

To: The Honorable Lisa Graham Keegan

October 31, 2000

**Re: Individual Education Programs for
Limited English Proficient Students**

Superintendent of Public Instruction

I00-026

(R00-048)

Question Presented

You have asked whether Arizona Revised Statutes ("A.R.S.") § 15-754(B) requires a "limited English proficient" ("LEP") student to participate in an individual education program if the student's parent or guardian does not want the student to do so.

Summary Answer

Section 15-754(B) does not require an LEP student to participate in an individual education program if that student's parent or guardian does not want the student to do so.

Background

School districts generally must provide a bilingual program or English as a second language program for LEP students. A.R.S. § 15-754(A), (B). The statutes further specify four different programs that may satisfy this requirement: three types of bilingual programs and a formal English as a second language program, which includes daily instruction in English language skills and academic development in English. A.R.S. § 15-754(A). If an LEP student is not enrolled in one of these specified programs, then "[a]n individual education program must be provided for" that student. A.R.S. § 15-754(B). See *also* Ariz. Att'y Gen. Op. 187-127. An individual education program for LEP students is "a systemic, individualized program" to promote English language skills and academic achievement "through the use of the pupil's primary home language for subject matter instruction, to the extent possible." A.R.S. § 15-754(B).

Under existing Arizona law, "[p]upil participation in any bilingual education program or English as a second language program is voluntary" and requires parental notification. A.R.S. § 15-752(C). Current federal law similarly allows parents to decline enrollment of their children in bilingual or ESL programs. See 20 U.S.C. § 7602(b)(2).

Analysis

Under A.R.S. § 15-754(B), an individual education program "must be provided for" LEP students who are not enrolled in specified bilingual or English as a second language programs. This requirement, however, must be read in context of the entire statutory scheme. See *Goddard v. Superior Court*, 191 Ariz. 402, 404, 956 P.2d 529, 531 (App. 1998). Here, the Legislature has also directed that pupil participation in *any* bilingual education program is voluntary and requires parental notification. A.R.S. § 15-752(C). An individual education program, in this context, is an alternative form of bilingual education that must be made available to students who are not enrolled in the types of bilingual or English as a second language

programs identified in A.R.S. § 15-754(A).

The existing statutes obligate school districts to offer the option of an individual education program, but do not require that a student participate in such a program if the student's parent or legal guardian objects. This interpretation harmonizes the statutory obligation to "provide" an individual education program for certain LEP students with the statutory directive that participation in any bilingual or English as a second language program is voluntary. *Cf. Goddard*, 191 Ariz. at 404, 956 P.2d at 531 (noting that a statute should be interpreted in reference to "the system of related statutes of which it forms a part").

Conclusion

Section 15-754(B), A.R.S., does not require an LEP student who was voluntarily withdrawn from LEP education programs under § 15-752 to participate in an individual education program if his or her parent or guardian chooses to opt out of a such a program.

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