

REFERENCE TITLE: **qualified schools; special education; enforcement**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1498

Introduced by
Senator Marsh: Representatives Pawlik, Terech

AN ACT

AMENDING SECTION 15-2404, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-2406; 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 notification of special education services;
6 applicability

7 A. This chapter does not ~~permit~~ ALLOW any government agency to
8 exercise control or supervision over any nonpublic school or homeschool.

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

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

16 D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, A QUALIFIED SCHOOL
17 SHALL NOTIFY IN WRITING THE PARENT OF A PROSPECTIVE STUDENT WHO MEETS THE
18 CRITERIA OF QUALIFIED STUDENT PRESCRIBED IN SECTION 15-2401, PARAGRAPH 7,
19 SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THE INDIVIDUAL SPECIAL
20 EDUCATION SERVICES AND EDUCATIONAL THERAPIES THAT THE QUALIFIED SCHOOL
21 WILL PROVIDE TO THE STUDENT BEFORE THE PARENT PAYS TUITION OR FEES FROM AN
22 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT TO THE QUALIFIED SCHOOL. THE
23 NOTIFICATION PRESCRIBED IN THIS SUBSECTION IS NOT REQUIRED IN SUBSEQUENT
24 YEARS OF ENROLLMENT AT THE SAME QUALIFIED SCHOOL.

25 ~~D.~~ E. In any legal proceeding challenging the application of this
26 chapter to a qualified school, the state bears the burden of establishing
27 that the law is necessary and does not impose any undue burden on
28 qualified schools.

29 Sec. 2. Title 15, chapter 19, article 1, Arizona Revised Statutes,
30 is amended by adding section 15-2406, to read:

31 15-2406. Qualified schools; state board of education;
32 complaints; investigations; penalties; rules;
33 appeal

34 A. A QUALIFIED STUDENT OR THE PARENT OF A QUALIFIED STUDENT MAY
35 FILE A WRITTEN COMPLAINT WITH THE STATE BOARD OF EDUCATION ALLEGING THAT
36 THE QUALIFIED SCHOOL HAS VIOLATED THIS ARTICLE. A COMPLAINT FILED
37 PURSUANT TO THIS SUBSECTION MUST INCLUDE A DESCRIPTION OF THE SPECIFIC
38 FACTS OF THE ALLEGED VIOLATION AND IDENTIFY ANY EVIDENCE SUPPORTING THE
39 ALLEGATION.

40 B. THE STATE BOARD OF EDUCATION SHALL INVESTIGATE A COMPLAINT FILED
41 PURSUANT TO SUBSECTION A OF THIS SECTION AND DETERMINE WHETHER A VIOLATION
42 OCCURRED. IF THE STATE BOARD DETERMINES THAT A VIOLATION OCCURRED, THE
43 STATE BOARD SHALL NOTIFY THE QUALIFIED SCHOOL IN WRITING OF THAT
44 DETERMINATION AND INSTRUCT THE QUALIFIED SCHOOL HOW TO CURE THE VIOLATION.
45 IF THE STATE BOARD DETERMINES THAT THE QUALIFIED SCHOOL HAS FAILED TO

1 CORRECT THE VIOLATION WITHIN SIXTY DAYS AFTER THE STATE BOARD ISSUES A
2 NOTICE PURSUANT TO THIS SUBSECTION, THE QUALIFIED SCHOOL:

3 1. SHALL REIMBURSE THE DEPARTMENT ALL ARIZONA EMPOWERMENT
4 SCHOLARSHIP ACCOUNT MONIES RECEIVED PURSUANT TO THIS ARTICLE DURING THE
5 PREVIOUS SCHOOL YEAR.

6 2. MAY NOT CHARGE ANY QUALIFIED STUDENT WHO IS ENROLLED IN THE
7 QUALIFIED SCHOOL UNDER THIS ARTICLE TUITION AND FEES TO RECOVER MONIES
8 REIMBURSED UNDER PARAGRAPH 1 OF THIS SUBSECTION.

9 C. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES AND PROCEDURES
10 FOR THE STATE BOARD TO INVESTIGATE WRITTEN COMPLAINTS FILED PURSUANT TO
11 THIS SECTION.

12 D. ACTIONS TAKEN UNDER THIS SECTION ARE SUBJECT TO APPEAL PURSUANT
13 TO TITLE 41, CHAPTER 6, ARTICLE 10.