



EMPOWERMENT SCHOLARSHIP ACCOUNTS

SECTION 1. DEFINITIONS.

In this chapter, unless the context otherwise requires:

- (a) “Annual education plan” means an initial individualized evaluation and subsequent annual reviews that are developed for a qualified student who meets the criteria specified in paragraph (g), subdivision (1), item (A), (B) or (C) of this section to determine ongoing annual eligibility through the school year in which the qualified student reaches 22 years of age.
- (b) “Curriculum” means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum.
- (c) “Department” means the [STATE] department of education.
- (d) “Eligible postsecondary institution” means a public community college or university or an accredited private postsecondary institution.
- (e) “Parent” means a resident of this state who is the parent, stepparent or legal guardian of a qualified student.



(f) “Qualified school” means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that does not discriminate on the basis of race, color or national origin.

(g) “Qualified student” means a resident of this state who:

(1) Is any of the following:

(A) Identified as having a disability under section 504 of the U.S. Rehabilitation Act of 1973 (29 United States Code section 794);

(B) Identified by a school district or by an independent third party pursuant to Section 3, subsection (i) as a child with a disability;

(C) [If applicable] A child with a disability who is eligible to receive services from a school district under [any other state program for students with disabilities];

(D) Attending a school or school district that has been assigned a letter grade of D or F or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school or school district that has been assigned a letter grade of D or F;

(E) Attending a school in a district whose poverty rate for children aged five to seventeen is at least 120% of the state average as reported by the most recent United States census data, or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school district whose poverty rate for children aged five to seventeen is at least 120% of the state average as reported by the most recent united states census data;

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

(G) A child who is a ward of the juvenile court and who is residing with a prospective permanent placement and the case plan is adoption or permanent guardianship;

(H) A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship;

(I) A child who is the sibling of a current or previous empowerment scholarship account recipient or of an eligible qualified student who accepts the terms of and enrolls in an empowerment scholarship program;

(J) A child who resides within the boundaries of an Indian reservation in this state as determined by the department of education or a tribal government; or

(K) A child of a parent who is legally blind or deaf or hard of hearing

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

(A) Attended a governmental primary or secondary school as a full-time student for at least sixty days of the prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an empowerment scholarship account. First, second and third grade students who are enrolled in public online instruction must receive four hundred hours of logged instruction to be eligible pursuant to this item. Fourth, fifth and sixth grade students who are enrolled in public online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item. Seventh and eighth grade students who are enrolled in public online instruction must receive five hundred fifty hours of logged instruction to be eligible pursuant to this item. High school students who are enrolled in public online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item;

(B) Previously participated in an empowerment scholarship account;

(C) [If applicable] Received a scholarship from a [scholarship granting organization / school tuition organization] and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student for at least sixty days of the prior fiscal year or one full semester before attending a qualified school;

(D) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities; or

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

(h) “Treasurer” means the office of the state treasurer.

SECTION 2. EMPOWERMENT SCHOLARSHIP ACCOUNTS; FUNDS.

(a) 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 3, 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 individualized evaluation.

(3) [If applicable] Not accept a scholarship from a [school tuition organization/scholarship granting organization] concurrently with an empowerment scholarship account for the qualified student while participating in the empowerment scholarship account program.

(4) Use monies deposited in the qualified student's 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 1, paragraph (g), subdivision (1), item (A), (B) or (C) as determined by a school district or by an independent third party pursuant to [Section 3], 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; or

(iv) Associated goods and services that include educational and psychological evaluations, assistive technology rentals and braille translation goods and 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 and supplementary materials, including educational software;

(F) Tuition or fees for career and technical education, vocational education, or 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) Tuition or fees at an eligible postsecondary institution;

(I) Textbooks required by an eligible postsecondary institution;

(J) Fees to manage the empowerment scholarship account;

(K) Services provided by a public school, including tuition or fees for individual classes and extracurricular programs;

(L) Insurance or surety bond payments;

(M) Uniforms purchased from or through a qualified school;

(N) If the qualified student meets the criteria specified in [Section 1], paragraph (g), subdivision (1), item (A), (B) or (C) 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. 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; and

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

(5) [As applicable] Not file an affidavit of intent to homeschool pursuant to [state statute];

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

(A) Video game consoles or accessories;



(B) Transportation of the pupil.

(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 charter school, 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 empowerment scholarship account an amount that is equivalent to ninety percent of the per pupil funding that the particular child would have generated in the district or charter school under [THE STATE EQUALIZATION FORMULA].

(d) The department of education empowerment scholarship account fund is established consisting of monies appropriated by the legislature. 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. Notwithstanding any other law, monies in the fund are exempt from the lapsing of appropriations. The department shall list monies in the fund as a separate line item in its budget estimate.

(e) The state treasurer empowerment scholarship account fund is established consisting of monies appropriated by the legislature. 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. Monies in the fund are subject to legislative appropriation. Notwithstanding any other law, monies in the fund are exempt from the lapsing of appropriations. The state treasurer shall list monies in the fund as a separate line item in its budget estimate.

(f) A parent must renew the qualified student's empowerment scholarship account on an annual basis in order to continue receiving deposits into an empowerment scholarship account.

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

(h) A signed agreement under this section constitutes school attendance required by [STATE LAW].

(i) A qualified school or a provider of goods or services purchased pursuant to subsection (b), paragraph (4) of this section may not share, refund or rebate any empowerment scholarship account monies with the parent or qualified student in any manner without the prior approval of the department.

(j) 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 empowerment scholarship account shall be closed and any remaining monies shall be returned to the state.

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

**SECTION 3. EMPOWERMENT SCHOLARSHIP ACCOUNTS;
ADMINISTRATION; APPEALS; AUDIT; RULES; POLICY HANDBOOK.**

(a) The treasurer may contract with private financial management firms to manage empowerment scholarship accounts.

(b) The department shall conduct or contract for annual audits of empowerment scholarship accounts to ensure compliance with [Section 2], subsection (b), paragraph (4). The



department shall also conduct or contract for random, quarterly and annual audits of empowerment scholarship accounts as needed to ensure compliance with Section 2, subsection (b), paragraph (4).

(c) The department may, within one year of an alleged infraction taking place and not afterwards, remove any parent or qualified student from eligibility for an empowerment scholarship account if the parent or qualified student fails to comply with the terms of the contract or applicable laws, rules or orders or knowingly misuses monies or knowingly fails to comply with the terms of the contract with intent to defraud and shall notify the treasurer. The department shall notify the treasurer to suspend the account of a parent or qualified student and shall notify the parent or qualified student in writing that the account has been suspended and that no further transactions will be allowed or disbursements made. The notification shall specify the reason for the suspension and state that the parent or qualified student has sixty days, not including weekends, to respond and take corrective action. The department shall reinstate the account within two business days of receiving notice that corrective action has been taken. If the corrective action requires the repayment of any empowerment scholarship account fund expenditure by the parent or student, the repaid amount shall be credited to that individual empowerment scholarship account fund balance. If the parent or qualified student refuses or fails to contact the department, furnish any information or make any report that may be required for reinstatement within the 60-day period, the department may remove the parent or qualified student pursuant to this subsection.

(d) A parent may appeal to the state board of education any administrative decision the department makes pursuant to this article, including determinations of allowable expenses, removal from the program or enrollment eligibility. The department shall notify the parent in

writing that the parent may appeal any administrative decision under this article and the process by which the parent may appeal at the same time the department notifies the parent of an administrative decision under this article. The state board of education shall establish an appeals process, and the department shall post this information on the department's website in the same location as the policy handbook developed pursuant to subsection (j) of this section.

(e) The state board of education may, within one year of an alleged infraction and not afterwards, refer cases of substantial misuse of monies to the attorney general for the purpose of collection or for the purpose of a criminal investigation if the state board of education obtains evidence of fraudulent use of an account. The department may not refer for collections any uses of monies for educational goods or services the department has previously approved unless the department provided direct written notice to the parent prior to the purchase that such use is not allowed.

(f) The department shall make quarterly transfers of the amount calculated pursuant to Section 2, subsection (c) to the treasurer for deposit in the empowerment scholarship account of each qualified student, except the department may make transfers according to another transfer schedule if the department determines a transfer schedule other than quarterly transfers is necessary to operate the empowerment scholarship account. The department shall not delay the quarterly transfer of funds for any empowerment scholarship account prior to referral of that account to the attorney general for the purpose of collection or criminal investigation pursuant to paragraph (e). The department shall make the first quarterly transfer of funds for a new empowerment scholarship account within ten days of enrolling the applicant or upon the department's first normally scheduled disbursement of empowerment scholarship account funds for the academic year for which the student has applied, whichever is later.

(g) The department shall accept applications between July 1 and June 30 of each year. The department shall enroll and issue an award letter to eligible applicants within thirty days after receipt of a completed application and all required documentation. The department shall notify any denied applicant of the specific deficiency in the application. On or before May 30 of each year, the department shall furnish to the state legislature an estimate of the amount required to fund empowerment scholarship accounts for the following fiscal year. The department shall include in its budget request for the following fiscal year the amount estimated pursuant to Section 2, subsection (c) for each qualified student.

(h) The state board of education may, after at least sixty days of public review of any proposed rules and policies, adopt rules and policies necessary to administer empowerment scholarship accounts, including rules and policies:

- (1) For establishing an appeals process pursuant to subsection (d) of this section.
- (2) For conducting or contracting for examinations of the use of account monies.
- (3) For conducting or contracting for random, quarterly and annual reviews of accounts.
- (4) For establishing or contracting for the establishment of an online anonymous fraud reporting service.
- (5) For establishing an anonymous telephone hotline for fraud reporting.
- (6) That require a surety bond or insurance for account holders.

(i) The department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to Section 2, subsection (b), paragraph (4), subdivision (C).

(j) On or before July 1 of each year, the department shall develop an applicant and participant handbook that includes information relating to policies and processes of empowerment scholarship accounts. The policy handbook shall comply with the rules adopted by the state board of education pursuant to this section. The department shall post the handbook on its website.

(k) The department shall maintain a database of expenditures that have been allowed and disallowed and make the database available to empowerment scholarship account holders on its website.

(l) The department of education shall employ a case management approach to serving applicants to the empowerment scholarship account program in which an applicant has a main point of contact.