

REFERENCE TITLE: ESAs; children with disabilities; requirements

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1354

Introduced by

Senators Marsh: Alston, Bravo, Diaz, Epstein, Fernandez, Gabaldón,
Gonzales, Hernandez, Miranda, Sundareshan; Representatives Austin, Terech

AN ACT

AMENDING SECTION 15-2404, ARIZONA REVISED STATUTES; RELATING TO ARIZONA
EMPOWERMENT SCHOLARSHIP ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2404, Arizona Revised Statutes, is amended to
3 read:

4 15-2404. State control over nonpublic schools; prohibition;
5 application; services for children with
6 disabilities

7 A. EXCEPT AS PROVIDED IN SECTION 15-2402, SUBSECTION J AND THIS
8 SECTION, this chapter does not ~~permit~~ ALLOW any government agency to
9 exercise control or supervision over any nonpublic school or homeschool.

10 B. A qualified school that accepts a payment from a parent pursuant
11 to this chapter is not an agent of the state or federal government.

12 C. A qualified school shall not be required to alter its creed,
13 practices, admissions policy or curriculum in order to accept students
14 whose parents pay tuition or fees from an ARIZONA empowerment scholarship
15 account pursuant to this chapter in order to participate as a qualified
16 school.

17 D. In any legal proceeding challenging the application of this
18 chapter to a qualified school, the state bears the burden of establishing
19 that the law is necessary and does not impose any undue burden on
20 qualified schools.

21 E. NOTWITHSTANDING SUBSECTIONS C AND D OF THIS SECTION, A QUALIFIED
22 SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT
23 TO THIS CHAPTER SHALL DO BOTH OF THE FOLLOWING:

24 1. NOTIFY IN WRITING THE PARENT OF A PROSPECTIVE STUDENT WHO MEETS
25 THE CRITERIA OF QUALIFIED STUDENT PRESCRIBED IN SECTION 15-2401,
26 PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THE INDIVIDUAL
27 SPECIAL EDUCATION SERVICES AND EDUCATIONAL THERAPIES THAT THE QUALIFIED
28 SCHOOL WILL PROVIDE TO THE STUDENT BEFORE THE PARENT PAYS TUITION OR FEES
29 FROM AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT TO THE QUALIFIED
30 SCHOOL. THE NOTIFICATION PRESCRIBED IN THIS PARAGRAPH IS NOT REQUIRED IN
31 SUBSEQUENT YEARS OF ENROLLMENT AT THE SAME QUALIFIED SCHOOL.

32 2. IF A QUALIFIED STUDENT HAS AN INDIVIDUALIZED EDUCATION PROGRAM
33 OR SECTION 504 PLAN, PROVIDE ALL ACCOMMODATIONS AND SERVICES THAT ARE
34 REQUIRED UNDER THE QUALIFIED STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM OR
35 SECTION 504 PLAN UNLESS A PARENT OR THE QUALIFIED STUDENT WAIVES IN
36 WRITING THE ACCOMMODATIONS OR SERVICES. IF THE QUALIFIED SCHOOL FAILS TO
37 EITHER PROVIDE THE ACCOMMODATIONS AND SERVICES OR OBTAIN A WRITTEN WAIVER
38 PURSUANT TO THIS PARAGRAPH, THE QUALIFIED STUDENT MAY TRANSFER OUT OF THE
39 QUALIFIED SCHOOL AND IS ENTITLED TO A REFUND FOR THE PORTION OF THE SCHOOL
40 YEAR FOR WHICH THE STUDENT PAID TUITION AND FEES BUT DID NOT ATTEND THE
41 QUALIFIED SCHOOL.