

**To: The Honorable Lisa Graham Keegan,  
Superintendent of Public Instruction**

**September 15, 2000**

**Re: State Funding for Students in Early  
Kindergarten and Early First Grades  
I00-023  
(R00-013)**

### **Questions Presented**

1. May school districts count students who are enrolled in early first grade programs as full-time students for purposes of State school funding?
2. May school districts count students who are enrolled in early or pre-kindergarten programs as half-time students for purposes of State school funding?

### **Summary Answers**

1. The State funding for students in a program labeled "early" first grade depends on the nature of the program. If such program is designed, based on the State standards and district curriculum, for students to complete first grade and advance to second grade, then the students in the program are first graders for the purposes of State funding, and they are counted as full-time students. However, if the program is, based on the State standards and district curriculum, designed for children to move from "early" first grade into first grade the following year, the children are considered kindergartners for the purposes of State funding, and they are counted as half-time students.
2. The State funding for students in a program labeled "early" kindergarten also depends on the nature of the program. If such a program is designed, based on the State standards and district curriculum, for children to complete the kindergarten curriculum and advance to first grade, then the students in the program are considered kindergartners for the purposes of State funding, and are counted as half-time students. However, if a program labeled "early" kindergarten is designed to prepare children for kindergarten, then the program is not a kindergarten, and the students are not counted for the purposes of calculating State aid under the school finance formula.

### **Background**

#### **Eligibility for Kindergarten and First Grade**

Age determines whether a child is eligible to enter kindergarten or first grade in a public school in Arizona. See A.R.S. § 15-821. A child is eligible for kindergarten if the child is five years old, and "a child is deemed five years of age if the child reaches the age of five before September 1 of the current school year." A.R.S. § 15-821(C). The Legislature has given school district governing boards the discretion to admit children into kindergarten who turn five between September 1 and January 1 of the current school year "if it is determined to be in the best interests of the children." *Id.*

The age requirements for first grade track the age requirements for kindergarten. A child is eligible for first grade if the child is six years of age, and "a child is deemed six years of age if the child reaches the age of six before September 1 of the current school year." A.R.S. § 15-821(C).

A governing board may admit into first grade children who turn six between September 1 and January 1 "if it is determined to be in the best interests of the children." *Id.* This determination is to be made "based upon one or more consultations with the parent, parents, guardian or guardians, the children, the teacher and the school principal." *Id.*

### **State Funding**

State funding for school districts is based on a statutory formula that considers, among other things, the number of students within a district or "average daily membership." A.R.S. §§ 15-941 through -971. Under the State funding scheme, kindergarten students are "fractional" and count "as one-half of a full-time student." A.R.S. § 15-901(A)(2)(a)(i). A kindergarten student for the purposes of the funding statutes is "at least five years of age prior to January 1 of the school year and enrolled in a school kindergarten program that meets at least three hundred forty-six instructional hours during the minimum number of days required in a school year . . . ." *Id.* Because the State funds only half-day kindergarten programs through the school finance formula, school districts offering all-day programs must pay for the half not supported by State funds from other resources. See Ariz. Att'y Gen. Op. I99-026 (fees for extended day kindergarten).

The State funds first grade students as full-time students, and the State requires that full-time students in first, second and third grade "be enrolled in an instructional program that meets for a total of at least six hundred ninety-two hours during the minimum number of days required in a school year . . . ." A.R.S. § 15-901(A)(2)(b)(i).

Except for specifying a minimum number of hours, the Legislature does not establish substantive requirements for kindergarten or first grade programs. Instead, the Legislature requires the State Board of Education ("State Board") to establish academic standards for public schools and requires school districts to develop curriculum designed to meet the State's standards. A.R.S. § 15-701.

### **Preschool Programs**

In addition to funding kindergarten through twelfth grade, the State provides funding through the statutory formula for preschool for children with disabilities. A.R.S. §§ 15-901(A)(2)(a)(i), -943. This is the only preschool program funded through the school finance formula. A "preschool child" eligible for this program must be at least three years of age but not yet old enough for kindergarten and must have a hearing impairment, visual impairment, speech or language delay or another disability specified in statute. A.R.S. § 15-771(A), (F).<sup>(1)</sup>

### **"Early" Kindergarten and First Grade**

Your question concerns the State's obligation to fund "early" kindergarten and "early" first grade programs. According to your opinion request, these programs are for children who turn five between September 1<sup>st</sup> and January 1<sup>st</sup> of the current school year. You indicate that from "early" kindergarten, the children are "promoted" to the "regular" kindergarten program the following year. Similarly, according to your opinion request, early or transitional first grade programs are aimed at students who turn six between September 1 and December 31 of the current school year. You indicate that after a year in an early first grade program the students will attend first grade. Although your letter assumes the students in early first grade programs are kindergartners, you also indicate that these students are not enrolled in a traditional kindergarten program. Your question concerns how these programs fit within the State's school's finance

formula.

### Analysis

In construing the statutes governing State funding for school districts, the goal is to implement the Legislature's intent. *Canon Sch. Dist. v. W.E.S. Constr. Co.* 177 Ariz. 526, 529, 869 P.2d 500, 503 (1994). This requires an examination of several factors, including the statutes' context, its language, subject matter and historical background, its effects and consequences and its spirit and purpose. *Hayes v. Continental Ins. Co.* 178 Ariz. 264, 268, 872 P.2d 668, 672 (1994). State funding for students in "early" kindergarten or "early" first grade depends on whether the students are, in fact, in kindergarten or first grade programs. The Legislature has provided State funding for preschool for children with disabilities, and for children in kindergarten through grade twelve. See, e.g., A.R.S. 15-901 (definitions applicable to funding formula). The Legislature has not, however, expressly addressed funding for students in programs labeled "early" kindergarten, or "early" first grade.<sup>(2)</sup> Thus, determining how districts must count students in such programs for the purposes of receiving State funding requires an analysis of the substance of the particular program, measured against State standards and district curriculum. See *State v. Cid*, 181 Ariz. 496, 499, 892 P.2d 216, 219 (App. 1995) (related statutes should be read together).

Through various statutes the Legislature has established a system of standards and promotion in which each grade is designed to prepare the child for the next, and teachers are responsible for deciding, based on district criteria, whether to promote a student to the next grade or retain a student. See A.R.S. § 15-701 (school district curriculum must meet State standards; guidelines for decisions regarding promotion of students); *Ariz. Dep't of Educ., Arizona Academic Standards & Accountability* <http://www.aazdes.gov/standards/>. This system provides for one year of each grade, unless a child is retained based on the individual needs of that child.

Under such a system, if an "early" kindergarten program is designed for the students to complete the district's kindergarten curriculum and advance to first grade, then it is a kindergarten program and the students in such a program are counted as half-time students for the purposes of State funding. See A.R.S. § 15-901(A)(2)(a)(i) (funding for kindergarten students). If, however, the program is not designed to complete the kindergarten curriculum but rather prepares children for kindergarten, then it is a preschool program, rather than kindergarten, and the Legislature has not provided for State funding through the formula for students in such programs.<sup>(3)</sup>

A similar analysis applies to "early" first grade programs. The statutes do not contemplate a step between kindergarten and first grade. For the purposes of State funding, transitional or early first grade must be classified as either first grade -- which receives full-time funding -- or kindergarten -- which receives only half-time funding. If the program is designed to satisfy the State's standards and the district's curriculum for first grade and advance the children to second grade, it is a first grade. However, if it is designed to complete the kindergarten curriculum and advance the children to first grade, it is a kindergarten for the purposes of State funding.

By giving school districts governing boards discretion to grant early admission into kindergarten to a student who turns five between September 1 and January 1 of the school year, the Legislature has not authorized districts to develop special programs that precede kindergarten and receive State funding through the formula for those programs. See A.R.S. § 15-821. The same is true regarding the legislative authorization for districts to admit students into first grade who turn six between September 1 and January 1. Instead, through A.R.S. § 15-821, the Legislature has merely authorized early admission into kindergarten and first grade programs based on the best interests of a particular child. A half-time program preceding kindergarten may

be beneficial as may a full-time program preceding first grade, but the Legislature has not provided State funding for such programs.

### **Conclusion**

State school funding for a program labeled "early" kindergarten or "early" first grade depends on the program's curriculum and compliance with State standards. An early kindergarten program that, under the district's curriculum, prepares students for kindergarten is not eligible for funding through the formula. Similarly, an early first grade program that, under the district's curriculum, prepares children for first grade is a kindergarten program for the purposes of the State school finance formula.

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1. The Legislature has also established grant programs aimed, at least in part, at certain preschool children. For example, the block grant for early childhood education programs "is to promote improved pupil achievement by providing flexible supplemental funding for early childhood programs, including preschool programs for economically disadvantaged children, and programs that serve all public school pupils statewide who are in kindergarten programs and grades one, two and three." A.R.S. § 15-1251(A). *Id.* The preschool programs funded through this block grant must, among other requirements, be restricted "only to preschool children eligible for free or reduced price lunches under the national school lunch and child nutrition acts." A.R.S. § 15-1251(C)(1). Another grant program is the "family literacy program," which is "designed to promote the acquisition of learning and reading skills by parents and their preschool children in a shared instructional setting." A.R.S. § 15-191.

2. Even though the Legislature has not used the labels "early" kindergarten or "early" first grade to describe programs, school districts may develop such programs to meet their obligation to educate children within the district or through their authority to provide community education. *See* A.R.S. §§ 15-341 (duties of governing board), -701(B)(curriculum); -1142 (community school programs); Ariz. Att'y Gen. Op. I81-014 (school district authority to offer preschool programs).

3. Although the students in such programs are not counted for the purposes of calculating a district's average daily membership, the programs may be eligible for State funds from the early childhood education block grant (A.R.S. § 15-1251(C)) or the family literacy program (A.R.S. § 15-191).

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