



Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

October 19, 1979

The Honorable Robert B. Usdane  
Arizona State Senate  
State Capitol  
Phoenix, Arizona 85007

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Re: I79-254 (R79-269)

Dear Senator Usdane:

This is in response to your letter of October 4, 1979, relating to 1979 Ariz. Sess. Laws, Chapter 83, dealing with the immunization of school children. You have asked whether Chapter 83 allows school districts to expel students whose parents have failed to comply with the requirements for providing the school with immunization records of their children.

Chapter 83 of 79 Ariz. Sess. Laws amended A.R.S. § 15-342 to state:

Beginning with the 1979-80 school year, prior to attending school in this state, the parent or guardian or person in loco parentis of a child shall submit to the school administrator an immunization record of such child if such a record has not previously been submitted to the school. Such record shall contain one of the following statements signed by such parent or guardian or person in loco parentis:

1. That the child has received the immunizations prescribed by the department of health services pursuant to § 15-343.
2. That the physical condition of the child is such that such immunizations would seriously endanger the child's health.

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3. That the child has not received such immunizations because the child is reared as an adherent to a religion the teachings of which are opposed to such immunizations.

4. That the child's necessary immunizations will be initiated within sixty days of the first day of school attendance and completed in accordance with § 15-343.

Nothing contained in the above provisions specifically authorizes school districts to expel a student for the failure of the parent, guardian or person in loco parentis of such child to submit the proper immunization records to the school. The right to a free public education is constitutionally guaranteed in Arizona. See Ariz. Const., Art. 11, § 6. Therefore, we cannot imply that a statute intends to deny a child of this fundamental right absent clear statutory language to that effect. We conclude that A.R.S. § 15-342 does not authorize school districts to expel students based upon the failure of their parents, guardians or persons in loco parentis to comply with the statute.<sup>1/</sup>

Sincerely,



BOB CORBIN  
Attorney General

BC/mm

<sup>1/</sup> We note that at the same time the Legislature amended A.R.S. § 15-342, it included within the same bill an amendment to A.R.S. § 36-629, which provides:

G. No minor child shall be permitted to attend a school in the state during a period in which a smallpox epidemic is prevalent in the school unless the child has been vaccinated against smallpox.

Had the Legislature intended that a child should not be permitted to attend school if that child had not received other immunizations, we presume it would have used equally explicit language.