



MEMORANDUM

Date: July 30, 2019

To: The Honorable Dustin Williams
Pima County School Superintendent

From: C.H. Huckelberry
County Administrator 

Re: **State of Arizona Office of the Attorney General Legal Opinion Regarding Reimbursement for Children Ages 18 to 21 in a Jail Education Program**

Please see the attached Legal Opinion issued by the Arizona Office of the Attorney General on July 29, 2019. The Opinion indicates the County cannot receive any reimbursement for children ages 18 to 21 receiving jail education through the Accommodation District, unless they are "disabled."

I believe we discussed this matter during budget preparation and you indicated that you would attempt to recover Accommodation District costs even though it may not fully reimburse the County for our costs. This Opinion indicates the County cannot be reimbursed for education of children between the ages of 18 to 21, unless they are disabled.

Please provide what you believe is the annual cost impact of the County in providing this education, but receiving no reimbursement from the State. The amount would add to the already \$88 million cost shift the County incurs from the State.

I will also ask the Board of Supervisors to consider including appropriate corrective legislation to fully reimburse the County for all costs associated with providing all children under the age of 21 an education through an Accommodation District (both in the Juvenile Detention Center and the Pima County Adult Detention Complex) in our Legislative Agenda for the next session of the Arizona Legislature.

Attachment

c: The Honorable Chairman and Members, Pima County Board of Supervisors
Andrew Flagg, Chief Civil Deputy County Attorney
Jan Leshner, Chief Deputy County Administrator
Tom Burke, Deputy County Administrator for Administration
Michael Racy, Racy Associates, Inc.



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION By MARK BRNOVICH ATTORNEY GENERAL July 29, 2019	No. I19-003 (R19-010) Re: Whether children ages eighteen to twenty-one in a jail education program through an accommodation school under A.R.S. § 15-913.01(C) are eligible for state education funding
--	---

To: Daniel Jurkowitz
Deputy County Attorney
Pima County Attorney

Question Presented

When a county offers a jail education program through an accommodation school under A.R.S. § 15-913.01(C), is the county eligible to receive state education funding for county jail prisoners who participate in the program and are between the ages of eighteen and twenty-one but are not persons with disabilities?

Summary Answer

No. State education funding is available only for the two categories of prisoners for whom counties are required to offer a jail education program: (1) all prisoners who are under the age of eighteen, and (2) prisoners with disabilities who are between the ages of eighteen and twenty-one.

Background

Under Arizona law, “[e]ach county that operates a county jail shall offer an education program to serve all prisoners who are under eighteen years of age and prisoners with disabilities who are age twenty-one or younger and who are confined in the county jail.” A.R.S. § 15-913.01(A). “A county may operate its county jail education program through an accommodation school that provides alternative education services pursuant to § 15-308.” *Id.* § 15-913.01(C). If it does, then “each pupil enrolled in the accommodation school county jail education program shall be funded at an amount equal to seventy-two per cent of the amount for that pupil if that pupil were enrolled in another accommodation school program.” *Id.*

Pima County operates a jail education program through the County’s accommodation school. It has chosen to make that program available to prisoners who are twenty-one years old or younger regardless of whether they are persons with disabilities.

Pima County Attorney Opinion No. 2019-01 (“PCAO 2019-01”) concluded that state education funding is available for all “children ages eighteen to twenty-one” who participate in this program, “since the education program is offered through a school district.” Pursuant to A.R.S. § 15-253(B), the Pima County Attorney submitted PCAO 2019-01 to the Attorney General. That statute requires the Attorney General to “concur, revise or decline to review” county attorneys’ opinions relating to school matters. This Opinion revises PCAO 2019-01.

Analysis

Statutory interpretation begins—and, where the language is unambiguous, ends—with the statute’s plain language. *Glazer v. State*, 244 Ariz. 612, 614, ¶ 9 (2018). This “‘plain language’ interpretation does not focus on statutory words or phrases in isolation.” *Id.*, ¶ 10. Instead, “[w]ords in statutes should be read in context in determining their meaning,” and “[i]n

construing a specific provision, we look to the statute as a whole.” *Id.* (quoting *Stambaugh v. Killian*, 242 Ariz. 508, 509, ¶ 7 (2017)).

Read as a whole, § 15-913.01 leaves no doubt that state education funding is available only for the two categories of prisoners to whom counties must offer jail education programs. As noted, paragraph (A) of that statute sets forth the parameters of the jail education programs that counties are required to provide: “Each county that operates a county jail shall offer an education program to serve [1] all prisoners who are under eighteen years of age and [2] prisoners with disabilities who are age twenty-one or younger and who are confined in the county jail.” A.R.S. § 15-913.01(A). Paragraph (C) then sets forth the state funding that is available when a county chooses to operate such a program through an accommodation school: “[E]ach pupil enrolled in the accommodation school county jail education program shall be funded at an amount equal to seventy-two per cent of the amount for that pupil if that pupil were enrolled in another accommodation school program.” *Id.* § 15-913.01(C). That paragraph’s reference to funding for “*each* pupil enrolled” cannot be read in isolation to mean that funding is available for *any* student whom a county chooses to enroll in its jail education program. *Id.* (emphasis added). Instead, paragraphs (A) and (C) must be read together as part of the same statutory whole. *See Glazer*, 244 Ariz. at 614, ¶ 10. And read together their meaning is clear: state funding is available only for the two categories of prisoners to whom counties must offer a jail education program: (1) all prisoners under the age of eighteen, and (2) prisoners with disabilities who are between the ages of eighteen and twenty-one.

The Pima County Attorney’s contrary conclusion—that all “children ages eighteen to twenty-one in a jail education program through an accommodation school . . . are eligible for state education funding” because “the education program is offered through a school district”—is

incorrect. The County Attorney reasoned that under A.R.S. §§ 31-121(A) and 15-824(B), county jail prisoners reside within the Pima Accommodation School District; and under § 15-821(A), “all schools shall admit children who are between the ages of six and twenty-one years, who reside in the school district and who meet the requirements for enrollment in one of the grades or programs offered in the school.” But it does not follow that § 15-821 requires that accommodation school county jail education programs must admit all county jail prisoners under the age of twenty-one. Section 15-821(A) begins with the limiting clause “[u]nless otherwise provided by . . . any other law,” and § 15-913.01(A)—which defines the two categories of prisoners to whom counties must offer jail education programs—is such an “other law.”

Even without the express limitation in § 15-821(A), principles of statutory interpretation require that the more specific definition in § 15-913.01(A) apply here. “When provisions of a general statute are inconsistent with those of a special nature on the same subject, the special statute controls.” *Arden-Mayfair, Inc. v. State, Dep’t of Liquor Licenses & Control*, 123 Ariz. 340, 342 (1979). Section 15-821 governs admission to all public common and high schools in Arizona. Section 15-913.01 specifically governs county jail education programs. If they were in conflict, § 15-913.01 would control over § 15-821.

Section 15-913.01 also would control over the other two, more general statutes on which the County Attorney relied: § 15-797(A), which generally provides that school districts may count pupils for daily attendance if they are enrolled in and attending an alternative education program; and § 15-361, which provides that school districts may establish evening or night schools open to children between the ages of fourteen and twenty-one. Both of these general statutes would yield to § 15-913.01, which specifically governs county jail education programs.

Conclusion

The State must provide funding to a jail education program only for those two categories of prisoners identified in A.R.S. § 15-913.01(A)—(1) all prisoners under eighteen years of age, and (2) prisoners with disabilities who are age twenty-one or younger.

Mark Brnovich
Attorney General