

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SENATE BILL 1467

AN ACT

AMENDING SECTION 15-2401, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 112, SECTION 1 AND CHAPTER 353, SECTION 1; AMENDING SECTION 15-2401, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 139, SECTION 1; AMENDING SECTIONS 43-1503, 43-1504 AND 43-1505, ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(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, as amended by
3 Laws 2016, chapter 112, section 1 and chapter 353, section 1, is amended
4 to read:

5 15-2401. Definitions

6 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

30 (a) Is any of the following:

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

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

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

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

43 (v) A previous recipient of a scholarship issued pursuant to
44 section 15-891 or this section, unless the qualified student's parent has

1 been removed from eligibility in the program for failure to comply
2 pursuant to section 15-2403, subsection C.

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

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

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

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

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

19 (xi) A child of a parent who is legally blind pursuant to section
20 41-1973, subsection C or deaf or hard of hearing pursuant to section
21 36-1941.

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

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

39 (ii) Previously participated in the empowerment scholarship account
40 program.

41 (iii) Received a scholarship under section 43-1504 OR 43-1505 and
42 who continues to attend a qualified school ~~if the student attended a~~
43 ~~governmental primary or secondary school as a full-time student as defined~~
44 ~~in section 15-901~~ for at least ninety days ~~of the prior fiscal year or one~~
45 ~~full semester prior to attending a qualified school.~~

1 (iv) Was eligible for an Arizona scholarship for pupils with
2 disabilities and received monies from a school tuition organization
3 pursuant to section 43-1505 or received an Arizona scholarship for pupils
4 with disabilities but did not receive monies from a school tuition
5 organization pursuant to section 43-1505 and who continues to attend a
6 qualified school if the student attended a governmental primary or
7 secondary school as a full-time student as defined in section 15-901 for
8 at least ninety days of the prior fiscal year or one full semester prior
9 to attending a qualified school.

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

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

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

18 Sec. 2. Section 15-2401, Arizona Revised Statutes, as amended by
19 Laws 2017, chapter 139, section 1, is amended to read:

20 15-2401. Definitions; conditional enactment

21 A. In this chapter, unless the context otherwise requires:

22 1. "Curriculum" means a complete course of study for content areas
23 or grade levels, including any supplemental materials required by the
24 curriculum approved by the department.

25 2. "Department" means the department of education.

26 3. "Eligible postsecondary institution" means a community college
27 as defined in section 15-1401, a university under the jurisdiction of the
28 Arizona board of regents or an accredited private postsecondary
29 institution.

30 4. "Low-income student" means a child who is or was a ward of the
31 juvenile court pursuant to paragraph 7, subdivision (a), item (viii) or
32 (ix) of this section or a child who is a dependent of a family whose
33 federal adjusted gross income as reflected on the last state income tax
34 return that was required to be filed does not exceed two hundred fifty
35 percent of the federal poverty guidelines for that same year.

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

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

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

43 (a) Is any of the following:

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

- 1 (ii) Identified by a school district or by an independent third
2 party pursuant to section 15-2403, subsection I as a child with a
3 disability as defined in section 15-731 or 15-761.
- 4 (iii) A child with a disability who is eligible to receive services
5 from a school district under section 15-763.
- 6 (iv) Attending a school or school district that has been assigned a
7 letter grade of D or F pursuant to section 15-241.
- 8 (v) A child who is currently eligible to attend kindergarten and
9 who resides within the attendance boundary of a school or school district
10 that has been assigned a letter grade of D or F pursuant to section
11 15-241.
- 12 (vi) A previous recipient of a scholarship issued pursuant to
13 section 15-891 or this section, unless the qualified student's parent has
14 been removed from eligibility in the program for failure to comply
15 pursuant to section 15-2403, subsection C.
- 16 (vii) A child of a parent who is a member of the armed forces of
17 the United States and who is on active duty or was killed in the line of
18 duty. A child who meets the requirements of this item is not subject to
19 subdivision (b) of this paragraph.
- 20 (viii) A child who is a ward of the juvenile court and who is
21 residing with a prospective permanent placement pursuant to section 8-862
22 and the case plan is adoption or permanent guardianship.
- 23 (ix) A child who was a ward of the juvenile court and who achieved
24 permanency through adoption or permanent guardianship.
- 25 (x) A child who is the sibling of a current or previous empowerment
26 scholarship account recipient or of an eligible qualified student who
27 accepts the terms of and enrolls in an empowerment scholarship account.
- 28 (xi) A child who resides within the boundaries of an Indian
29 reservation in this state as determined by the department of education or
30 a tribal government.
- 31 (xii) A child of a parent who is legally blind or is deaf or hard
32 of hearing as defined in section 36-1941.
- 33 (xiii) Beginning in the 2017-2018 school year, a child who
34 currently attends or is eligible to attend a public school in a
35 kindergarten program or any of grades one, six and nine.
- 36 (xiv) Beginning in the 2018-2019 school year, a child who currently
37 attends or is eligible to attend a public school in a kindergarten program
38 or any of grades one, two, six, seven, nine and ten.
- 39 (xv) Beginning in the 2019-2020 school year, a child who currently
40 attends or is eligible to attend a public school in a kindergarten program
41 or any of grades one through three and grades six through eleven.
- 42 (xvi) Beginning in the 2020-2021 school year, a child who currently
43 attends or is eligible to attend a public school in a kindergarten program
44 or any of grades one through twelve.

1 (b) And, except as provided in subdivision (a), item (vii) of this
2 paragraph, who meets any of the following requirements:

3 (i) Attended a governmental primary or secondary school as a
4 full-time student as defined in section 15-901 for at least one hundred
5 days of the prior fiscal year and who transferred from a governmental
6 primary or secondary school under a contract to participate in an
7 empowerment scholarship account. First, second and third grade students
8 who are enrolled in Arizona online instruction must receive four hundred
9 hours of logged instruction to be eligible pursuant to this item. Fourth,
10 fifth and sixth grade students who are enrolled in Arizona online
11 instruction must receive five hundred hours of logged instruction to be
12 eligible pursuant to this item. Seventh and eighth grade students who are
13 enrolled in Arizona online instruction must receive five hundred fifty
14 hours of logged instruction to be eligible pursuant to this item. High
15 school students who are enrolled in Arizona online instruction must
16 receive five hundred hours of logged instruction to be eligible pursuant
17 to this item. The department may request a local education agency to
18 provide documentation or confirmation of the student attendance required
19 by this item, and the school shall comply with the department's request
20 within ten days.

21 (ii) Previously participated in an empowerment scholarship account.

22 (iii) Received a scholarship under section 43-1504 OR 43-1505 and
23 who continues to attend a qualified school ~~if the student attended a~~
24 ~~governmental primary or secondary school as a full-time student as defined~~
25 ~~in section 15-901~~ for at least ninety days ~~of the prior fiscal year or one~~
26 ~~full semester prior to attending a qualified school.~~

27 (iv) Was eligible for an Arizona scholarship for pupils with
28 disabilities and received monies from a school tuition organization
29 pursuant to section 43-1505 or received an Arizona scholarship for pupils
30 with disabilities but did not receive monies from a school tuition
31 organization pursuant to section 43-1505 and who continues to attend a
32 qualified school if the student attended a governmental primary or
33 secondary school as a full-time student as defined in section 15-901 for
34 at least ninety days of the prior fiscal year or one full semester prior
35 to attending a qualified school.

36 (v) Has not previously attended a governmental primary or secondary
37 school but is currently eligible to enroll in a kindergarten program in a
38 school district or charter school in this state or attended a program for
39 preschool children with disabilities. For the purposes of this item, a
40 child is eligible to enroll in a kindergarten program if the child is at
41 least four but under seven years of age.

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

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

1 B. THIS SECTION IS EFFECTIVE ONLY IF LAWS 2017, CHAPTER 139, THE
2 SUBJECT OF REFERENDUM PETITION R-02-2018, IS APPROVED BY A VOTE OF THE
3 PEOPLE AT THE NOVEMBER 2018 GENERAL ELECTION OR FAILS TO BE REFERRED TO
4 THE VOTERS AT THE NOVEMBER 2018 GENERAL ELECTION.

5 Sec. 3. Section 43-1503, Arizona Revised Statutes, is amended to
6 read:

7 43-1503. Operational requirements for school tuition
8 organizations

9 A. A certified school tuition organization must be established to
10 receive contributions from taxpayers for the purposes of income tax
11 credits under sections 43-1183 and 43-1184 and insurance premium tax
12 credits under sections 20-224.06 and 20-224.07 and to pay educational
13 scholarships or tuition grants to allow students to attend any qualified
14 school of their parents' or custodians' choice.

15 B. To be eligible for certification and retain certification, the
16 school tuition organization:

17 1. Must allocate at least ninety percent of its annual revenue from
18 contributions made for the purposes of sections 20-224.06, 20-224.07,
19 43-1183 and 43-1184 for educational scholarships or tuition grants.

20 2. Shall not limit the availability of educational scholarships or
21 tuition grants to only students of one school.

22 3. Must allow the department of revenue to verify that the
23 educational scholarships and tuition grants that are issued are awarded to
24 students who attend a qualified school.

25 4. Must not knowingly collude with any other school tuition
26 organization to circumvent the limits of section 43-1504, subsection C.

27 5. Must not award educational scholarships or tuition grants to
28 students who are simultaneously enrolled in a district school or charter
29 school and a qualified school.

30 6. MAY NOT REQUIRE AN APPLICANT OR THE FAMILY OF AN APPLICANT TO
31 PROVIDE A GOOD OR SERVICE THAT BENEFITS THE SCHOOL TUITION ORGANIZATION IN
32 EXCHANGE FOR AWARDING THE APPLICANT AN EDUCATIONAL SCHOLARSHIP OR TUITION
33 GRANT.

34 ~~6.~~ 7. Shall include on the organization's website, if one exists,
35 the percentage and total dollar amount of educational scholarships and
36 tuition grants awarded during the previous fiscal year to:

37 (a) Students whose family income meets the economic eligibility
38 requirements established under the national school lunch and child
39 nutrition acts (42 United States Code sections 1751 through 1785) for free
40 or reduced-price lunches.

41 (b) Students whose family income exceeds the threshold prescribed
42 by subdivision (a) of this paragraph but does not exceed one hundred
43 eighty-five percent of the economic eligibility requirements established
44 under the national school lunch and child nutrition acts (42 United States
45 Code sections 1751 through 1785) for free or reduced-price lunches.

1 Sec. 4. Section 43-1504, Arizona Revised Statutes, is amended to
2 read:

3 43-1504. Special provisions; corporate donations for
4 low-income scholarships; rules

5 A. A school tuition organization that receives contributions from a
6 corporation for the purposes of section 20-224.06 or 43-1183 must use at
7 least ninety ~~per cent~~ PERCENT of those contributions to provide
8 educational scholarships or tuition grants only to children whose family
9 income does not exceed one hundred eighty-five ~~per cent~~ PERCENT of the
10 income limit required to qualify a child for ~~reduced price~~ REDUCED-PRICE
11 lunches under the national school lunch and child nutrition acts
12 (42 United States Code sections 1751 through 1785) and to whom any of the
13 following applies:

14 1. Attended a governmental primary or secondary school as
15 ~~a~~ full-time ~~student~~ STUDENTS as defined in section 15-901 or attended a
16 preschool program that offers services to students with disabilities at a
17 governmental school for at least ninety days of the prior fiscal year or
18 one full semester and transferred from a governmental school to a
19 qualified school.

20 2. Enroll in a qualified school in a kindergarten program or a
21 preschool program that offers services to students with disabilities.

22 3. ~~is~~ ARE the dependent of a member of the armed forces of the
23 United States who is stationed in this state pursuant to military orders.

24 4. ARE HOMESCHOOLED BEFORE ENROLLING IN A QUALIFIED SCHOOL.

25 5. MOVED TO THIS STATE FROM OUT OF THIS STATE BEFORE ENROLLING IN A
26 QUALIFIED SCHOOL.

27 6. ATTEND A QUALIFIED SCHOOL FOR AT LEAST NINETY DAYS AND RECEIVE
28 MONIES PURSUANT TO TITLE 15, CHAPTER 19, ARTICLE 1.

29 ~~4.~~ 7. Received an educational scholarship or tuition grant under
30 paragraph 1, ~~2 or 3~~ THROUGH 6 of this subsection or chapter 16, article 1
31 of this title if the children continue to attend a qualified school in a
32 subsequent year.

33 B. A child is eligible to receive an educational scholarship or
34 tuition grant under subsection A of this section if the child meets the
35 criteria to receive a ~~reduced price~~ REDUCED-PRICE lunch but does not
36 actually claim that benefit.

37 C. In 2006, a school tuition organization shall not issue an
38 educational scholarship or a tuition grant for the purposes of section
39 20-224.06 or 43-1183 in an amount that exceeds four thousand two hundred
40 dollars for students in a ~~disabled preschool or~~ kindergarten program, IN A
41 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES or IN
42 grades one through eight or five thousand five hundred dollars for
43 students in grades nine through twelve. In each year after 2006 THROUGH
44 2018, the limitation amount for a scholarship or a grant under this
45 subsection shall be increased by one hundred dollars. BEGINNING IN 2019,

1 THE LIMITATION AMOUNT FOR A SCHOLARSHIP OR A GRANT UNDER THIS SUBSECTION
2 FROM THE PREVIOUS YEAR SHALL BE ANNUALLY INCREASED BY THE GREATER OF
3 EITHER:

4 1. THE PERCENTAGE OF THE ANNUAL INCREASE, IF ANY IN THE
5 METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES
6 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

7 2. TWO PERCENT.

8 D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, BEGINNING IN 2019,
9 A SCHOOL TUITION ORGANIZATION MAY ISSUE AN EDUCATIONAL SCHOLARSHIP OR A
10 TUITION GRANT FOR THE PURPOSES OF SECTION 20-224.06 OR 43-1183 IN AN
11 AMOUNT THAT DOES NOT EXCEED THE FULL COST OF TUITION FOR THE STUDENT TO
12 ATTEND THE QUALIFIED SCHOOL IF THE STUDENT'S FAMILY INCOME DOES NOT EXCEED
13 THE INCOME LIMIT REQUIRED TO QUALIFY A CHILD FOR REDUCED-PRICE LUNCHES
14 UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES
15 CODE SECTIONS 1751 THROUGH 1785).

16 ~~D.~~ E. A school tuition organization shall require that student
17 beneficiaries use the educational scholarships or tuition grants on a
18 full-time basis. If a child leaves the school before completing an entire
19 school year, the school shall refund a prorated amount of the educational
20 scholarship or tuition grant to the school tuition organization that
21 issued the scholarship or grant. The school tuition organization shall
22 allocate any refunds it receives under this subsection for educational
23 scholarships or tuition grants.

24 ~~E.~~ F. Students who receive an educational scholarship or tuition
25 grant under this section ~~shall be allowed to~~ MAY attend any qualified
26 school of their parents' choice.

27 G. STUDENTS WHO ARE ELIGIBLE TO RECEIVE AN EDUCATIONAL SCHOLARSHIP
28 OR TUITION GRANT PURSUANT TO SUBSECTION A, PARAGRAPH 6 OF THIS SECTION MAY
29 NOT ACCEPT AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT FROM A SCHOOL
30 TUITION ORGANIZATION CONCURRENTLY WITH AN ARIZONA EMPOWERMENT SCHOLARSHIP
31 ACCOUNT FOR THE STUDENT DURING THE SAME TIME THE STUDENT IS ACTIVELY
32 ENROLLED IN AN EMPOWERMENT SCHOLARSHIP ACCOUNT UNDER TITLE 15, CHAPTER 19,
33 ARTICLE 1. THE SCHOOL TUITION ORGANIZATION MAY REQUEST THE QUALIFIED
34 SCHOOL TO CONFIRM THAT THE STUDENT IS IN COMPLIANCE WITH THIS SUBSECTION.

35 ~~F.~~ H. The department of revenue, with the cooperation of the
36 department of insurance, shall adopt rules and publish and prescribe forms
37 and procedures necessary for the administration of this section.

38 Sec. 5. Section 43-1505, Arizona Revised Statutes, is amended to
39 read:

40 43-1505. Special provisions: corporate donations for
41 displaced students and students with disabilities;
42 definition

43 A. A school tuition organization that receives contributions for
44 the purposes of section 20-224.07 or 43-1184 must use at least ninety ~~per~~

1 ~~cent~~ PERCENT of those contributions to provide educational scholarships or
2 tuition grants to qualified students.

3 B. The amount of an educational scholarship or a tuition grant that
4 is issued by a school tuition organization under this section shall not
5 exceed the cost of tuition for the QUALIFIED student to attend the
6 qualified school ~~or ninety per cent of the amount of state aid that~~
7 ~~otherwise would be computed for the student as provided in title 15,~~
8 ~~chapter 9, article 5, whichever is less. On request from a school tuition~~
9 ~~organization, the department of education shall provide to the school~~
10 ~~tuition organization in a timely manner the amount computed for the~~
11 ~~student under this subsection that represents the ninety per cent~~
12 ~~limitation prescribed in this subsection.~~

13 C. A school tuition organization shall require that student
14 beneficiaries use the educational scholarships or tuition grants on a
15 full-time basis. If a child leaves the school before completing an entire
16 school year, the school shall refund a prorated amount of the educational
17 scholarship or tuition grant to the school tuition organization that
18 issued the scholarship or grant. The school tuition organization shall
19 allocate any refunds it receives under this subsection for educational
20 scholarships or tuition grants.

21 D. Qualified students who receive an educational scholarship or
22 tuition grant under this section ~~shall be allowed to~~ MAY attend any
23 qualified school of their custodians' choice.

24 E. A QUALIFIED STUDENT MAY NOT ACCEPT AN EDUCATIONAL SCHOLARSHIP OR
25 TUITION GRANT FROM A SCHOOL TUITION ORGANIZATION PURSUANT TO THIS SECTION
26 CONCURRENTLY WITH AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT FOR THE
27 QUALIFIED STUDENT DURING THE SAME TIME THE QUALIFIED STUDENT IS ACTIVELY
28 ENROLLED IN AN EMPOWERMENT SCHOLARSHIP ACCOUNT UNDER TITLE 15, CHAPTER 19,
29 ARTICLE 1. THE SCHOOL TUITION ORGANIZATION MAY REQUEST THE QUALIFIED
30 SCHOOL TO CONFIRM THAT THE QUALIFIED STUDENT IS IN COMPLIANCE WITH THIS
31 SUBSECTION.

32 ~~E.~~ F. For the purposes of this section, "qualified student" means
33 a student, including a student who previously qualified for an educational
34 scholarship or tuition grant under this section and continues to attend a
35 qualified school, OR A STUDENT WHO ATTENDS A QUALIFIED SCHOOL FOR AT LEAST
36 NINETY DAYS AND WHO RECEIVES MONIES PURSUANT TO TITLE 15, CHAPTER 19,
37 ARTICLE 1, who has been either:

38 1. Placed in foster care pursuant to title 8, chapter 4 at any time
39 before the student graduates from high school or obtains a general
40 equivalency diploma.

41 2. Identified as having a disability under section 504 of the
42 rehabilitation act (29 United States Code section 794) or identified at
43 any time by a school district as a child with a disability as defined in
44 section 15-761 or a child with a disability who is eligible to receive
45 services from a school district under section 15-763.