



STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

<p>ATTORNEY GENERAL OPINION</p> <p>by</p> <p>TERRY GODDARD ATTORNEY GENERAL</p> <p>September 2, 2008</p>	<p>No. I08-007 (R08-027)</p> <p>Re: Calculation of Average Daily Membership by School Districts</p>
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To: David Swartz, Esq.
Udall, Shumway & Lyons

Pursuant to Arizona Revised Statutes ("A.R.S.") § 15-253(B), you submitted for review an opinion you prepared for Dr. David Allison of the Gilbert Unified School District regarding how a school district calculates attendance of high school students for purposes of determining average daily membership ("ADM"). This Office concurs with your conclusion and writes this Opinion because the issue presented is of statewide importance.

Questions Presented

In calculating attendance of high school students for purposes of determining ADM, is a school district required to report only absences and, if so, must it consider as

absent those students who do not meet a daily minimum of at least four hours of attendance?

Summary Answer

When reporting attendance of high school students for determining ADM, a school district is not limited to reporting only absences based on a requirement that a student be present a certain number of hours a day. Rather, a school district may determine full-time student status by considering annual hourly totals comprising an instructional program, as described in A.R.S. § 15-901(A)(2).

Analysis

Arizona school districts are required to record and report electronically to the Arizona Department of Education (“ADE”) “membership and attendance on a school by school basis for each day school is in session.” A.R.S. § 15-902(I).¹ This data is then used to calculate the school district’s base support level. A.R.S. § 15-943. “Absences shall be made a part of the attendance record” being forwarded electronically to the ADE. A.R.S. § 15-902(J).

There are several statutory methods for counting student attendance for school funding purposes, all of which meet the requirements of Arizona law. Generally, public schools are required to operate on either a four- or five-day-per-week calendar.² A.R.S. §§ 15-801(A), -861(A). However, this provision cannot be read in a vacuum. *Hoy v. State*, 150 Ariz. 416, 418, 724 P.2d 35, 37 (App. 1984) (“Statutes are not to be interpreted

¹ Charter schools are required to comply with ADM reporting requirements, pursuant to A.R.S. § 15-185.

² Alternative education programs are an exception to the general rule and may report a pupil as having attended full-time in any week during which the pupil was enrolled in and physically attending at least 20 hours of instruction during that week. A.R.S. §§ 15-796, -797.

in a vacuum, and the legal relationships mandated by one statute cannot be ignored in interpreting another.”).

In considering what qualifies as average daily attendance of high school students under A.R.S. § 15-901(A), the following definitions also guide the analysis:

- **Average daily membership** means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first 100 days in session. A.R.S. § 15-901(A)(2).
- **Fractional student** or part-time student means, for high schools, a student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education in a 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.R.S. § 15-901(A)(2)(a)(ii).
- For high schools, a **full-time student** means, except as provided in section 15-105,³ a student not graduated from the highest grade taught in the school district, or an ungraded student at least fourteen years of age by September 1, and enrolled in at least a full-time instructional program of subjects that count toward graduation as defined by the state board of education in a recognized high school. A.R.S. § 15-901(A)(2)(b).
- A **full-time instructional program** means an instructional program that meets at least a total of 720 hours during the minimum number of days required and includes at least four subjects each of which, if taught each

³ A.R.S. § 15-105 deals with the issue of early graduation and the allowance of school districts to include early graduates in the student count. A.R.S. § 15-105(E).

school day for the minimum number of days required in a school year, would meet a minimum of 123 hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least 20 hours per week prorated for any week with fewer than five school days. A.R.S. § 15-901(A)(2)(c)(vi).

In addition, A.R.S. § 15-901(A)(6)(d) provides that, in the case of high schools and certain ungraded high schools,

the attendance of a pupil shall not be counted as a full day unless the pupil is actually in attendance and enrolled in and carrying 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 one hundred twenty hours a year; or the equivalent; that count toward graduation in a recognized high school.

(Emphasis added.)

Limiting calculation of student attendance to a requirement that a student be present a certain number of hours a day would ignore these other statutory provisions, which provide lawful alternate ways of calculating attendance. *See Redhair v. Kinerk, Beal, Schmidt, Dyer & Sethi, P.C.*, 218 Ariz. 293, 295, 183 P.3d 544, 546 (App. 2008) (when construing a statute, the court gives effect to each word, phrase, clause, and sentence so that no part of the statute will be void, inert, redundant, or trivial). Moreover, the phrase, “if taught each school day for the minimum number of days required in a school year” in A.R.S. § 15-901(A)(2)(c)(vi) and (A)(6), indicates a per-day hourly minimum is not the sole method of establishing whether a student is a full-time student for purposes of determining ADM. This statute’s subsections focus on a student’s attendance based upon yearly totals and recognize that not all classes at the high school level will necessarily be taught every day. The Legislature, thus,

contemplated satisfaction of the instructional hourly requirements on a cumulative basis, rather than on a daily minimum number of hours basis.⁴

Using all of the statutory definitions that the Legislature has provided, a full-time student is one in a full-time instructional program that satisfies the criteria in A.R.S. § 15-901(A)(2)(c)(vi). That statute defines a full-time instructional program as one that meets at least 720 hours over the minimum required days of school and includes (1) at least four subjects which, if taught each school day for the minimum number of days, would meet a minimum of 123 hours a year, or the equivalent, or (2) one or more subjects taught in amounts of time totaling at least 20 hours per week. *Id.*

The Legislature has in other instances clearly required attendance of four hours a day each day of school. *See, e.g.,* A.R.S. § 15-901(A)(6)(f) (“For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction.”). Thus, the Legislature presumably knows how to require that attendance be calculated solely upon the number of daily hours attended. Had the Legislature intended that attendance be calculated solely in that manner in the case of high school students in general, it would have omitted the criteria that use a cumulative hourly attendance count. *See Dowling v. Stapley*, 218 Ariz. 80, 84, 179 P.3d 960, 964 (2008) (noting that Legislature has shown that it knows how to

⁴ This conclusion is consistent with the conclusion reached in a 1986 opinion, with which this Office concurred. *See* Ariz. Att’y Gen. Op. I86-064 (“The use of the word ‘if’ implies that each subject may not be taught each day for the minimum number of days required in the school year, but must meet a minimum of 120 hours a year. This supports our interpretation that allows a certain daily flexibility as long as the 120 hours per year requirement is met.”).

specify who may offer educational services for homeless children when that is what it means).

Conclusion

In determining ADM, a school district is not limited to reporting only absences based on a requirement that a student be present a certain number of hours a day. Rather, a school district may determine full-time high school student status by considering annual hourly totals comprising an instructional program.

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