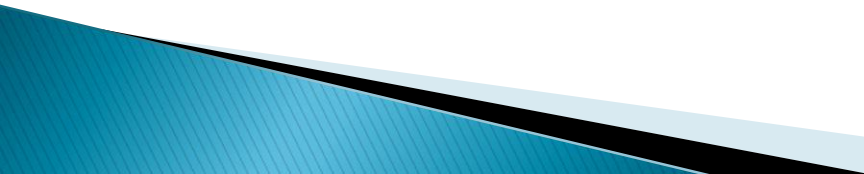


Proposition 301

Legal Primer on Eligibility

In the beginning...

- ▶ Proposition approved by voters in 2000.
 - ▶ 2001 start date.
 - ▶ Sales tax increase.
 - ▶ Revenues, in part for:
 - “increases in ‘teacher’ base level compensation, teacher compensation based on performance, and maintenance and operation purposes”. (Prop 301; see also, A.R.S. §15-977(A) and (C).)
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In the beginning...

- ▶ AZDOE allocates 301 pursuant to law:
 - 20% "for teacher base salary increases and employment related expenses."
 - 40% "for teacher compensation increases based on performance"
 - 40% "for maintenance and operations purposes" which are defined in A.R.S. § 15-977(C) to include: class size reduction, 'teacher' compensation increases, AIMS intervention programs, 'teacher' development, dropout prevention programs, and 'teacher' liability insurance premiums

In the beginning...

- ▶ Prop 301 did not define “teacher” for its purposes.
- ▶ 2001 Az. Atty. Gen. Opinion 101–014 interpreted “teacher”:
 - “traditional classroom teachers are not the only persons eligible for compensation increases. School districts and charter schools may use such funds for compensation increases for certified or certificated teachers and others employed to provide instruction to students related to the school's educational mission.”

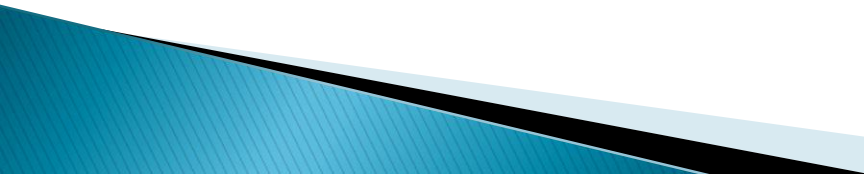
In the beginning...

- ▶ Az. Auditor Gen. 2002 Report examined how district statewide had interpreted “teacher”:
 - Over one-half of Arizona districts had determined counselors to be eligible for 301.
 - A few districts included other employee classifications, such as aides, nurses, and speech therapists.
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But then...the courts stepped in.

- ▶ Reeves v. Barlow, 227 Ariz. 38, 251 P.3d 417 (Az. App. 2011)
 - Window Rock School District had limited participation in their district's 301 Performance Pay Plan to "classroom teachers".
 - A school nurse, a physical therapist, a psychologist, and a speech therapist/pathologist filed suit challenging that restriction.
 - The court ruled against the school employees in an explicit manner:
 - "If a school district employee is not a teacher, then that employee is not entitled to be considered for [Prop 301] compensation. Indeed, a school district that permitted a non-teacher to participate in the compensation system would exceed its authority under A.R.S. § 15-977."
- ▶ Case overturned the 2001 AG opinion.

More on Reeves case

- ▶ The court also expressly held that a school employee must have a teaching certificate to participate in 301.
 - ▶ But, Court left open the question of whether simply possessing a certificate alone was sufficient for eligibility.
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Then came Tom Horne...

- ▶ AG Op. 113-005 (2013):
 - Considered whether just having a teaching certificate was enough.
 - Also considered whether individuals possessing the Arizona Guidance Counselor Certificate met the threshold requirement
 - Determined teaching certificate, alone, is not enough and that Guidance Counselor Certificate did not qualify.
 - To qualify for 301, an employee must also “be employed to provide instruction to students to participate in the CSF plan.”

That's where we are...

- ▶ There have been many misunderstandings throughout the state about Prop 301 and its intentions.
 - ▶ Where laws are not clear, we are guided by the AG and the courts.
 - ▶ Presently, we are constrained to only expend 301 teacher compensation element funds on those who both:
 - Possess an Arizona teaching certificate; and
 - Are hired for the District to provide instruction to students.
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