



**STATE OF ARIZONA**  
**OFFICE OF THE ATTORNEY GENERAL**

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| <p>ATTORNEY GENERAL OPINION</p> <p>by</p> <p>TERRY GODDARD<br/>ATTORNEY GENERAL</p> <p>December 18, 2008</p> | <p>No. I08-012<br/>(R08-047)</p> <p>Re: Average Daily Membership Calculation<br/>and Concurrent Enrollment</p> |
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To: The Honorable Tom Horne  
Superintendent of Public Instruction

**Questions Presented**

You have asked whether Arizona law permits any one student to be counted more than once for the computation of average daily membership ("ADM") during one school year and, if so, under what circumstances this can occur. You specifically requested that this Office address the calculation of ADM for concurrent and consecutive enrollment as it applies to school districts, charter schools, joint technological education districts ("JTEDs"), both at satellite and main (or centralized) campuses and technology assisted project-based programs ("TAPBIs").<sup>1</sup>

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<sup>1</sup> This opinion addresses the most common scenarios related to concurrent enrollment. It does not address every conceivable scenario where a student may generate more than 1.0 ADM. In addition, due to the complexity of the concurrent enrollment scenarios, consecutive enrollment will not be addressed in this opinion, but will be addressed separately.

### Summary Answer<sup>2</sup>

Arizona statutes specifically address ADM in the following four scenarios: (1) a student enrolled in both a charter school and a JTED who resides within the boundaries of a school district participating in the JTED may generate up to 1.25 ADM; (2) a student enrolled in a traditional school district and a JTED satellite program where the career and technical education and vocational education courses or programs, including satellite courses, are provided in a facility owned or operated by the school district in which a student is enrolled may generate up to 1.25 ADM; (3) a student enrolled in a traditional school district or a charter school and a TAPBI cannot generate more than 1.0 ADM; and (4) a student enrolled in a traditional school district and a charter school cannot generate more than 1.0 ADM.

With regard to full-time high school students concurrently enrolled in two or more traditional school districts or two or more charter schools, the language of A.R.S. § 15-901(A)(2)(b)(ii) supports the current policy of the Department of Education (“Department”) limiting the ADM of such students to 1.0. However, statutory language and legislative history pertaining to JTEDs supports an exception from the 1.0 ADM limitation for full-time high school students concurrently enrolled in a traditional school district and a JTED main campus. Finally, elementary and fractional students are not limited to 1.0 ADM.

### Background

The Arizona Legislature enacted a comprehensive school financing scheme in 1974. 1974 Ariz. Sess. Laws, ch. 3, § 26 (codified at A.R.S. § 15-1212; re-codified in 1981 at A.R.S. § 15-901). Under the school financing system, each school district’s base-level funding is determined by multiplying the number of students enrolled by a legislatively determined dollar amount. A.R.S. § 15-943. The student count is determined by the ADM through the first 100

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<sup>2</sup> For convenience, a chart summarizing the conclusions drawn in the opinion has been appended.

days of instruction. A.R.S. § 15-902(A) and (B). ADM is “the total enrollment of fractional and full-time students, minus withdrawals, of each school day through the first one hundred days.”<sup>3</sup> A.R.S. § 15-901(A)(2). ADM is then used to determine the school district’s student count which is the basis for building a school district’s annual budget. A.R.S. §§ 15-901, -902, -943. State funding for a school district is based on the district’s ADM total. A.R.S. § 15-943. Thus, the correct calculation of ADM is of significant importance and concern to the Department and Arizona school districts and charter schools.

In calculating ADM, a part-time high school student is counted as a fractional student “if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of a full-time instructional program.” A.R.S. § 15-901(A)(2)(a)(ii). A full-time high school student is defined as a student who has not graduated and is “enrolled in at least a full-time instructional program of subjects that count toward graduation as defined by the [Arizona] [S]tate [B]oard of [E]ducation. . . .” A.R.S. § 15-901(A)(b)(ii). A full-time instructional program meets at least for 720 hours during the minimum number of days required and includes: (1) at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of 123 hours a year; (2) or the equivalent; or (3) one or more subjects taught in amounts of time totaling at least 20 hours per week prorated for any week fewer than five school days. A.R.S. § 15-901(A)(2)(c)(vi). Section 15-901(A)(2)(b)(ii) states that “[a] full-time [high school] student shall not be counted more than once for computation of [ADM].”

The landscape of public education has changed dramatically in the past thirty years. In 1974, the only public schools were traditional school districts. Because there was only one

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<sup>3</sup> A withdrawal “include[s] students formally withdrawn from schools and students absent for ten consecutive school days, except for excused absences as identified by the [D]epartment.” A.R.S. § 15-901(A)(2).

public school option available to students, students were not concurrently enrolled in multiple schools. In 1990, the Arizona Legislature authorized the creation of JTEDs for the express purpose of allowing existing school districts to form a regional district for the provision of vocational and technical education programs in order to avoid duplication of expensive courses and programs. 1990 Ariz. Sess. Laws, ch. 248 § 1. With the creation of JTEDs came the concept of concurrent enrollment. In 1991, the Legislature specifically authorized funding up to 1.25 ADM for fractional students who were enrolled in JTED satellite courses provided in a facility owned or operated by the member school district in which the pupil was enrolled. 1991 Ariz. Sess. Laws, ch. 154, § 4 (S.B. 1264) (codified at A.R.S. § 15-393(D)(3)).<sup>4</sup>

In 1994, the Arizona Legislature authorized the creation of charter schools in order to provide a learning environment that would improve pupil achievement and provide additional academic choices for parents and pupils. 1994 Ariz. Sess. Laws, ch. 2, §2; A.R.S. §§ 15-181 to 15-189. The ADM for a student who is enrolled in both a charter school and a public school that is not a charter school (traditional school district) is not permitted to exceed 1.0 ADM. A.R.S. § 15-185(C). However, a charter school student who is also enrolled in a JTED and resides within the boundaries of a school district participating in the JTED may generate up to 1.25 ADM. A.R.S. § 15-185(C).

In 1998, the Arizona Legislature authorized the creation of virtual schools or TAPBIs to meet the needs of pupils in the information age. 1998 Ariz. Sess. Laws, ch. 224, §2; A.R.S. § 15-808. TAPBI programs operate within a district or charter school. The ADM of a student who

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<sup>4</sup> At the time of enactment, the law applied to vocational and technological courses or programs provided in a facility owned “and” operated by a school district in which a pupil is enrolled. 1991 Ariz. Sess. Laws, ch. 154, § 4 (S.B. 1264). The Legislature amended the language in 2005 to provide for facilities owned “or” operated by school districts in which the pupil is enrolled. 2005 Ariz. Sess. Laws, ch. 294, §1 (H.B. 2418). The Legislature also amended the law to include satellite courses. *Id.*

is enrolled in either a school district or charter school and also participates in a TAPBI cannot exceed 1.0. A.R.S. § 15-808(F).

Prior to July 1, 2008, the Department generally allowed a student enrolled in Arizona public schools to be counted for more than 1.0 ADM. A student could generate more than 1.0 ADM in a single year by either being enrolled in two school districts simultaneously (“concurrent enrollment”) or enrolling in one district and then another district within the same year but prior to the second school district’s 100<sup>th</sup> day of instruction (“consecutive enrollment”).<sup>5</sup>

In October 2007, the Auditor General’s Office published a performance audit on TAPBI schools. Auditor General’s Performance Audit of TAPBIs (October 2007). The audit concluded that the Department over-funded public education by an estimated \$6.4 million for several reasons. First, the audit found that the Department failed to apportion the ADM to 1.0 for those students who were concurrently enrolled in a TAPBI and school district or charter school as required by A.R.S. § 15-808(F). *Id.* at 11-14. Second, the audit determined that the Department failed to apportion the ADM of students who were consecutively enrolled in a TAPBI and school district or charter school to 1.0 as required by A.R.S. § 15-808(F). *Id.*<sup>6</sup>

As a result of the audit, the Department reviewed its internal practices on concurrent and consecutive enrollment for students enrolled in all types of public schools. The Department’s internal review revealed that students who were concurrently and consecutively enrolled in more than one school had been funded for more than 1.0 ADM. For example, when a student was concurrently enrolled in both a JTED and a school district as a full time student, that student could generate 2.0 ADM. As a result of the Department’s internal review and pursuant to A.R.S.

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<sup>5</sup> Arizona funds its public schools based on the number of students enrolled through 100th day of instruction. A.R.S. § 15-902.

<sup>6</sup> The audit referred to the consecutive enrollment as funding “summer school.”

§ 15-901(A)(2)(b)(ii), it created a new policy that was issued on April 3, 2008, effective for the 2008-2009 school year, which states:

[A] student shall not be counted more than once for computation of average daily membership and ...dual enrollment between July 1st and the school district[']s and/or charter school[']s 100<sup>th</sup> day will now be apportioned between the schools....Consecutive enrollment after the 100<sup>th</sup> day will not be counted toward the student's ADM and will not generate funding.<sup>7</sup>

See the Department of Education Memo dated April 3, 2008, Regarding Reporting of Absences and Apportionment of ADM ("April 3, 2008, Memorandum"). The effect of the Department's new policy is that students who are concurrently enrolled as full-time students who would have previously generated more than 1.0 ADM will now only generate 1.0 ADM, unless otherwise provided by statute. The Department has created a process by which 1.0 ADM will be apportioned between the schools in which the student is concurrently enrolled.

Prior to July 1, 2008, a high school student could be concurrently enrolled in a full-time instructional program at both a traditional school district and at a JTED main campus, generating 1.0 ADM for each entity for a total of 2.0 ADM. However, under the Department's new interpretation, the ADM generated by that student cannot be more than 1.0, and the Department will apportion the ADM between the two entities accordingly. See April 3, 2008, Memorandum. The Department based its ADM calculation policy in part on the language of A.R.S. § 15-901(A)(2)(b)(ii), which, in defining a full-time high school student states that "[a] full-time student shall not be counted more than once for computation of average daily membership."

Some school districts disagree with the Department's interpretation of A.R.S. § 15-901(A)(2)(b)(ii). The school districts argue that A.R.S. § 15-901(A)(2)(b)(ii) applies to the

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<sup>7</sup> In addition, the Department's policy allowed for the generation of 1.25 ADM where a student was also enrolled in a JTED. See Department of Education Memo dated April 3, 2008, Regarding Reporting of Absences and Apportionment of ADM.

calculation of ADM in the context of one school district. Specifically, the school districts believe that the statute, which applies to full-time high school students, prohibits a single school district from counting a student more than once. The school districts maintain that the prohibition against counting a student more than once is a legislative attempt to address the provisions of A.R.S. § 15-901(A)(2)(c)(vi), which allows a school district to collect 1.0 ADM for a full-time student who enrolls in a full-time instructional program. Without the statutory cap, school districts argue that a single school district could collect up to 2.0 ADM for a full-time high school student enrolled in more than the minimum four subjects required by law. Under this analysis, the prohibition in A.R.S. § 15-901(A)(2)(b)(ii) applies only to a single school district's treatment of a student's enrollment and not to all school districts that may enroll that same student within a school year.

#### Analysis

**A. Arizona Statutes Support the Department's Policy With Regard to Students Concurrently Enrolled in Some Combination of School Districts, JTED Satellites, TAPBIs, and Charter Schools.**

Specific statutory limits regarding the calculation of ADM for students who are concurrently enrolled in a combination of traditional school districts, JTED satellites, TAPBIs, and charter schools support the Department's current policy. Arizona law identifies four scenarios in which ADM for a single student is apportioned between two public schools: 1) a student is enrolled in both a charter school and traditional school district; 2) a student is enrolled in both a charter school and JTED if the student lives within boundaries of a JTED participating district; 3) a student is enrolled in both a traditional school district and a JTED satellite program; and 4) a student is enrolled in a traditional school district or charter school and a TAPBI school. See A.R.S. §§ 15-185(C), -393(D)(3), -808(F).

Under A.R.S. § 15-185(C), a student is prohibited from generating more than 1.0 ADM if the student is concurrently enrolled in both a traditional school district and a charter school. If a student is enrolled in both a charter school and a traditional school district in a single school year and the ADM totals more than 1.0, the Department is required to reduce the ADM amount generated by the student to 1.0 and apportion the ADM between the traditional school district and charter school. A.R.S. § 15-185(C). Similarly, if a student is enrolled in both a charter school and a JTED and resides within the boundaries of a school district that participates in the JTED, the ADM generated by the student's enrollment is capped at 1.25 and must be apportioned between the two institutions. *Id.*

Under A.R.S. § 15-393(D)(3), a fractional student cannot generate more than 1.25 ADM if the student is enrolled in a traditional school district and a career and technical or vocational education course, including JTED satellite courses, in a facility owned or operated by the school district. Under the statute, the JTED and the traditional school district must apportion the 1.25 ADM generated by the student. A.R.S. § 15-393(D)(3).

Under A.R.S. § 15-808(F), a student enrolled in a TAPBI program and a traditional school district or charter school may not generate more than 1.0 ADM and the two entities are required by statute to apportion the ADM.

The Department's policy is consistent with each of these aforementioned statutory caps. Through each of these recently created education options, the Legislature demonstrates a history of limiting ADM at the inception or shortly after the new education option is created. In each instance where a new educational choice is created, the Legislature specifically capped the amount of ADM a student may generate. Thus, it appears from the history of these programs that the legislative intent was to have some sort of cap on the amount of ADM generated by a



student, which supports the Department's interpretation of A.R.S. § 15-901(A)(2)(b)(ii) as it applies to full-time high school students concurrently enrolled in two or more school districts or two or more charter schools.

**B. The Department's Current Policy with Regard to Full-Time High School Students Concurrently Enrolled in Two or More School Districts or Two or More Charter Schools and Is Reasonable Is Entitled to Deference.**

The statutes do not specifically address the issue of concurrent enrollment in two or more school districts or two or more charter schools. For high school students, the statutory language states that "[a] full-time student shall not be counted more than once for computation of [ADM]." A.R.S. § 15-901(A)(2)(b)(ii). This statutory language can be read to support the Department's policy. Although the statute can also be read, as some school districts advocate, to prohibit each district from counting the same student twice, we believe the Department's policy is entitled to some deference.

When a statute is "silent or ambiguous with respect to the specific issue," the agency's interpretation must be upheld when it is "based on a permissible construction of the statute." *Chevron U.S.A., Inc., v. National Res. Def. Council, Inc.*, 467 U.S. 837, 843, 104 S. Ct. 2778, 2782 (1984). When an agency interpretation of a relevant provision conflicts with the agency's earlier interpretation, it is entitled to considerably less deference than a consistently held agency view. *See Watt v. Alaska*, 451 U.S. 259, 273, 101 S. Ct. 1673, 1681 (1981). However, the agency is still entitled to at least some deference. *Motor Vehicle Mfrs. Assn. of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42, 103 S. Ct. 2856, 2866 (1983). In this case, the Department revised its ADM policy in response to the Auditor General's 2007 TAPBI performance audit.

Under the Department's policy, a full-time high school student concurrently enrolled as a full-time high school student in two or more district schools or two or more charter schools

cannot be counted for more than 1.0 ADM. This is supported by the language in A.R.S. § 15-901(A)(2)(b)(ii) prohibiting counting full-time high school students more than once. While the Department's current policy may differ from prior practice and may result in lower funding for Arizona public schools, the Department—as the agency responsible for overseeing the school finance system—is entitled to some deference in its interpretation of A.R.S. § 15-901(A)(2)(b)(ii).

**C. A Full-Time High School Student Concurrently Enrolled in a Traditional School District and a JTED Main Campus May Be Counted Up to 2.0 ADM.**

The statutory language and legislative history pertaining to JTEDs supports an exception from the 1.0 ADM limitation for full-time high school students concurrently enrolled in a traditional school district and a JTED main campus. The statutes governing JTED main campuses specifically require JTEDs to calculate ADM in accordance with A.R.S. § 15-901. A.R.S. § 15-393(C). While the Legislature specifically capped at 1.25 ADM a student enrolled in a traditional school district and a JTED satellite program, A.R.S. § 15-303(D)(3), it did not do so with regard to full-time high school students enrolled at JTED main campuses and traditional school districts. The fact that it did not do so supports the conclusion that it did not intend to place a 1.0 ADM cap on full-time high school students concurrently enrolled in a school district and a JTED main campus. *See Padilla v. Industrial Comm'n*, 113 Ariz. 104, 106, 546 P.2d 1135, 1137 (1976) (stating that when construing a statute, one presumes that what the legislature means, it will say).

In addition, the fact sheet for the JTED omnibus reform bill, which overhauled the JTED educational system in 2006, states explicitly that under the current funding model for JTED main campuses, “both the member district and the JTED are allowed to include each student in their ADM calculation.” *Arizona State Senate, Final Amended Fact Sheet for H.B. 2700, 47<sup>th</sup> Leg.*,

2<sup>nd</sup> Reg. Sess. The fact sheet also cites a December 2004 Auditor General Report, which acknowledges that students attending a school district full time and also attending a JTED main campus full time can be counted up to 2.0 ADM. *Id.*; *see also* Auditor General Report to Legislature, Joint Technological Education Districts: Analysis of an Urban and a Rural JTED, December 2004, Summary at i (“For each student attending its Central courses, the JTED can receive up to a full 1.0 ADM, and the member district can also claim up to 1.0 ADM per student, depending on the amount of instruction minutes they provided the student. Thus, Central classes allow a potential 2.0 ADM to be claimed for each participating student.”).

Thus, high school students who are simultaneously attending a traditional school district and a JTED main campus, and who qualify as full-time students at both institutions, may be counted as 1.0 ADM by each entity for a total of 2.0 ADM.

**D. Elementary Students and Fractional High School Students Are Not Limited to 1.0 ADM.**

The general prohibition in A.R.S. § 15-901(A)(2)(b)(ii) only applies to full-time high school students and not elementary students or fractional high school students. Regarding elementary students, the statute does not expressly prohibit counting an elementary student more than once in the calculation of ADM when that student is attending two or more charter schools or two or more traditional school districts. The limitation on the calculation of ADM to 1.0 per student is only applicable to full-time high school students. Unlike the provision defining full-time high school students, the definition of a full-time elementary student does not explicitly prohibit counting an elementary student more than once for purposes of calculating ADM. *Compare* A.R.S. § 15-901(A)(2)(b)(i) *with* A.R.S. § 15-901(A)(2)(b)(ii). A negative inference may be drawn from exclusion of language from one statutory provision that is included in other provisions of same statute. *State v. Gonzales*, 206 Ariz. 469, 471, ¶11, 80 P.3d 276, 278 (App.

2003) (explaining that “the rule of *expressio unius est exclusio alterius* . . . is a rule of statutory construction meaning that the expression of one thing is the exclusion of another”). This canon of *expressio unius est exclusio alterius* does not apply to every statutory listing or grouping; it has force only when the items expressed are members of an associated group or series, justifying the inference that items not mentioned were excluded by deliberate choice, not inadvertence. *Barnhart v. Peabody Coal Co.*, 537 U.S. 149, 168 (2003). Here, the statutory provisions at issue are part of the statute detailing the parameters of a full-time student. See A.R.S. §§ 15-901(A)(2)(b)(i) and 15-901(A)(2)(b)(ii). The provision defining a full-time high school student for purposes of calculating ADM contains an explicit ban against counting a full-time student twice. The statutory provisions defining a full-time and fractional elementary student do not. See A.R.S. § 15-901(A)(2)(a)(i) and (b)(i). Thus, the prohibition against counting full-time high school students more than once for purposes of determining ADM does not generally apply to students attending elementary schools.<sup>8</sup> Because this aspect of the Department’s new policy is contrary to the statutory scheme, it is not entitled to deference.

Similarly, the prohibition against counting students more than once does not apply to the counting of fractional high school students in the calculation of ADM. A fractional high school student may generate more than 1.0 ADM when concurrently enrolled two or more charter schools, two or more traditional school districts or a traditional school district and JTED main campus. For high schools, a “fractional student” is defined as:

[A] part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education in a

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<sup>8</sup> While A.R.S. § 15-901(A)(2)(b)(ii) does not generally limit elementary students to 1.0 ADM, there are specific instances where statutes expressly limit the amount of ADM an elementary school student may generate. The statutes limit the calculation of ADM to 1.0 for elementary and high school students concurrently enrolled in a charter school and a traditional school district as well as students concurrently enrolled in a traditional school district or charter school and a TAPBI. A.R.S. §§ 15-185(C), and 15-808(F). The limitations do not apply to elementary students concurrently enrolled in two or more school districts or two or more charter schools.

recognized high school and who is taught in less than twenty instructional hours per week prorated for any week with fewer than five school days. A part-time high school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of a full-time instructional program.

A.R.S. § 15-901(A)(2)(a)(ii).

Like elementary school students, the Legislature placed no cap on the face of the statute dealing with fractional high school students. *See* A.R.S. § 15-901(A)(2)(a)(ii).<sup>9</sup> Moreover, there are no statutory limitations involving fractional students enrolled in two or more school districts, two or more charter schools, or a traditional school district and a JTED main campus. If the Legislature intended to place a cap on fractional high school students in these scenarios, it would have done so. *See Padilla*, 113 Ariz. at 106, 546 P.2d at 1137 (stating that when construing a statute, one presumes that what the legislature means, it will say).

The legislative history for JTEDs confirms that a fractional high school student can generate more than 1.0 ADM. A 1991 House Education Committee Summary for S.B. 1264,<sup>10</sup> indicates that a fractional student enrolled in both a JTED main campus and a school district could generate a fractional amount at each institution totaling more than 1.0 ADM. The summary states as follows:

In general a student is considered "full time" if enrolled in at least four courses. If a student is full-time, the student, for purposes of receiving state aid, is counted by the district as 1.0. If a pupil takes three courses, the pupil is counted as .75. Therefore, if a pupil were enrolled in three courses within the resident district and an additional three courses in the joint district, the pupil would be counted as .75 by each district, for a total sum count of 1.5.

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<sup>9</sup> While A.R.S. § 15-901(A)(2)(a)(ii) does not generally limit fractional students to 1.0 ADM, there are specific instances where statutes expressly limit the amount of ADM a fractional student can generate. Specifically, A.R.S. § 15-185(C) places a 1.0 ADM cap on full-time and fractional students enrolled in both a charter school and a school district; 15-808(F) places a 1.0 ADM cap on full-time and fractional students enrolled in a TAPBI and a school district or charter school; and 15-393(D)(3) places a 1.25 ADM cap on fractional students enrolled in a school district and JTED satellite program.

<sup>10</sup> Senate Bill 1264 created the 1.25 cap for students enrolled in school districts and JTED satellite programs.

Ariz. House of Representatives, Educ. Comm. Summary for S.B. 1264, 40<sup>th</sup> Leg., 1<sup>st</sup> Reg. Sess., at 47 (1991). Arizona Attorney General Opinion I04-002 supports this analysis.<sup>11</sup> That opinion stated that “[t]he definition of ‘fractional student’ under A.R.S. § 15-901(A)(2)(a)(ii) allows a student who attends a high school facility part-time and a JTED part-time to be counted for attendance purposes in an amount greater than a whole.” Ariz. Op. Att’y Gen. No. I04-002. The opinion also stated that “[a] student who took three classes at a JTED and three classes in the high school facility would be counted as 1.5.” *Id.*

Although this legislative history and Attorney General Opinion addressed the fractional student issue in the context of JTEDs, the analysis applies equally to concurrent enrollment in charter schools or traditional school districts. Traditional school districts, charter schools and JTEDs are all subject to the fractional high school student definition under A.R.S. § 15-901(A)(2)(a)(ii). *See* A.R.S. §§ 15-901(A)(2)(a)(ii); 15-185(A)(1) and (B)(2); 15-393(D)(3) respectively. As the Attorney General Opinion analyzed the definition of “fractional student” generally and indicated that a fractional high school student could count for an amount greater than the whole, this analysis applies to any school that is subject to A.R.S. § 15-901(A)(2)(a)(ii), unless some other limiting language applies. As previously discussed, no other limiting language applies to fractional high school students concurrently enrolled in two or more traditional school districts, two or more charter schools, or in a traditional school district and a JTED main campus. Therefore, these fractional students may generate more than 1.0 ADM.

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<sup>11</sup> The opinion analyzed A.R.S. § 15-393(D)(3) in 2004, when the statute applied the 1.25 cap to a facilities “owned and operated by a school district in which [a] pupil is enrolled.” Ariz. Op. Att’y Gen. No. I04-002, at 2. The Legislature subsequently amended the statute to apply to facilities “owned or operated by a school district in which a pupil is enrolled.” 2005 Ariz. Sess. Laws, ch. 294, §3.

### Conclusion

Arizona statutes specifically address ADM in the four following scenarios: (1) a student enrolled in both a charter school and a JTED who resides within the boundaries of a school district participating in the JTED may generate up to 1.25 ADM; (2) a student enrolled in a traditional school district and a JTED satellite program where the career and technical education and vocational education courses or programs, including satellite courses, are provided in a facility owned or operated by the school district in which a student is enrolled may generate up to 1.25 ADM; (3) a student enrolled in a traditional school district or a charter school and a TAPBI cannot generate more than 1.0 ADM; and (4) a student enrolled in a traditional school district and a charter school cannot generate more than 1.0 ADM.

The language of A.R.S. § 15-901(A)(2)(b)(ii) supports the current policy of the Department limiting full-time high school students concurrently enrolled in two or more traditional school districts or two or more charter schools to 1.0 ADM. However, statutory language and legislative history pertaining to JTEDs supports an exception from the 1.0 ADM limitation for full-time high school students concurrently enrolled in a traditional school district and a JTED main campus. In addition, elementary and fractional students are not limited to 1.0 ADM.

Terry Goddard  
Attorney General

| <b>Type of Concurrent Enrollment</b>  | <b>Maximum ADM permitted under law</b>  | <b>Authority</b>   |
|---|---|--|
| For any student who is concurrently enrolled in a <b>District and Charter</b>   | ADM must be apportioned between the district and charter not to exceed 1.0 ADM. Apportionment is based on the percentage of total time that the pupil is enrolled or in attendance at the public school and the charter school. | A.R.S. § 15-185(C)   |
| For any student who is concurrently enrolled in a <b>Charter and JTED</b> (if student lives within boundaries of a member district participating in the JTED)         | ADM must be apportioned between the JTED and the charter not to exceed 1.25.  | A.R.S. § 15-185(C)   |
| For any student who is concurrently enrolled in a <b>School District and TAPBI</b> Or <b>Charter School and TAPBI</b>   | ADM must be apportioned between the two entities not to exceed 1.0 ADM. Apportionment is based on the percentage of total time that the pupil is enrolled or in attendance at the district or charter and the TAPBI.            | A.R.S. § 15-808(F)   |
| For any student who is concurrently enrolled in a <b>District and JTED Satellite</b> (in a facility owned or operated by the district in which the pupil is enrolled) | Sum of <i>fractional</i> ADM shall not exceed 1.25 ADM.   | A.R.S. § 15-393(D)(3)  |
| For a full-time high school student who is concurrently enrolled in:<br><b>2 Districts</b><br>Or<br><b>2 Charters schools</b>   | A full-time student cannot exceed 1.0 ADM.  | A.R.S. §§ 15-901(A)(2)(b)(ii)  |
| For a full-time high school student who is concurrently enrolled in a <b>member School District and a JTED Main Campus</b>  | A full-time high school student concurrently enrolled in a member school district and a JTED main campus may be counted up to 2.0 ADM.  | Ariz. State Senate, Final Amended Fact Sheet for H.B. 2700, 47 <sup>th</sup> Leg. 2 <sup>nd</sup> Reg. Sess. |
| For a fractional student concurrently enrolled in:<br><b>2 Districts;</b><br><b>2 Charter Schools;</b> or<br><b>a District and a JTED Main Campus</b>                 | A fractional student may generate multiple enrollments that exceed 1.0 ADM.   | A.R.S. § 15-901(A)(2)(a)(ii)   |



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| <p>For a <b>full-time elementary student</b> who is concurrently enrolled in two school districts or two charter schools and none of the caps on ADM apply (see above)</p> | <p>There is no limitation on ADM.</p> | <p>A.R.S. §§ 15-901(A)(2)(a)(i) and -901(A)(2)(b)(i)</p> |
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