



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CIVIL DIVISION/EDUCATION AND HEALTH SECTION

LESLIE KYMAN COOPER
ASSISTANT ATTORNEY GENERAL
DIRECT: (602) 542-8349
LESLIE.COOPER@AZAG.GOV

December 10, 2014

Via email: Carrie.O'Brien@azed.gov

Carrie O'Brien
Director of Legal Services
Arizona Department of Education
1535 W. Jefferson Street
Phoenix, AZ 85007

RE: Update of September 2013 Letter regarding Parent Requests to Opt Out of State-Mandated Testing

Dear Carrie:

You have asked this Office to update its letter dated September 16, 2013, regarding parents' ability to opt out of state-mandated assessments, in light of the State Board of Education's decision to adopt the AzMERIT exam. Beginning in 2015, AzMERIT replaces AIMS as the statewide achievement test. As with AIMS, students in Grades 3 through 8 will take an annual assessment in English language arts and mathematics at their grade level. Students taking high school level English language arts courses and Algebra 1, Geometry, Algebra II and their equivalents will be required to take the appropriate AzMERIT end-of-course exam.

In the September 2013 letter, we explained that parents of public school students cannot choose to have their children opt out of state-mandated assessments. The selection of a specific exam does not change the conclusions reached in either the September 2013 letter or the Arizona Attorney General Opinion I97-008. That Opinion originally explained that there is no basis for parents to withdraw their students from statewide assessments. While the new assessment differs from AIMS in that high school

students will no longer need to pass a specific exam to graduate from high school, that difference does not change the analysis. The new assessment is still a part of the State Board-established standards for students. And, students' scores on the exam will still be a part of the State's Accountability determinations. A.R.S. §§ 15-741, 743, 746.

As noted earlier, nothing in A.R.S. § 15-102, which addresses parental involvement in schools, allows a parent to withdraw a child from testing. While A.R.S. § 15-102 does provide that a parent may withdraw a child from a learning activity or prevent them from being exposed to a learning material if such activity or material "questions beliefs or practices in sex, morality or religion," a statewide assessment of achievement is neither a learning activity nor a learning material.

Thus, as this Office concluded on two earlier occasions, parents may not refuse to allow their children to participate in mandatory achievement assessments.

Sincerely yours,

A handwritten signature in black ink that reads "Leslie Kyman Cooper". The signature is written in a cursive style with a long, sweeping underline.

Leslie Kyman Cooper
Education Unit Chief
Education and Health Section

LKC:mig

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