

REFERENCE TITLE: ESAs; children with disabilities; requirements

State of Arizona
Senate
Fifty-seventh Legislature
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2026

SB 1704

Introduced by
Senators Diaz: Bravo, Fernandez, Gonzales, Hatathlie, Kuby, Miranda,
Ortiz, Sears

AN ACT

AMENDING SECTION 15-2402, 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 15-2402, Arizona Revised Statutes, is amended to
3 read:

4 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

16 2. Not enroll the qualified student in a school district or charter
17 school and release the school district from all obligations to educate the
18 qualified student. This paragraph does not:

19 (a) Relieve the school district or charter school that the
20 qualified student previously attended from the obligation to conduct an
21 evaluation pursuant to section 15-766.

22 (b) Require the qualified student to withdraw from ~~a~~ ANY school
23 district or charter school before enrolling for an Arizona empowerment
24 scholarship account if the qualified student withdraws from the school
25 district or charter school before receiving any monies in the qualified
26 student's Arizona empowerment scholarship account.

27 (c) Prevent the qualified student from applying in advance for an
28 Arizona empowerment scholarship account to be funded beginning the
29 following school year, subject to section 15-2403, subsection H.

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

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

37 (a) Tuition or fees at a qualified school that requires all
38 teaching staff and personnel who have unsupervised contact with students
39 to be fingerprinted.

40 (b) Textbooks required by a qualified school.

41 (c) If the qualified student meets any of the criteria specified in
42 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as
43 determined by a school district or by an independent third party pursuant
44 to section 15-2403, subsection J, the qualified student may use the
45 following additional services:

1 (i) Educational therapies from a licensed or accredited
2 practitioner or provider, including and up to any amount not covered by
3 insurance if the expense is partially paid by a health insurance policy
4 for the qualified student.

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

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

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

11 (d) Tutoring or teaching services provided by an individual who is
12 not subject to disciplinary action by the state board of education for
13 immoral or unprofessional conduct pursuant to section 15-505 or 15-534.04
14 or a facility that is accredited by a state, regional or national
15 accrediting organization. The department shall ensure THAT any individual
16 who provides tutoring or teaching services to one or more qualified
17 students pursuant to this subdivision is not subject to disciplinary
18 action by the state board of education. The department shall also remove
19 any individual who is subject to disciplinary action by the state board of
20 education from all platforms that the department provides to parents and
21 qualified students for the purchase of goods or educational services using
22 account monies.

23 (e) Curricula and supplementary materials.

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

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

28 (h) Tuition or fees at an eligible postsecondary institution.

29 (i) Textbooks required by an eligible postsecondary institution.

30 (j) Fees to manage the Arizona empowerment scholarship account.

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

33 (l) Insurance or surety bond payments.

34 (m) Uniforms purchased from or through a qualified school.

35 (n) If the qualified student meets the criteria specified in
36 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and
37 if the qualified student is in the second year prior to the final year of
38 a contract executed pursuant to this article, costs associated with an
39 annual education plan conducted by an independent evaluation team. The
40 department shall prescribe minimum qualifications for independent
41 evaluation teams pursuant to this subdivision and factors that teams must
42 use to determine whether the qualified student shall be eligible to
43 continue to receive monies pursuant to this article through the school
44 year in which the qualified student reaches twenty-two years of age. An
45 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.

(o) Public transportation services in this state, including a commuter pass for the qualified student, or transportation network services as defined in section 28-9551 between the qualified student's residence and a qualified school in which the qualified student is enrolled.

(p) Computer hardware and technological devices primarily used for an educational purpose. For the purposes of this subdivision, "computer hardware and technological devices":

(i) Includes calculators, personal computers, laptops, tablet devices, microscopes, telescopes and printers.

(ii) Does not include entertainment and other primarily noneducational devices, including televisions, telephones, video game consoles and accessories, and home theatre and audio equipment.

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, except as otherwise allowed under paragraph 4, subdivision (c) or (p) of this subsection.

(b) Transportation of the pupil, except for transportation services described in paragraph 4, subdivision (o) of this subsection.

1 C. In exchange for the parent's agreement pursuant to subsection B
2 of this section, the department shall transfer from the monies that would
3 otherwise be allocated to a recipient's prior school district, or if the
4 child is currently eligible to attend a preschool program for children
5 with disabilities, a kindergarten program or any of grades one through
6 twelve, the monies that the department determines would otherwise be
7 allocated to a recipient's expected school district of attendance, to the
8 treasurer for deposit into an Arizona empowerment scholarship account an
9 amount that is equivalent to ninety percent of the sum of the base support
10 level and additional assistance prescribed in sections 15-185 and 15-943
11 for that particular student if that student were attending a charter
12 school.

13 D. The department of education empowerment scholarship account fund
14 is established consisting of monies appropriated by the legislature. The
15 department shall administer the fund. Monies in the fund are subject to
16 legislative appropriation. Monies in the fund shall be used for the
17 department's costs in administering Arizona empowerment scholarship
18 accounts under this chapter. Monies in the fund are exempt from the
19 provisions of section 35-190 relating to lapsing of appropriations. If
20 the number of Arizona empowerment scholarship accounts significantly
21 increases after fiscal year 2020-2021, the department may request an
22 increase in the amount appropriated to the fund in any subsequent fiscal
23 year in the budget estimate submitted pursuant to section 35-113. The
24 department shall list monies in the fund as a separate line item in its
25 budget estimate.

26 E. The state treasurer empowerment scholarship account fund is
27 established consisting of monies appropriated by the legislature. The
28 state treasurer shall administer the fund. Monies in the fund shall be
29 used for the state treasurer's costs in administering the Arizona
30 empowerment scholarship accounts under this chapter. If the number of
31 Arizona empowerment scholarship accounts significantly increases after
32 fiscal year 2020-2021, the state treasurer may request an increase in the
33 amount appropriated to the fund in any subsequent fiscal year in the
34 budget estimate submitted pursuant to section 35-113. Monies in the fund
35 are subject to legislative appropriation. Monies in the fund are exempt
36 from the provisions of section 35-190 relating to lapsing of
37 appropriations. The state treasurer shall list monies in the fund as a
38 separate line item in its budget estimate.

39 F. A parent must renew the qualified student's Arizona empowerment
40 scholarship account on an annual basis. The department of education shall
41 verify that the parent's child is a qualified student as defined in
42 section 15-2401 or 15-2401.01 in the year for which the parent seeks to
43 renew the Arizona empowerment scholarship account. This subsection does
44 not require the department to annually verify the child's disability for

the purpose of section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii), if applicable.

G. Notwithstanding any changes to the student's multidisciplinary evaluation team plan, a student who has previously qualified for an Arizona empowerment scholarship account remains eligible to apply for renewal until the student finishes high school.

H. If a parent does not renew the qualified student's Arizona empowerment scholarship account for a period of three academic years, the department shall notify the parent that the qualified student's account will be closed in sixty calendar days. The notification must be sent through certified mail, email and telephone, if applicable. The parent has sixty calendar days to renew the qualified student's Arizona empowerment scholarship account. If the parent chooses not to renew or does not respond in sixty calendar days, the department shall close the account and any remaining monies shall be returned to the state.

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

J. NOTWITHSTANDING SECTION 15-2404, A QUALIFIED SCHOOL OR A PROVIDER OF SERVICES THAT RECEIVES MONIES FROM AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PURSUANT TO THIS ARTICLE IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. 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.

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

3. A QUALIFIED SCHOOL SHALL PROVIDE ALL ACCOMMODATIONS AND SERVICES THAT ARE REQUIRED UNDER A QUALIFIED STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM OR SECTION 504 PLAN, IF APPLICABLE, UNLESS THE QUALIFIED STUDENT'S PARENT OR THE QUALIFIED STUDENT WAIVES IN WRITING THE ACCOMMODATIONS OR SERVICES. IF THE QUALIFIED SCHOOL FAILS TO EITHER PROVIDE THE ACCOMMODATIONS AND SERVICES OR OBTAIN A WRITTEN WAIVER PURSUANT TO THIS PARAGRAPH, THE QUALIFIED STUDENT MAY TRANSFER OUT OF THE QUALIFIED SCHOOL AND IS ENTITLED TO A REFUND FOR THE PORTION OF THE SCHOOL YEAR FOR WHICH THE QUALIFIED STUDENT PAID TUITION AND FEES BUT DID NOT ATTEND THE QUALIFIED SCHOOL.

1 K. Notwithstanding subsection H of this section, on the qualified
2 student's graduation from a postsecondary institution or after any period
3 of four consecutive years after high school graduation in which the
4 student is not enrolled in an eligible postsecondary institution, but not
5 before this time as long as the account holder continues using a portion
6 of account monies for allowable expenses each year and is in good
7 standing, the qualified student's Arizona empowerment scholarship account
8 shall be closed and any remaining monies shall be returned to the state.

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