

REFERENCE TITLE: empowerment scholarships; expansion; phase-in

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2017

## **SB 1431**

Introduced by

Senators Lesko: Allen S, Barto, Borrelli, Burges, Fann, Farnsworth D,  
Griffin, Kavanagh, Montenegro, Smith; Representatives Allen J, Boyer,  
Campbell, Cook, Finchem, John, Lawrence, Leach, Livingston, Mesnard,  
Mosley, Nutt, Payne, Stringer, Thorpe, Townsend

AN ACT

AMENDING SECTIONS 15-2401 AND 15-2402, ARIZONA REVISED STATUTES; RELATING  
TO 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 15-2401, Arizona Revised Statutes, is amended to  
3 read:

4 15-2401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Annual education plan" means an initial individualized  
7 evaluation and subsequent annual reviews that are developed for a  
8 qualified student who meets the criteria specified in paragraph 7,  
9 subdivision (a), item (i), (ii) or (iii) of this section to determine  
10 ongoing annual eligibility through the school year in which the qualified  
11 student reaches twenty-two years of age and whether the student may be  
12 eligible pursuant to section 36-2981 and should be referred for  
13 eligibility determination.

14 2. "Curriculum" means a complete course of study for content areas  
15 or grade levels, including any supplemental materials required by the  
16 curriculum, approved by the department.

17 3. "Department" means the department of education.

18 4. "Eligible postsecondary institution" means a community college  
19 as defined in section 15-1401, a university under the jurisdiction of the  
20 Arizona board of regents or an accredited private postsecondary  
21 institution.

22 5. "Parent" means a resident of this state who is the parent or  
23 legal guardian of a qualified student.

24 6. "Qualified school" means a nongovernmental primary or secondary  
25 school or a preschool for pupils with disabilities that is located in this  
26 state and that does not discriminate on the basis of race, color or  
27 national origin.

28 7. "Qualified student" means a resident of this state who:

29 (a) Is any of the following:

30 (i) Identified as having a disability under section 504 of the  
31 rehabilitation act of 1973 (29 United States Code section 794).

32 (ii) Identified by a school district or by an independent third  
33 party pursuant to section 15-2403, subsection I as a child with a  
34 disability as defined in section 15-731 or 15-761.

35 (iii) A child with a disability who is eligible to receive services  
36 from a school district under section 15-763.

37 (iv) Attending a school or school district that has been assigned a  
38 letter grade of D or F pursuant to section 15-241 or who is currently  
39 eligible to attend kindergarten and who resides within the attendance  
40 boundary of a school that has been assigned a letter grade of D or F  
41 pursuant to section 15-241.

42 (v) A previous recipient of a scholarship issued pursuant to  
43 section 15-891 or this section, unless the qualified student's parent has  
44 been removed from eligibility in the program for failure to comply  
45 pursuant to section 15-2403, subsection C.

1 (vi) A child of a parent who is a member of the armed forces of the  
2 United States and who is on active duty or was killed in the line of  
3 duty. A child who meets the requirements of this item is not subject to  
4 subdivision (b) of this paragraph.

5 (vii) A child who is a ward of the juvenile court and who is  
6 residing with a prospective permanent placement pursuant to section 8-862  
7 and the case plan is adoption or permanent guardianship.

8 (viii) A child who was a ward of the juvenile court and who  
9 achieved permanency through adoption or permanent guardianship.

10 (ix) A child who is the sibling of a current or previous  
11 empowerment scholarship account recipient or of an eligible qualified  
12 student who accepts the terms of and enrolls in the empowerment  
13 scholarship program.

14 (x) A child who resides within the boundaries of an Indian  
15 reservation in this state as determined by the department of education or  
16 a tribal government.

17 (xi) A child of a parent who is legally blind ~~pursuant to section~~  
18 ~~41-1973, subsection c~~ or IS deaf or hard of hearing ~~pursuant to~~ AS DEFINED  
19 IN section 36-1941.

20 (xii) BEGINNING IN THE 2017-2018 SCHOOL YEAR, A CHILD WHO CURRENTLY  
21 ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM  
22 OR ANY OF GRADES ONE, SIX AND NINE.

23 (xiii) BEGINNING IN THE 2018-2019 SCHOOL YEAR, A CHILD WHO  
24 CURRENTLY ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A  
25 KINDERGARTEN PROGRAM OR ANY OF GRADES ONE, TWO, SIX, SEVEN, NINE AND TEN.

26 (xiv) BEGINNING IN THE 2019-2020 SCHOOL YEAR, A CHILD WHO CURRENTLY  
27 ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM  
28 OR ANY OF GRADES ONE THROUGH THREE AND GRADES SIX THROUGH ELEVEN.

29 (xv) BEGINNING IN THE 2020-2021 SCHOOL YEAR, A CHILD WHO CURRENTLY  
30 ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM  
31 OR ANY OF GRADES ONE THROUGH TWELVE.

32 (b) And, except as provided in subdivision (a), item (vi) of this  
33 paragraph, who meets any of the following requirements:

34 (i) Attended a governmental primary or secondary school as a  
35 full-time student as defined in section 15-901 for at least ~~the first~~ one  
36 hundred days of the prior fiscal year and who transferred from a  
37 governmental primary or secondary school under a contract to participate  
38 in an empowerment scholarship account. First, second and third grade  
39 students who are enrolled in Arizona online instruction must receive four  
40 hundred hours of logged instruction to be eligible pursuant to this item.  
41 Fourth, fifth and sixth grade students who are enrolled in Arizona online  
42 instruction must receive five hundred hours of logged instruction to be  
43 eligible pursuant to this item. Seventh and eighth grade students who are  
44 enrolled in Arizona online instruction must receive five hundred fifty  
45 hours of logged instruction to be eligible pursuant to this item. High

1 school students who are enrolled in Arizona online instruction must  
2 receive five hundred hours of logged instruction to be eligible pursuant  
3 to this item.

4 (ii) Previously participated in the empowerment scholarship account  
5 program.

6 (iii) Received a scholarship under section 43-1505 and who  
7 continues to attend a qualified school if the student attended a  
8 governmental primary or secondary school as a full-time student as defined  
9 in section 15-901 for at least ninety days of the prior fiscal year or one  
10 full semester prior to attending a qualified school.

11 (iv) Was eligible for an Arizona scholarship for pupils with  
12 disabilities and received monies from a school tuition organization  
13 pursuant to section 43-1505 or received an Arizona scholarship for pupils  
14 with disabilities but did not receive monies from a school tuition  
15 organization pursuant to section 43-1505 and who continues to attend a  
16 qualified school if the student attended a governmental primary or  
17 secondary school as a full-time student as defined in section 15-901 for  
18 at least ninety days of the prior fiscal year or one full semester prior  
19 to attending a qualified school.

20 (v) Has not previously attended a governmental primary or secondary  
21 school but is currently eligible to enroll in a kindergarten program in a  
22 school district or charter school in this state or attended a program for  
23 preschool children with disabilities.

24 (vi) Has not previously attended a governmental primary or  
25 secondary school but is currently eligible to enroll in a program for  
26 preschool children with disabilities in this state.

27 8. "Treasurer" means the office of the state treasurer.

28 Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to  
29 read:

30 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

42 2. Not enroll the qualified student in a school district or charter  
43 school and release the school district from all obligations to educate the  
44 qualified student. This paragraph does not relieve the school district or

1 charter school that the qualified student previously attended from the  
2 obligation to conduct an evaluation pursuant to section 15-766.

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

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

10 (a) Tuition or fees at a qualified school.

11 (b) Textbooks required by a qualified school.

12 (c) If the qualified student meets any of the criteria specified in  
13 section 15-2401, paragraph ~~6~~ 7, subdivision (a), item (i), (ii) or (iii)  
14 as determined by a school district or by an independent third party  
15 pursuant to section 15-2403, subsection I, the qualified student may use  
16 the following additional services:

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

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

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

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

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

28 (e) Curricula.

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

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

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

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

39 (j) Textbooks required by an eligible postsecondary institution.

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

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

43 (m) Insurance or surety bond payments.

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

1 (o) Beginning January 1, 2017, if the qualified student meets the  
2 criteria specified in section 15-2401, paragraph 7, subdivision (a), item  
3 (i), (ii) or (iii) and if the qualified student is in the second year  
4 prior to the final year of a contract executed pursuant to this article,  
5 costs associated with an annual education plan conducted by an independent  
6 evaluation team. The department shall prescribe minimum qualifications  
7 for independent evaluation teams pursuant to this subdivision and factors  
8 that teams must use to determine whether the qualified student shall be  
9 eligible to continue to receive monies pursuant to this article through  
10 the school year in which the qualified student reaches twenty-two years of  
11 age. An independent evaluation team that provides an annual education  
12 plan pursuant to this subdivision shall submit a written report that  
13 summarizes the results of the evaluation to the parent of the qualified  
14 student and to the department on or before July 31. The written report  
15 submitted by the independent evaluation team is valid for one year. If  
16 the department determines that the qualified student meets the eligibility  
17 criteria prescribed in the annual education plan, the qualified student is  
18 eligible to continue to receive monies pursuant to this article until the  
19 qualified student reaches twenty-two years of age, subject to annual  
20 review. A parent may appeal the department's decision pursuant to title  
21 41, chapter 6, article 10. As an addendum to a qualified student's final-  
22 year contract, the department shall provide the following written  
23 information to the parent of the qualified student:

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

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

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

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

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

38 (a) Computer hardware or other technological devices.

39 (b) Transportation of the pupil.

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

42 7. BEGINNING IN THE 2017-2018 SCHOOL YEAR AND EACH YEAR THEREAFTER,  
43 ANNUALLY HAVE A QUALIFIED STUDENT WHO IS IN ANY OF GRADES THREE THROUGH  
44 TWELVE TAKE ANY NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT  
45 EXAMINATION, AN ADVANCED PLACEMENT EXAMINATION OR ANY EXAMINATION RELATED

1 TO COLLEGE OR UNIVERSITY ADMISSIONS THAT ASSESSES READING AND MATHEMATICS.  
2 THE EXAMINATION RESULTS SHALL BE REPORTED TO THE PARENT OF THE STUDENT.  
3 THIS PARAGRAPH DOES NOT APPLY TO:

4 (a) A STUDENT WHO IS IDENTIFIED AS HAVING A DISABILITY UNDER  
5 SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 UNITED STATES CODE  
6 SECTION 794).

7 (b) A STUDENT WHO IDENTIFIED BY A SCHOOL DISTRICT OR INDEPENDENT  
8 THIRD PARTY PURSUANT TO SECTION 15-2403, SUBSECTION I AS A CHILD WITH A  
9 DISABILITY AS DEFINED IN SECTION 15-731 OR 15-761.

10 (c) A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES  
11 FROM A SCHOOL DISTRICT UNDER SECTION 15-763.

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

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

44 E. The state treasurer empowerment scholarship account fund is  
45 established consisting of monies transferred by the department to the

1 state treasurer pursuant to subsection C of this section. The state  
2 treasurer shall administer the fund. Monies in the fund shall be used for  
3 the state treasurer's costs in administering the empowerment scholarship  
4 accounts under this chapter. If the number of empowerment scholarship  
5 accounts significantly increases after fiscal year 2013-2014, the state  
6 treasurer may request an increase in the amount appropriated to the fund  
7 in any subsequent fiscal year in the budget estimate submitted pursuant to  
8 section 35-113. Monies in the fund are subject to legislative  
9 appropriation. Monies in the fund are exempt from the provisions of  
10 section 35-190 relating to lapsing of appropriations.

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

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

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

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

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