

REFERENCE TITLE: ESAs; waived rights; notice; posting

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2935

Introduced by
Representative Garcia

AN ACT

AMENDING SECTION 15-2403, 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 15-2403, Arizona Revised Statutes, is amended to
3 read:

4 15-2403. Arizona empowerment scholarship accounts;
5 administration; appeals; risk-based audits; rules;
6 policy handbook

7 A. The treasurer may contract with private financial management
8 firms to manage Arizona empowerment scholarship accounts.

9 B. The department shall conduct or contract for annual audits of
10 Arizona empowerment scholarship accounts to ensure compliance with section
11 15-2402, subsection B, paragraph 4. The department shall also conduct or
12 contract for random, quarterly and annual audits of Arizona empowerment
13 scholarship accounts as needed to ensure compliance with section 15-2402,
14 subsection B, paragraph 4. The department, in consultation with the
15 office of the auditor general, shall develop risk-based auditing
16 procedures for audits conducted pursuant to this subsection.

17 C. The department shall annually review a sample of Arizona
18 empowerment scholarship accounts, selected at random, to determine whether
19 the parent or qualified student is in compliance with the terms of the
20 contract, applicable laws, rules and orders relating to the Arizona
21 empowerment scholarship accounts program. The Arizona empowerment
22 scholarship account of a parent or qualified student who is in good
23 standing may be randomly selected pursuant to this subsection only one
24 time during any five-year period. The department may remove any parent or
25 qualified student from eligibility for an Arizona empowerment scholarship
26 account if the parent or qualified student fails to comply with the terms
27 of the contract or applicable laws, rules or orders or knowingly misuses
28 monies or knowingly fails to comply with the terms of the contract with
29 intent to defraud and shall notify the treasurer. The department shall
30 notify the treasurer to suspend the account of a parent or qualified
31 student and shall notify the parent or qualified student in writing that
32 the account has been suspended and that no further transactions will be
33 allowed or disbursements made. The notification shall specify the reason
34 for the suspension and state that the parent or qualified student has
35 fifteen days, not including weekends, to respond and take corrective
36 action. If the parent or qualified student refuses or fails to contact
37 the department, furnish any information or make any report that may be
38 required for reinstatement within the fifteen-day period, the department
39 may remove the parent or qualified student pursuant to this subsection.

40 D. A parent may appeal to the state board of education any
41 administrative decision the department makes pursuant to this article,
42 including determinations of allowable expenses, removal from the program
43 or enrollment eligibility. The department shall notify the parent in
44 writing that the parent may appeal any administrative decision under this
45 article and the process by which the parent may appeal at the same time

1 the department notifies the parent of an administrative decision under
2 this article. The state board of education shall establish an appeals
3 process, and the department shall post this information on the
4 department's website in the same location as the policy handbook developed
5 pursuant to subsection K of this section.

6 E. A parent may represent himself or herself or designate a
7 representative, not necessarily an attorney, before any appeals hearing
8 held pursuant to this section. Any designated representative who is not
9 an attorney admitted to practice may not charge for any services rendered
10 in connection with the hearing. The fact that a representative
11 participated in the hearing or assisted the account holder is not grounds
12 for reversing any administrative decision or order if the evidence
13 supporting the decision or order is substantial, reliable and probative.

14 F. The state board of education may refer cases of substantial
15 misuse of monies to the attorney general for the purpose of collection or
16 for the purpose of a criminal investigation if the state board of
17 education obtains evidence of fraudulent use of an account.

18 G. The department shall make quarterly transfers of the amount
19 calculated pursuant to section 15-2402, subsection C to the treasurer for
20 deposit in the Arizona empowerment scholarship account of each qualified
21 student, except the department may make transfers according to another
22 transfer schedule if the department determines a transfer schedule other
23 than quarterly transfers is necessary to operate the Arizona empowerment
24 scholarship account.

25 H. The department shall accept applications between July 1 and June
26 30 of each year. THE DEPARTMENT SHALL PROMINENTLY POST ON THE
27 DEPARTMENT'S WEBSITE AND PROMINENTLY INCLUDE IN EACH APPLICATION PACKET A
28 NOTICE OUTLINING EACH LEGAL RIGHT THAT QUALIFIED STUDENTS AND PARENTS
29 WAIVE BY ENROLLING IN THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS
30 PROGRAM. The department shall issue an award letter to eligible
31 applicants within thirty days after receipt of a completed application and
32 all required documentation. If an eligible applicant completes an
33 application in advance for an Arizona empowerment scholarship account to
34 be funded beginning on a later date, the department may enroll the
35 eligible applicant on the later date, except that the department may not
36 enroll the applicant more than two fiscal quarters after the fiscal
37 quarter in which the application is completed or on a date that is after
38 March 31 and before July 1. If an eligible applicant completes an
39 application after March 31 and before July 1, the department shall enroll
40 the applicant on or after July 1. The department shall enroll all other
41 eligible applicants when the department issues an award letter pursuant to
42 this subsection. This subsection does not allow a qualified student to
43 receive monies in an Arizona empowerment scholarship account while the
44 qualified student is enrolled in a school district or charter school. On
45 or before September 1 and November 1 of each year, the department shall

furnish to the joint legislative budget committee and the governor's office of strategic planning and budgeting an estimate of the amount required to fund Arizona empowerment scholarship accounts for the following fiscal year. The department shall include in its budget request for the following fiscal year the amount estimated pursuant to section 15-2402, subsection C for each qualified student.

I. The state board of education may adopt rules and policies necessary to administer Arizona empowerment scholarship accounts, including rules and policies:

1. For establishing an appeals process pursuant to subsection D of this section.

2. For conducting or contracting for examinations of the use of account monies, consistent with subsection L of this section.

3. For conducting or contracting for random, quarterly and annual reviews of accounts.

4. For establishing or contracting for the establishment of an online anonymous fraud reporting service.

5. For establishing an anonymous telephone hotline for fraud reporting.

6. That require a surety bond or insurance for account holders.

J. The department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c). If during any period on or after January 1, 2023 the department fails to ensure that a contract with an independent third party is in effect, during that period:

1. The county school superintendent of each county may approve a list of independent third parties within the county whose evaluation may be used to determine whether a qualified student who resides within the county is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c).

2. If the county school superintendent of a county does not provide a list of approved independent third parties within ninety days after the beginning of any period during which the department does not have a contract with an independent third party in effect as described in this subsection, the parent of a qualified student who resides within the county has the right to obtain an independent educational evaluation from a qualified examiner to determine whether the qualified student is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c). The expense for an educational evaluation undertaken pursuant to this paragraph shall be provided by the school district within which the qualified student resides and that serves the grade level of the qualified student. For the purposes of this paragraph, "qualified examiner" means a licensed physician, psychiatrist or psychologist.

1 K. On or before July 1 of each year, the department shall develop
2 an applicant and participant handbook that includes information relating
3 to policies and processes of Arizona empowerment scholarship accounts.
4 The policy handbook shall comply with the rules adopted by the state board
5 of education pursuant to this section. The department shall post the
6 handbook on the department's website.

7 L. The department shall:

8 1. Establish and maintain an online database of allowable and
9 disallowed categories of expenses and provide a link to the database on
10 the department's website.

11 2. Allow the use of account monies to reimburse the parent of a
12 qualified student or a qualified student for the purchase of a good or
13 educational service that is an allowable expense pursuant to section
14 15-2402, subsection B.

15 M. Except for cases in which the attorney general determines that a
16 parent or account holder has committed fraud, any expenditure from an
17 Arizona empowerment scholarship account for a purchase that the department
18 determines is not an allowable expense pursuant to section 15-2402 and
19 that is subsequently repaid by the parent or account holder shall be
20 credited back to the Arizona empowerment scholarship account balance
21 within thirty days after the receipt of payment.

22 N. If, in response to an appeal of an administrative decision made
23 by the department, the state board of education issues a stay of an
24 Arizona empowerment scholarship account suspension pursuant to rules
25 adopted by the board, the department may not withhold funding or contract
26 renewal for the account holder because of the appealed administrative
27 decision during the stay unless directed by the board to do so.