

REFERENCE TITLE: ESAs; parental notification; waived rights.

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
Second Regular Session  
2026

# HB 2704

Introduced by  
Representatives Garcia: De Los Santos, Gutierrez; Senator Kuby

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

1 governor's office of strategic planning and budgeting an estimate of the  
2 amount required to fund Arizona empowerment scholarship accounts for the  
3 following fiscal year. The department shall include in its budget request  
4 for the following fiscal year the amount estimated pursuant to section  
5 15-2402, subsection C for each qualified student.

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

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

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

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

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

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

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

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

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

31 2. If the county school superintendent of a county does not provide  
32 a list of approved independent third parties within ninety days after the  
33 beginning of any period during which the department does not have a  
34 contract with an independent third party in effect as described in this  
35 subsection, the parent of a qualified student who resides within the  
36 county has the right to obtain an independent educational evaluation from  
37 a qualified examiner to determine whether the qualified student is  
38 eligible to receive educational therapies or services pursuant to section  
39 15-2402, subsection B, paragraph 4, subdivision (c). The expense for an  
40 educational evaluation undertaken pursuant to this paragraph shall be  
41 provided by the school district within which the qualified student resides  
42 and that serves the grade level of the qualified student. For the  
43 purposes of this paragraph, "qualified examiner" means a licensed  
44 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.