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COMMITTEES:
EDUCATION
WAYS & MEANS

DISTRICT 13

June 30, 2023

Dear Attorney General Mayes:

We are writing to request a formal attorney general's opinion pursuant to A.R.S. § 41-193(A)(7) regarding dual language programs in place in public schools throughout Arizona and whether those programs comply with the voter-approved requirements for English-language instruction as set forth in Proposition 203, codified at A.R.S. §§ 15-751-755.

In Arizona, we have tremendous school choice options. One of these options is Dual Language Immersion (DLI). By way of example, in legislative district 13 alone, there are seven schools that offer DLI programming in either Spanish or Mandarin. Parents of nearly 1,000 students in that legislative district have enrolled their children in the programs because they offer an incredible opportunity for students to become bilingual (or multi-lingual) before they graduate from high school.

Last week, Superintendent of Public Instruction Tom Horne declared that the DLI 50/50 models do not comply with Proposition 203, and as a result of his claim, schools offering this model are at risk of losing funding if students who are not proficient in English participate in this model. See Letter from T. Horne regarding English Language Learner, dated June 19, 2023, available at <https://www.azed.gov/sites/default/files/2023/06/English%20Language%20Learners%20DRAFT%204%20%20FINAL.pdf>. Waivers are available on the Department of Education's website, but they do not seem to address the issue of allowing the DLI 50/50 program as an alternative English instructional model. See Letter from A. Santa Cruz, Office of English Language Acquisition Services, dated June 20, 2023, available at https://www.azed.gov/sites/default/files/2023/06/Emailed%20Communication-50-50%20Dual%20Language%20Immersion%20Letter%20to%20LEAs%20_6.20.23.pdf.

For background, in 2019, the Arizona Legislature passed SB1014 which updated our laws relating to the instruction of English. See Ariz. Laws 2019, ch. 3 § 3, codified at A.R.S. § 15-756.01. This bill directed the State Board of Education to adopt alternative models for teaching English, and it reduced the number of minutes students are required to be in a Structured English setting to 120. The DLI 50/50 models split instruction so that half the day is taught strictly in English and half the day is taught in only the other language. See Ariz. Dep't of Education, 50-50 Dual Language Immersion Model, dated March 27, 2020, available at <https://www.azed.gov/sites/default/files/2020/01/50-50%20Dual%20Language%20Immersion%20Model%2003.27.2020.pdf?id=5e348a0503>.

With so much at stake for a system that has proven effective and popular with parents and students, I respectfully request an opinion on the following questions:

1. Does the DLI 50/50 program satisfy the requirements of Proposition 203?
2. Does the Superintendent of Public Instruction have unilateral authority to withdraw an option for public schools to offer a DLI 50/50 program without a vote of the Arizona Board of Education?

Attorney General Mayes

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3. Does the Superintendent of Public Instruction have the authority to withhold funding from public schools that offer the DLI 50/50 program regardless of whether students are proficient in English or in another language?

4. If parents complete one of the three waivers available on the Department of Education's website, will their children be permitted to participate in a DLI 50/50 program?

Because the 2023-24 school year commences in less than a month, there is urgency in my request.

Respectfully,

Representative Jennifer Pawlik
Legislative District 13



Representative Laura Terech
Legislative District 4



Nancy Gutierrez
Legislative District 18



Judy Schwiebert
Legislative District 2

