the diversity of the teaching workforce, and for difficult to fill positions.
- Revise the School Finance formula to:
 - o Provide a stable, dedicated revenue source less reliant on the general fund or annual legislative appropriation.
 - o Provide dedicated school capital funding consistent with the constitutional requirement of a general and uniform public school system.
 - o Ensure the formula addresses the unique financial needs of schools serving students in poverty and in rural & remote schools.
 - o Fund distance learning at 100%
- Fully fund full-day kindergarten and include kindergarten students in the override calculations.
- Advocate to preserve and protect the voters' original intent of Prop 301. Protect voters' intent in funding K-12 education and oppose legislation that attempts to supplant or divert additional voter-approved funding streams, such as Prop. 301 and Prop. 208.
- Index district additional assistance (DAA) funding for inflation.
- Provide funding for new space before existing schools exceed their maximum capacity and become overcrowded, and provide dedicated and flexible ongoing maintenance funding, including replacement of buildings that have exceeded their useful life. Advocate for capacity standards that reflect the design of instructional space.
- Eliminate unfunded mandates and administrative burdens.
- Return desegregation funding to a primary tax levy.
- Conduct an exceptional student services cost study to ensure students, including in rural or remote areas, receive adequate funding for the actual cost of their services, including early intervention.
- Adequately fund the cost of student transportation including adequate maintenance of school bus routes for rural schools.
- Provide funding for preschool programs in the K-12 funding formula.
- Reform current year funding to a system that provides districts with appropriate stable annual budgeting ability and technical reliability.
- Prorate funding over the entire school year among all public schools that a student has attended during the year.
- Provide funding to individual districts to implement locally directed school safety programs as well as student mental health and wellbeing initiatives.
- Equitably invest in technology and reliable internet access for all students.
- Provide funding for districts to implement research-based programs to address social emotional learning through mental health and well-being. Support research-based cultural proficiency and responsiveness training for school staff.
- Give all districts the authority and funding to provide affordable housing options to faculty and staff.

OUR MISSION IS TO CULTIVATE EXCELLENCE IN LOCALLY-GOVERNED SCHOOL DISTRICTS.

Preserve and Strengthen Local Control

Adopted by the ASBA Delegate Assembly | September 11, 2021

- Ensure local control and flexibility in managing funds and programs when possible, given the Arizona constitutional requirements of a general and uniform public school system.
- Change "override/budget increase" language to better reflect what voters are being asked to support.
- Allow school districts greater flexibility in the divestiture or use of taxpayer-funded assets.
- Oppose legislative intrusion on school site budgeting decisions.
- Maintain exclusive local authority over any measure that would propose to consolidate and/or unify any number of school districts into a larger district.
- Support local board authority for student suspensions and to adopt open enrollment policies based on capacity.
- Support policy that eliminates the use of corporal punishment and "Zero Tolerance" disciplinary policies in Arizona schools.
- Amend current statute to allow school board members to use the E-Equal system in addition to in-person signatures to appear on the ballot.
- Oppose any legislation that intends to lessen or curtail the legal authority of local school boards including their authority to approve curriculum.

Improve Outcomes For All Students

- Increase the compulsory attendance age from 16 to 18 years or the attainment of a high school diploma or GED before the age of 18.
- Continue reforming English Language Learner models of instruction to increase integration of English Learners and give schools flexibility and resources to administer them.
- Fully restore 9th grade CTE/CTED eligibility and funding to allow students to explore career fields and/or certification completion.
- Allow CTEDs to serve students through age 21 regardless of graduation status.
- Support policy that recognizes, respects, and promotes teaching as a profession.
- Defend against efforts to chill the free speech rights of school employees.
- State standardized testing shall not be used for any purpose other than a year over year measurement of student growth in the tested subject. Rethink and redefine the role and purpose of standardized testing and develop meaningful assessments and other measurable outcomes.
- Support policy that protects school district employees and students from discrimination based on sexual orientation and gender identity.
- Support policy that promotes social-emotional wellness as a critical component of improving school climate, safety, and learning for all students and staff.

Require Public Accountability for Taxpayer Dollars Spent on Education

- Establish financial and academic transparency for all institutions and individuals that accept public funds.
- Repeal any program that gives public funds for private schools, vouchers (Empowerment Scholarship Accounts) and private school subsidies (Student Tuition Organizations) and prevent any future expansion.
- Require comparative classroom spending audits for school districts and all other institutions that accept public funds and define "classroom spending" as both instructional spending and student support spending.
- Enforce financial requirements and seek recovery of improperly received and/or expended public funds by charter and private schools and organizations.
- Oppose any measure that would result in fewer qualified voters from being easily able to vote or register to vote.



ASBA
46th Annual
Law Conference
September 7-9, 2022

JW Marriott Camelback Inn, Scottsdale





December 14
New Board Member Orientation
(Part 1)

December 15 - 16
ASBA-ASA Annual Conference
JW Marriott Desert Ridge
Registration opens October 17 and closes December 5

ASBA YEARLONG SPONSORS



Pre-Conferences

Pre-Conference One - Supporting Students with Disabilities

Salons F-G



Wednesday, September 7, 2022

8:30 - 9:00 a.m.	Registration and Continental Breakfast (provided)	
9:00 - 9:10 a.m.	Welcome and Pre-Conference Overview	Tracey Benson , ASBA Associate Executive Director, and James Bryce , President-Elect of the ASBA Board of Directors
9:10 - 10:00 a.m.	Special Education 101: What Every District Leader Needs to Know about Supporting Students with Disabilities <i>In this session, we will provide an overview of the disabilities that are covered by special education and how students qualify for services. We will also review the provisions of the Individuals with Disabilities Education Act (IDEA). Participants will learn what districts must do to comply with the law and why it's important for school leaders who care about student achievement.</i>	Lori Bird , Udall Shumway, and Melissa McCusker , Director of Special Education, Deer Valley USD
10:00 - 10:10 a.m.	A Teacher's Perspective: These Are OUR Students <i>Creating an environment where every student thrives.</i>	Estevan Carreon , Special Education Teacher, Independence High School (Glendale UHSD), and a 2021 Arizona Educational Foundation Ambassador of Excellence
10:10 - 11:00 a.m.	Special Education Funding and the New ADE Cost Study <i>School funding in Arizona is amongst the lowest in the country. This includes funding for special education, which, despite recent investment, has seen minimal increase over the years. In this session, we will look at the current state of special education funding and the results of a new ADE cost study of special education, which outlines the real cost of providing special education.</i>	Chris Kotterman , ASBA Director of Governmental Relations, and Aaron Wonders , Deputy Associate Superintendent for Policy and Government Relations, Arizona Department of Education
11:00 - 11:10 a.m.	Break	AZ Ballroom Foyer
11:10 am - 12:00 pm	Special Education and Legal Liabilities in the Face of Funding and Teaching Shortages <i>Many districts are dealing with insufficient special education funding as well as staffing shortages including special education teachers, licensed specialists, aides and other service providers responsible for meeting student needs. In this session, we will discuss the legal remedies available to parents of special education students who are not provided the services to which they are entitled under the law and the "hidden" costs of failing to provide those services with or without adequate funding.</i>	Lisa Anne Smith , DeConcini McDonald Yetwin & Lacy, and Sesaly Stamps , DeConcini McDonald Yetwin & Lacy
12:00 - 1:00 p.m.	Lunch (provided)	Paradise Ballroom

continued...


Pre-Conferences

Pre-Conference One - Supporting Students with Disabilities

Salons F-G



Wednesday, September 7, 2022

1:00 - 2:00 p.m.	<p>"What Does Inclusion Look Like for Students with Disabilities?"</p> <p><i>Learn from keynote speaker Rebecca Cokley, an American disability rights activist and public speaker who is currently the first U.S. Disability Rights Program Officer for the Ford Foundation. Prior to joining Ford, Cokley was the founding director of the Disability Justice Initiative at the Center for American Progress. Her activism and work within the disability community are largely shaped by her experience as a person with dwarfism.</i></p>	<p>Rebecca Cokley, Disability Rights Advocate, Ford Foundation</p> 
2:00 - 2:45 p.m.	<p>The Ins and Outs of Discipline and Behavior Interventions for Students with Disabilities</p> <p><i>Explore the rights of students with disabilities when it comes to discipline and learn how schools can support them - and other students - while following the law.</i></p>	<p>David Garner, Osborn Maledon</p>
2:45 - 3:00 p.m.	<p>Break</p> <p><i>Those attending the main Law Conference may pick up their packets at this time.</i></p>	<p>AZ Ballroom Foyer</p>
3:00 - 4:00 p.m.	<p>Successful Practices for Building inclusive Environments</p> <p><i>Learn from an attorney and inclusion consultant who have worked together to assist districts that have faced challenges in creating more inclusive environments.</i></p>	<p>Heather Pierson, Udall Shumway, and Angela Root, IDEA Procedural Specialist, Chandler USD</p>
4:00 - 5:30 p.m.	<p>Optional: Friends of ASBA Social Reception</p> <p><i>This is an optional event sponsored by the Friends of ASBA. All pre-conference and main conference attendees are invited to attend.</i></p>	<p>Paradise Ballroom Foyer</p>



EVALUATION

Pre-Conference Supporting Students:

<https://www.surveymonkey.com/r/PreConSupportingStudents>

Scan the QR code or go to the link above to access the online evaluation.

Pre-Conferences

Pre-Conference Two - Supporting Family and Community Access and Involvement Salons H-I



Wednesday, September 7, 2022

8:30 - 9:00 a.m.	Registration and Continental Breakfast (provided)	
9:00 - 9:10 a.m.	Welcome and Pre-Conference Overview	Dr. Sheila Harrison-Williams , ASBA Executive Director, and Monica Trejo , President, ASBA Board of Directors
9:10 - 9:40 a.m.	Parents Bill of Rights: History, Context and Arizona Law <i>We'll explore the history of the parents' rights movement, consider today's social dynamic, and find out what Arizona's Parents Bill of Rights says.</i>	Chris Kotterman , ASBA Director of Governmental Relations
9:40 - 10:40 a.m.	What "Parental Rights" Laws Mean to Your District: Legal Liabilities Arising from HB2161 <i>New "parental rights" legislation was enacted in April 2022 and will be effective beginning with the 2022-2023 school year. What does this legislation mean for your school district? How are you to comply? What policies and practices will need to be updated? What are the liability risks associated with the laws? How can your staff reduce those risks? These are some of the questions that will be addressed during this session.</i>	Nick Buzan , ASBA Director of Legal and Policy Services, and Denise Lowell-Britt , Udall Shumway
10:40 - 10:50 a.m.	Break	AZ Ballroom Foyer
10:50 - 11:20 a.m.	Public Participation in Board Meetings: The Law, Best Practices and How They Can Work Together to Meet the Board AND the Community's Needs <i>Strategies on how to structure public participation at board meetings to provide a fair, effective and legal process for stakeholder voices to be heard.</i>	Nikkie Whaley , ASBA Board Support and Equity Services Manager, and Kristin Mackin , Sims Mackin
11:20 am - 12:00 pm	Site Councils and Committees: Gaining Input through These Formal District Structures <i>The governing board and district have several formal structures at their disposal for gaining input from families and the community. Learn about the legal requirements for site councils and board/district committees, and best practices for maximizing their value in decision-making.</i>	Jennifer MacLennan , Gust Rosenfeld
12:00 - 1:00 p.m.	Lunch (provided)	Paradise Room

continued...



A collage of various educational icons including a graduation cap, a lightbulb, a stack of books, a pencil, a ruler, a protractor, a compass, a calculator, a clock, a calendar, a notepad, a pencil sharpener, a ruler, a protractor, a compass, a calculator, a clock, a calendar, a notepad, a pencil sharpener, and the word 'PARTICIPATION' in large, bold, capital letters.

Wednesday, September 7, 2022		
1:00 - 2:00 p.m.	<p>I'll Tell You What I Want, What I Really, Really Want: Public Access to Records and Materials</p> <p><i>Access to records and materials has become a spicy topic. Learn about the rights of parents and the community when it comes to district and student records and materials and get tips for managing them while staying within the law.</i></p>	<p>Heidi Vega, ASBA Director of Communications, and Anthony Contente-Cuomo, Sims Mackin</p>
2:00 - 2:15 p.m.	<p>Break</p> <p><i>Those attending the main Law Conference may pick up their packets at this time.</i></p>	AZ Ballroom Foyer
2:15 - 3:15 p.m.	<p>The More You Know: Student and Family Surveys</p> <p><i>What is the law when it comes to surveying students and how can districts make best use of surveys to improve feedback from students, family and the community? Find out in this session.</i></p>	<p>Kathy DeBoer, Senior Vice President and Chief Research Officer, WestGroup Research, and Jordan Ellet, Tri-District Counsel, Tempe ESD/Tempe UHSD/Kyrene ESD</p>
3:15 - 4:00 p.m.	<p>Spotlight: Effective Strategies for Increasing Stakeholder Voice</p> <p><i>Learn from Arizona school leaders on how they have utilized the opportunities available to them to ensure that students, families and members of the community feel seen and heard in decision-making.</i></p>	<p>Brandon Kavanagh, Mangum Wall Stoops & Warden, and Quincy Natay, Superintendent, Chinle USD</p>
4:00 - 5:30 p.m.	<p>Optional: Friends of ASBA Social Reception</p> <p><i>This is an optional event sponsored by the Friends of ASBA. All pre-conference and main conference attendees are invited to attend.</i></p>	Paradise Ballroom Foyer



46th Annual ASBA Law Conference

Thursday, September 8, 2022

8:00 - 9:00 a.m.	Registration and Continental Breakfast (provided)	AZ Ballroom Foyer
8:10 - 8:40 a.m.	Breakfast with Friends of ASBA (Optional) <i>Get your breakfast and come hear from the Friends of ASBA and strategic partners about what is going to be on the 2022 general election ballot.</i>	Chris Kotterman, ASBA Director of Governmental Relations
9:00 - 9:10 a.m.	Welcome and Conference Overview	Dr. Sheila Harrison-Williams, ASBA Executive Director, and Monica Trejo, President, ASBA Board of Directors
9:10 - 9:25 a.m.	Capital Litigation Update	Danny Adelman, Executive Director, Arizona Center for Law in the Public Interest
9:25 - 10:25 a.m.	"A Promise to Keep: Supporting Students in Need" <i>Judge Glenda Hatchett was a presiding judge and department head of one of the largest juvenile court systems in the country. Today she is most widely known for her television court series "Judge Hatchett" (2000-2008) and most currently "The Verdict." Nationally recognized as an authority on juvenile and social justice issues and an outspoken advocate for children everywhere, Judge Hatchett speaks passionately on how we can empower this and future generations.</i>	Judge Glenda Hatchett 
10:25 - 10:35 a.m.	Break <i>Judge Hatchett will be available to meet attendees during the break.</i>	
10:35 - 11:45 a.m.	"The Bad Kids" Documentary: Screening, Part I <i>Is there such a thing as "bad kids"? We'll tune into this Sundance Award-winning documentary, set at a remote Mohave Desert high school, to explore that question and the impact that love, empathy and life skills have in giving "at-risk" students command of their own futures. This coming-of-age story watches education combat the crippling effects of poverty on the lives of these so-called "bad kids." Part one of this film will be watched in general session. Part two will be shown Friday afternoon as a breakout session for those who choose to attend.</i>	
11:45 a.m. - 1:00 p.m.	Lunch	Paradise Ballroom

Thursday Breakout Session Descriptions (1:00-4:00 p.m.)

(choose from four)

Breakout Sessions #1 (1:00 - 1:50 p.m.)

Everything You Ever Wanted to Know About Criminal Law and Schools but Were Afraid to Ask

– Brandon Kavanagh, Mangum, Wall, Stoops and Warden; Jeffrey Dollins, Mangum, Wall, Stoops and Warden; Nick Buzan, ASBA Director of Legal and Policy Services (Rooms A - E)

Learn how schools and school employees are impacted by criminal investigations involving students, teachers or parents.

Free Speech and Advocacy: Say It Ain't So?!

– Ernest Calderon, Calderon Law Offices; Devin Del Palacio, ASBA Advocacy and Strategic Initiatives Consultant (Rooms F - G)

What issues do board members and superintendents need to be aware of as they advocate for their students and staff? Hear from an attorney and advocacy expert about what you can't do and what you can.

Open Meeting and Public Records Law: A One-Stop Shop

– Lynne Adams, Osborn Maledon; Anthony Contento-Cuomo, Sims Mackin (Rooms H - I)

This session combines OML and public records laws into one presentation where you will learn the latest updates on these issues related to Arizona's Sunshine Law.

Title IX - An Introduction

– Aaron Brown and Kelsey Karam, Cantelme and Brown (Rooms J - N)

This presentation is an introduction to Title IX, a set of rules including steps districts must follow when they receive notice of "sexual harassment," mandatory training requirements and additional helpful topics. (Note: Due to time limits, this is a general overview and will not serve as the mandatory training that each Title IX Team Member must make.)

Breakout Sessions #2 (2:00 - 2:50 p.m.)

Hey, Coach! Put Me In!

– Joseph Williams and C. Benson Hufford, Hufford, Horstman, Mongini, Parnell & Tucker (Rooms A - E)

We'll focus on staying inbounds with stipends and addenda, and also cover additional assignments, extra duty stipends, non-exempt employees and overtime rules.

Threat Assessments: When Students Make a Threat of School Violence

– Rodney States, Udall Shumway; Dennis Albaugh, Lead Psychologist, Higley USD (Rooms F - G)

What is a threat assessment and what is a district's responsibility in administering them? Learn how to establish a threat assessment program and how to conduct a threat assessment investigation. This presentation will touch on the entire range of threats that an assessment will cover, including student discipline techniques and law enforcement relationships.

Revisiting Religion in Schools 2022: The Supreme Court Weighs In

– David Garner, Osborn Maledon (Rooms H - I)

Earlier this summer, the Supreme Court ruled that a high school football coach's post-game prayers on the football field were protected by the First Amendment. The Court's decision in *Kennedy v. Bremerton* not only provides updated guidance on the school's role in policing neutrality on church-state issues, but also formally abandons a legal precedent that has underpinned the analysis of establishment clause analysis for over 50 years. In this presentation, you'll learn about the implications of this new decision for local school districts.

When Board Relations Go Sideways: What You Can and Can't Do

– John Richardson, Deconcini McDonald Yetwin and Lacy; Julie Bacon, ASBA Leadership Development Manager (Rooms J - N)

The Supreme Court recently ruled that the censure of board members does not violate the First Amendment rights of the censured board member. What does Arizona law say about censure of board members? Is censure permissible? Is other discipline of a board member by the board permissible? What options are available to a board to manage a board member who acts in a disruptive or otherwise inappropriate manner?

Break (2:50 - 3:10 p.m.) - AZ Ballroom Foyer

< 🔍 friends of asba

All Posts People Groups Photos Videos

posted · ASD

Friends of ASBA is at JW Marriott Scottsdale Camelback Inn Resort & Spa.

19h · Scottsdale · 🌐

Join **Friends of ASBA** on September 7 for a reception **Arizona School Boards Association's** law conference! Don't miss an opportunity to network with **#azleg** members & discuss priorities with superintendents & other district reps from 100+ districts across AZ! ✚ join our efforts to stop voucher expansion and use the event as an opportunity to sign circulating petitions!

Details 👉 <https://bit.ly/3dOd6A5!>



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Curt Finch, PhD
@DrFinchDVUSD



Learning more about liabilities and intentional torts
[@azsba_GR](#) at the Arizona School Board School Law
Conference. [#ProfessionalDevelopment](#)



10:34 AM · Sep 8, 2021 · Twitter for iPhone

2 Likes





Mr. Vernier 🧑
@MrVernier

...

Good morning from day one of the [@AzSBA](#) Law Conference!



9:14 AM · Sep 9, 2021 · Twitter for iPhone

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Lupita Hightower
@LupitaHightower



Great minds think alike! Learning together [@azsba_GR](#)
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