

15-2402. Arizona empowerment scholarship accounts; funds

A. Arizona empowerment scholarship accounts are established to provide options for the education of students in this state.

B. To enroll a qualified student for an empowerment scholarship account, the parent of the qualified student must sign an agreement to do all of the following:

1. Use a portion of the empowerment scholarship account monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the empowerment scholarship account is allocated monies according to a transfer schedule other than quarterly transfers pursuant to section 15-2403, subsection F.

2. Not enroll the qualified student in a school district or charter school and release the school district from all obligations to educate the qualified student. This paragraph does not relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to section 15-766.

3. Not accept a scholarship from a school tuition organization pursuant to title 43 concurrently with an empowerment scholarship account for the qualified student in the same year a parent signs the agreement pursuant to this section.

4. Use the money deposited in the qualified student's Arizona empowerment scholarship account only for the following expenses of the qualified student:

(a) Tuition or fees at a qualified school.

(b) Textbooks required by a qualified school.

(c) If the qualified student meets any of the criteria specified in section 15-2401, paragraph 6, subdivision (a), item (i), (ii) or (iii) as determined by a school district or by an independent third party pursuant to section 15-2403, subsection I, the qualified student may use the following additional services:

(i) Educational therapies from a licensed or accredited practitioner or provider.

(ii) A licensed or accredited paraprofessional or educational aide.

(iii) Tuition for vocational and life skills education approved by the department.

(iv) Associated services that include educational and psychological evaluations, assistive technology rentals and braille translation services approved by the department.

(d) Tutoring or teaching services provided by an individual or facility accredited by a state, regional or national accrediting organization.

(e) Curricula.

(f) Tuition or fees for a nonpublic online learning program.

(g) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination or any exams related to college or university admission.

(h) Contributions to a Coverdell education savings account established pursuant to 26 United States Code section 530 for the benefit of the qualified student, except that money used for elementary or secondary education expenses must be for expenses otherwise allowed under this section.

(i) Tuition or fees at an eligible postsecondary institution.

(j) Textbooks required by an eligible postsecondary institution.

(k) Fees for management of the empowerment scholarship account.

(l) Services provided by a public school, including individual classes and extracurricular programs.

(m) Insurance or surety bond payments.

(n) Uniforms purchased from or through a qualified school.

(o) Beginning January 1, 2017, if the qualified student meets the criteria specified in section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and if the qualified student is in the second year prior to the final year of a contract executed pursuant to this article, costs associated with an annual education plan conducted by an independent evaluation team. The department shall prescribe minimum qualifications for independent evaluation teams pursuant to this subdivision and factors that teams must use to determine whether the qualified student shall be eligible to continue to receive monies pursuant to this article through the school year in which the qualified student reaches twenty-two years of age. An independent evaluation team that provides an annual education plan pursuant to this subdivision shall submit a written report that summarizes the results of the evaluation to the parent of the qualified student and to the department on or before July 31. The written report submitted by the independent evaluation team is valid for one year. If the department determines that the qualified student meets the eligibility criteria prescribed in the annual education plan, the qualified student is eligible to continue to receive monies pursuant to this article until the qualified student reaches twenty-two years of age, subject to annual review. A parent may appeal the department's decision pursuant to title 41, chapter 6, article 10. As an addendum to a qualified student's final-year contract, the department shall provide the following written information to the parent of the qualified student:

(i) That the qualified student will not be eligible to continue to receive monies pursuant to this article unless the results of an annual education plan conducted pursuant to this subdivision demonstrate that the qualified student meets the eligibility criteria prescribed in the annual education plan.

(ii) That the parent is entitled to obtain an annual education plan pursuant to this subdivision to determine whether the qualified student meets the eligibility criteria prescribed in the annual education plan.

(iii) A list of independent evaluation teams that meet the minimum qualifications prescribed by the department pursuant to this subdivision.

5. Not file an affidavit of intent to homeschool pursuant to section 15-802, subsection B, paragraph 2 or 3.

6. Not use monies deposited in the qualified student's account for any of the following:

(a) Computer hardware or other technological devices.

(b) Transportation of the pupil.

(c) Consumable educational supplies, including paper, pens or markers.

C. In exchange for the parent's agreement pursuant to subsection B of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district, or if the child is currently eligible to attend kindergarten, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an Arizona empowerment scholarship account an amount that is equivalent to ninety percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for that particular student if that student were attending a charter school. The department may retain up to five percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for each student with an empowerment scholarship account for deposit in the department of education empowerment scholarship account fund established in subsection D of this section, out of which the department shall transfer one percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for each student with an empowerment scholarship account to the state treasurer for deposit in the state treasurer empowerment scholarship account fund established in subsection E of this section.

D. The department of education empowerment scholarship account fund is established consisting of monies retained by the department pursuant to subsection C of this section. The department shall administer the fund. Monies in the fund are subject to legislative appropriation. Monies in the fund shall be used for the department's costs in administering empowerment scholarship accounts under this chapter. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. If the number of empowerment scholarship accounts significantly increases after fiscal year 2012-2013, the department may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113.

E. The state treasurer empowerment scholarship account fund is established consisting of monies transferred by the department to the state treasurer pursuant to subsection C of this section. The state treasurer shall administer the fund. Monies in the fund shall be used for the state treasurer's costs in administering the empowerment scholarship accounts under this chapter. If the number of empowerment scholarship accounts significantly increases after fiscal year 2013-2014, the state treasurer may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113. Monies in the fund are subject to legislative appropriation. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. A parent must renew the qualified student's empowerment scholarship account on an annual basis. Notwithstanding any changes to the student's multidisciplinary evaluation team plan, a student who has previously qualified for an empowerment scholarship account shall remain eligible to apply for renewal until the student finishes high school.

G. A signed agreement under this section constitutes school attendance required by section 15-802.

H. A qualified school or a provider of services purchased pursuant to subsection B, paragraph 4 of this section may not share, refund or rebate any Arizona empowerment scholarship account monies with the parent or qualified student in any manner.

I. On the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining funds shall be returned to the state.

J. Monies received pursuant to this article do not constitute taxable income to the parent of the qualified student.