



Education Savings Accounts: Vouchers That Stop at the Bank En Route to Privatizing Education



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Education Savings Accounts: Vouchers That Stop at the Bank En Route to Privatizing Education

The latest proposal for privatizing pre K-12 education in the United States is “education savings accounts.” These are public dollars provided to parents to pay for private school tuition or other education expenses. The use of the word “savings account” as opposed to “voucher” makes this funding appear to be a result of and reward for thrift, which of course is a positive value in our society. But at its core, education savings accounts are simply vouchers that can be used more widely than just at private schools. They raise every question raised by a traditional voucher program, and some additional ones as well.

Where It’s Happening. In 2011, Arizona became the first state to enact an ESA bill into law.¹ By June 2015, Nevada,² Florida,³ Tennessee⁴ and Mississippi⁵ had joined Arizona, although the Nevada courts have since struck down the funding mechanism for that state’s program. In 2016, ESA legislation was introduced in six states—Alabama, Delaware, Georgia, Iowa, Oklahoma and Virginia—and in Congress to establish an ESA program in the District of Columbia.⁶

All five states’ ESA laws share some provisions with ALEC’s model Education Savings Account Act,⁷ but they are not homogenous. They differ in terms of which parents can get them; the amount of public money that is given to parents; the allowable uses of those funds; the fate of unused dollars and oversight of the funds; and where the funds go.

Who Can Use Them. The table below provides an overview of the eligibility provisions for each state’s ESA program. In Florida, Mississippi and Tennessee, program eligibility is limited to certain students with disabilities or students needing special education services. In Arizona and Nevada, a larger universe of students is eligible.

State eligibility requirements also differ on whether previous public education enrollment is required. This is mainly an issue of cost. In Nevada, the bill as introduced did not require any previous public school enrollment to be eligible for a savings account; parents already sending children to private schools would have been eligible for the program. The fiscal note for the bill included these costs, forcing the Republican Legislature to insert in the final bill a requirement that students eligible for a savings account must be enrolled in a public school for at least 100 days.⁸ Voucher advocates will likely

1 See Ariz. Rev. Stat. §§ 15-2401–2404.

2 See Nev. Rev. Stat. §§ 353B.700–930.

3 See Fla. House Bill 7029 (2016 Regular Session), codified as amended throughout Fla. Stat. Ch. 1002 et seq., available at www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55816.

4 See Tenn. Code Ann. §§ 49-10-1401–1406.

5 See Miss. Code Ann. §§ 37-181-1–21.

6 See Hunter Railey, “Education Savings Accounts: Key Provisions and State Variations,” Education Commission of the States (August 2016), available at www.ecs.org/ec-content/uploads/08112016_Education_Savings_Accounts.pdf. Josh Cunningham, “The Next Generation of School Vouchers: Education Savings Accounts,” 1, National Conference of State Legislatures (August 2016), available at www.ncsl.org/research/education/the-next-generation-of-school-vouchers-education-savings-accounts.aspx

7 Model Policy, “The Education Savings Account Act,” American Legislative Exchange Council. available at www.alec.org/model-policy/the-education-savings-account-act/

8 For example, see discussion by the Nevada Home School Network, available at www.nevadahomeschoolnetwork.com/homeschool-support/education-savings-account/ (“There are many creative ways within the ESA Program for children to receive an education and this may be a viable option for some families in our state.”)

attempt to expand the legislation to eliminate the 100-day requirement in the future, even though this would mean that rather than creating new choices, much of the money would be subsidizing families that already send their child to private school.

Current students' participation in Arizona's program is governed by a complicated set of requirements focused on more vulnerable student populations. Students who attend low-performing schools; have a documented need for certain special education services; have a parent or legal guardian who is legally blind, deaf, or hard of hearing; are in foster care or came from foster care; live on reservations; already receive a special education voucher from another school choice program; have a sibling already in the program; or have an active military parent all qualify for a scholarship account. This array of eligibilities can be seen as part of a traditional voucher marketing strategy that seeks to make privatization more palatable by touting it as a beneficial support for those in need.⁹

How Much Funding? Proponents of ESAs say these formulas reduce costs and encourage thrift, raising questions from public school advocates regarding inequity and disinvestment that will be discussed below. In general, students receive funding that is pegged at 90 or 100 percent of the basic aid that students would generate under the state funding formula. Basic aid can be seen as the target amount of funding that states set as the floor for how much state and local funding will be spent for each student.

But states differ in how they apply their formula to ESA students. In Arizona and Nevada, funding is set at 90 percent of the basic amount for students without special needs and additional funding for special needs students. Tennessee applies the funding formula so that students receive the basic aid amount plus any extra funding they would generate under the formula for their special needs. In Mississippi, the initial voucher amount is set by statute at \$6,500—in fiscal year 2016, the estimated base cost per student from the state's Adequate

| | Who Is Eligible? | Is Public School Service Required? |
|-------------|--|---|
| Arizona | 3- and 4-year-olds with a documented need of special education services; current public school students who (1) have special needs, (2) are in foster care, (3) have a sibling with a voucher, (4) have a military parent, (5) have a deaf or blind parent, (6) live on a reservation or (7) attend a low-performing school. | 100 days unless entering as an otherwise eligible kindergartner or a military family. |
| Florida | Certain special education students | No |
| Mississippi | Students who have or have recently had an IEP (individualized education plan). | No |
| Nevada | All public school students. | 100 days |
| Tennessee | Certain current public school special education students and certain special education students eligible to enroll in public school kindergarten. | Enrolled two previous semesters unless entering public school for first time. |

⁹ Arizona Department of Education, "Empowerment Scholarship Account Program Eligibility Requirements & Application," available at www.azed.gov/esa/eligibility-requirements/ Arizona Department of Education, "Empowerment Scholarship Account Program Eligibility Requirements & Application," available at www.azed.gov/esa/eligibility-requirements/

Education Program funding formula was \$5,354¹⁰ — and the law requires that amount to rise and fall year

to year by the same proportion as the state’s base student funding formula.

| What Is the Amount? | |
|---------------------|---|
| Arizona | 90 percent of base per-pupil funding; special education students receive additional funds based on level of student disability. |
| Florida | 100 percent of base state per-pupil aid and program and district funds based on a student’s grade, county, and current special education spending levels. |
| Mississippi | \$6,500 per student, subject to revision in proportion to changes in the Mississippi Adequate Education Program base student cost. |
| Nevada | 90 percent of per-pupil funding; students below 185 percent of the poverty line receive 100 percent per-pupil funding; special needs students receive additional funds. |
| Tennessee | 100 percent of basic education funding of student’s local education agency, plus the formula’s special education allotment for that student. |

| Allowable Use of ESA Dollars by State | | | | | |
|--|--|--|---|---|--|
| | Arizona | Florida | Mississippi | Nevada | Tennessee |
| Tuition | Yes | Yes | Yes | Yes | Yes |
| Textbooks, therapies, tutoring, curriculum | Yes | Yes | Yes | Yes | Yes |
| Extracurricular activities | Yes | Yes | Yes | Yes | Yes |
| Online school | Yes | Yes | Yes | Yes | Yes |
| Home school | No | Yes | No | No ¹¹ | Yes |
| Transport costs | No | No | Yes | Yes | Yes |
| Unused funds | Eligible to convert to college savings account | Eligible to convert to college savings account | Reverts to state if child exits program or graduates from high school | Reverts to state if child exits program | Eligible to convert to college savings account |

10 Mississippi Department of Education, “FY 2016 Budget Request,” available at <http://www.mde.k12.ms.us/docs/legislative-services-library/mde-k12-fy-16-request-appropriation-subcommittee-hearings-jan-2015-otss-adj-.pdf?sfvrsn=2>

11 Nevada differentiates between home-based instruction under the ESA—where a student has to take a state test—and home schooling, which is a pre-existing legal status that has no test-taking requirement.

The Nevada Supreme Court has suspended funding of education savings accounts. The court found that the education savings account legislation did not contain an appropriation to fund its operation in accordance with the state constitution’s requirement that “no money shall be drawn from the treasury but in consequence of appropriations made by law,” and enjoined any use of funds from money appropriated from the Legislature’s K-12 public education appropriation law. The court upheld the remaining parts of the program. Until the Legislature enacts a new funding mechanism, such as an appropriations law that explicitly directs funding for the program, the program cannot be funded by appropriations enacted in the state’s public education budget.¹²

Allowable Uses. States set wide parameters for how money can be used. Most states cover private school tuition, textbooks, curriculum and extracurricular services. Some allow the money to be used to provide home schooling. Still others allow the money to cover transportation costs for the students. States differ on where unused funds go after the school year.

| Accountability Provisions | | | | | |
|---|--|---|------------------------------------|---|---|
| | Arizona | Florida | Mississippi | Nevada | Tennessee |
| Audits | Annual and random quarterly audit by DoE or contractor | Annual audit by Auditor General | Random audits by DoE or contractor | Annual audits | Random audits by DoE or contractor |
| Payment frequency | Quarterly deposit to parent accounts | Quarterly reimbursement to parents | Quarterly reimbursement to parents | Annual deposit to parent accounts | Quarterly deposit to parent accounts |
| Surety bond or other financial insurance | Yes | Yes | Yes | Yes | Yes |
| Standardized test for ESA student required | No | Must take state or national standardized test | No | Must take state or national standardized test | Must take state or national standardized test |
| Health, safety, and criminal background check regulations | Yes | Yes | Yes | Yes | Yes |

12 *Schwartz v. Lopez*, 132 Nevada 73 (Nev. 2016). http://www.npri.org/docLib/20160929_16-30306.pdf

Accountability. Most education savings account programs have been passed with minimal fiscal oversight or accountability requirements for private schools and participating parents. The common provisions are how often audits occur and how the state makes payments to parents. In Florida and Mississippi, parents are reimbursed after submitting documentation that money was spent on coverable education services. In the remaining states, public money is deposited into an account opened by the parent after signing an agreement with the state to spend it on coverable education services. All states require a participating school or entity to post a surety bond or other proof that the school has enough money to reimburse the state for any misused funds.

Education savings account programs have few protections to ensure that only high-quality schools and educational programs are eligible for vouchers. For example, the only requirement for a qualified school in Arizona is that the school not discriminate based on race, color or national origin. The law specifies that “[a] qualified school shall not be required to alter its creed, practices, admissions policy or curriculum in order to accept students whose parents pay tuition or fees from an empowerment scholarship account” and places the burden on the state to show that regulations implementing the program are “necessary and [do] not impose any undue burden on qualified schools.”¹³ Mississippi does require a school or other eligible recipient of state funds to be accredited by a state or regional agency. Most states require schools to comply with the health, safety and criminal background check regulations required of public schools. Florida, Nevada and Tennessee require a private school to administer at least one state or national standardized test. No state requires a private school to employ state-certified teachers, or accept all students that apply to the school. All states require certification or accreditation for a participating tutoring or therapy program. ESAs Are a Flawed Enterprise. ESAs have the potential to increase inequity and hinder public accountability. And these programs’ harms do not

come with the benefits that voucher proponents proffer: student performance improvement.

Underfunding Special Needs and At-Risk Students’ Education

Public school finance formulas typically fund schools based on the number and characteristics of enrolled students—with lower-income and special needs students receiving additional resources. But public school funding methodology is not an entitlement that must—or should—be directly allocated for and spent on an individual. Students’ education costs are variable—every student’s education does not cost the exact amount the funding formula assigns to each student. Moreover, special needs students’ education typically costs more than the assigned amount in the funding formula, and general education students’ education typically costs less. For example, a recent study in Michigan found that school districts’ expenditures of non-dedicated funds for special education services were \$746 million per year.¹⁴

But ESA programs’ allocation of funding for special needs and at-risk students attempts to convert per-pupil funding numbers into an individual entitlement. As a result, special needs and at-risk students receive less support and fewer services by participating in ESA programs than they would if they had remained in a public school.

Market Shifts That Harm Public Schools

Under an ESA program, public schools can expect three potential financial harms, all resulting in fewer resources for their students.

Proponents say that money is simply following the child and that it isn’t even necessarily the full amount that child would generate in the current system. Both those things are true, but experience tells us, again, that it is likely a broad-based ESA will mean that students who remain in traditional public schools will receive fewer services than they

13 Arizona Revised Statutes §15-2404; Arizona Revised Statutes §15-2401

14 Michael Conlin and Meg Jalilevand, “Equity and Unrestricted Funds in Special Education.” (April 2016) available at <https://msu.edu/~conlinmi/aefpresubmissionApril2016final.pdf>

currently receive. Education savings account have the potential to create relative winners and losers, with the losers being more likely to have lower incomes or have children with special needs.

First, as noted above, state funding formulas often underestimate the support needed for special education students, and as a result provide more money per general education student than is typically spent on that student. Large-scale education savings account programs can be expected to have general education students leaving public schools at a greater rate than special education students. This is likely the result of private schools being less likely to provide special education services at the same level as public schools. This is well documented in charter school education and other voucher programs. The net result is a traditional public school system with a greater share of high-cost special education students with the resultant financial pressures caused by outdated funding formulas.

Second, the loss of enrollment will diminish the ability of the school district to provide services to scale. Emerging research indicates that large enrollment losses to choice programs are systematically undermining the finances of school districts.

- » The Boston Consulting Group's report on the Philadelphia School District found that every student leaving for a charter school resulted in \$5,600 less being available for the education of students left in traditional schools.¹⁵
- » Research entitled "Which Districts Get Into Financial Trouble and Why: Michigan's Story," concluded that "overwhelmingly, the biggest financial impact on school districts was the result of declining enrollment and revenue loss, especially where school choice and charters are most prevalent."¹⁶
- » In 2014, a review of charter schools in Nashville, Tenn., found that each school was functioning like its own individual school district. When a student left for a charter school, the district was only able to "save" roughly 27 percent of the lost revenue. The rest would lead to reduced services for remaining students.¹⁷

School districts not only lose state and local aid, but also federal funds. Formulas for federal funding largely depend on the number and concentration of students meeting program requirements who attend public schools in the district.

Third, the subsidization of the education of children of affluent parents who would attend private schools or home school is a substantial new cost and will limit the revenues available for traditional public school students.

15 Boston Consulting Group, "Transforming Philadelphia's Public Schools." (August 2012). available at http://web-gui.phila.k12.pa.us/uploads/v_IF/v_IFJYCO72CBKDPrrGAAQ/BCG-Summary-Findings-and-Recommendations_August_2012.pdf

16 Allie Gross, "Study: The proliferation of charter schools in Michigan hurt traditional districts," *Detroit Metro Times*. July 18, 2016. available at <http://www.metrotimes.com/Blogs/archives/2016/07/18/study-the-proliferation-of-charter-schools-in-michigan-hurt-traditional-districts>. David Arsen et. al., "Which Districts Get Into Financial Trouble and Why: Michigan's Story," The Education Policy Center at Michigan State University. November 2015 available at <http://www.education.msu.edu/epc/library/papers/documents/WP51-Which-Districts-Get-Into-Financial-Trouble-Arsen.pdf>

17 MGT of America, Inc., "Charter School Financial Impact Model Final Report." September 11, 2014. available at <http://nashvillepublicmedia.org/wp-content/uploads/2014/09/MNPS-Charter-Schools-Financial-Impact-Review.pdf>

Wall Street Fees and Administrative Costs

School choice proponents often talk about freedom from the public school bureaucracy. In their minds, allowing parents to act as “consumers,” will bring market efficiencies to that bureaucracy. But any effort to systematically deliver education has administrative costs. Even home-school parents spend time that can be described this way. The biennial administrative cost for Nevada’s program is estimated in the fiscal note to be \$11 million.¹⁸ The law allows Wall Street to charge fees of up to 3 percent for administering accounts. Recent reports indicate that the average annual fee for an IRA account is 1.5 percent.¹⁹ This fee is a new cost.

Lack of Academic Accountability

Education savings account programs place almost no standards on the schools and services that vouchers can be used for. Schools and programs are exempt from standardized testing requirements, and teachers and school staff are not required to be certified. States do not require any type of standard for a school’s curriculum, nor do they require private schools to accept and serve all children. In some states, private schools and programs are shielded by the law from being required to change practices, policy or curriculum to be eligible for public money.

A study of Georgia voucher schools by the Southern Education Foundation found that 115 voucher schools had explicit anti-gay policies or belonged to private school associations that promote such policies.²⁰ And some voucher schools use textbooks that defend the majority of American slaveholders

and the Ku Klux Klan.²¹ Finally, schools are not required to publicly release information about their performance outcomes, and accountability often only comes after the fact. A study of voucher schools in Louisiana found that “one-third of Louisiana’s voucher students are enrolled at private schools doing such a poor job of educating them that the schools have been barred from taking new voucher students.”²²

18 Nevada Department of Education, “Executive Agency Fiscal Note: SB 302.” March 30, 2015. available at <http://www.leg.state.nv.us/Session/78th2015/FiscalNotes/5538.pdf>

19 Kate Stalter, “The Investment Fees You Don’t Realize You’re Paying,” U.S. News. December 15, 2014. available at <http://money.usnews.com/money/personal-finance/mutual-funds/articles/2014/12/15/the-investment-fees-you-dont-realize-youre-paying>

20 Southern Education Foundation, “Issue Brief: Georgia’s Tax Dollars Help Finance Private Schools with Severe Anti-Gay Policies, Practices, & Teachings.” (January 2013) available at <http://www.southerneducation.org/getattachment/857328be-3d6b-415f-af8b-da7bd3b75519/Georgia%E2%80%99s-Tax-Dollars-Help-Finance-Private-Schools.aspx>

21 Deanna Pan, “14 Wacky ‘Facts’ Kids Will Learn In Louisiana’s Voucher Schools,” *Mother Jones*. August 7, 2012. available at <http://www.motherjones.com/blue-marble/2012/07/photos-evangelical-curricula-louisiana-tax-dollars>

22 Jonathan N. Mills, et al., “How Has the Louisiana Scholarship Program Affected Students?” Education Research Alliance for New Orleans. February 22, 2016. available at <http://educationresearchalliancenola.org/files/publications/ERA-Policy-Brief-Public-Private-School-Choice-160218.pdf>

Parents Don't Get the Real Choice

Nothing in these laws prevents private schools from having their own admissions policies. In fact, some laws contain a provision expressly prohibiting any “limit [on] the independence or autonomy of a participating entity or to make the actions of a participating entity the actions of the State Government.”²³ Private schools have the ability to expel students at will. A U.S. Department of Education survey of urban private schools found that between 70 and 85 percent of schools would “definitely or probably not accept” students with disabilities and many are not equipped to accommodate students with learning disabilities or limited English proficiency.²⁴ Low-performing and special needs children are reported to have been “counseled out” in numerous school choice programs across the country.²⁵ Most recently the U.S. Government Accountability Office found that private schools in choice programs consider academic and behavioral background when deciding who to admit.²⁶

The law allows for parents to contribute beyond the dollar amount of the voucher for their children’s education. This doesn’t break down barriers to private education, it subsidizes them. It also shouldn’t be surprising that research has linked

choice programs with an increase in segregation in schools. For example, research from Georgia concluded that “Georgia tax credit scholarships have done little more than support white students to attend schools that already have extreme racial isolation.”²⁷

Public Money Paying for the Teaching and Modeling of Discrimination

Across the county, teachers in religious institutions can and are fired for things public school teachers do legally every day, because the religious institution governing the school considers such conduct “immoral.”

Well-documented examples include:

- » Teachers have been fired for becoming pregnant out of wedlock.²⁸
- » Similarly, teachers have been terminated for using in vitro fertilization to conceive.²⁹
- » There are bans on teachers speaking publicly in support of people living together outside of wedlock.
- » There are also prohibitions on using a surrogate mother.³⁰

23 Nev. Rev. Stat. § 353B.930

24 Lama Muraskin and Stephanie Stulich, “Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools Final Report.” U.S. Department of Education (1998) available at <http://eric.ed.gov/?id=ED432063>

25 Michael Winerip, “Message From a Charter School: Thrive or Transfer,” *New York Times*. July 10, 2011 available at <http://www.nytimes.com/2011/07/11/nyregion/charter-school-sends-message-thrive-or-transfer.html>

26 U.S. Government Accountability Office, “School Choice Programs Are Growing and Can Complicate Providing Certain Federally Funded Services to Eligible Students.” (August 11, 2016) <http://www.gao.gov/products/GAO-16-712>

27 The Southern Education Foundation, “A Failed Experiment: Georgia’s Tax Credit Scholarships for Private Schools.” (2011) available at <http://www.southerneducation.org/getattachment/12d045ec-6960-4715-82fb-26a2b94de61c/Test-Publication-2.aspx>

28 Molly Redden and Dana Liebelson, “A Montana School Just Fired a Teacher for Getting Pregnant. That Actually Happens All the Time,” *Mother Jones*. February 10, 2014. available at <http://www.motherjones.com/politics/2014/02/catholic-religious-schools-fired-lady-teachers-being-pregnant>

29 Bridgette Dunlap, “Why a Catholic School Teacher Was Fired for an IVF Pregnancy—And Why She Was Awarded \$171,000” *Rewire*. June 10, 2013. available at <http://rhrealitycheck.org/article/2013/06/10/why-a-catholic-school-teacher-was-fired-for-an-ivf-pregnancy-and-why-she-was-awarded-171000/>

30 Michael Clark, “Catholic Teacher Contract Specifies Banned Practices,” *Cincinnati Enquirer*. March 26, 2014. available at <http://www.cincinnati.com/story/news/education/2014/03/06/catholic-teacher-contract-specifies-banned-practices/6148399/>

- » Likewise, religious dogma prohibits using birth control.³¹
- » While these examples may be troubling on their own terms, the use of vouchers and ESAs means the public is directing funds to parents to specifically pay for the teaching jobs that are governed by these restrictions.

Student Achievement in Private Schools Is Not Better

Studies have shown that city-specific voucher programs have not raised test scores in Milwaukee,³² Cleveland,³³ or Washington, D.C.³⁴ State programs in Indiana, Louisiana and Ohio have similar or worse track records.³⁵

Conclusion

Education savings accounts—either universal or more limited programs—are another choice program that drains money from public schools, has no academic or fiscal accountability to taxpayers and families, and is not likely to raise student achievement. Instead of jumping on the latest privatization fad, states should invest in public schools and research-backed strategies to improve student achievement. This means collaboration among stakeholders built on shared responsibility and accountability. It means addressing the needs of communities through community schools and wraparound services. And it means listening to educators about what real reform looks like and how to help our kids equitably, based on what children need, not who they are.

31 Joe Garofoli, “Oakland Diocese Requiring Educators to Conform to Church Teachings,” San Francisco Gate. May 9, 2014. available at <http://www.sfgate.com/business/article/Oakland-Diocese-requiring-educators-to-conform-to-5464492.php>

32 Patrick Wolf, “The Comprehensive Longitudinal Evaluation of the Milwaukee Parental Choice Program: Summary of Third Year Reports,” University of Arkansas. (2010) Available at <http://www.uaedreform.org/downloads/2010/04/report-14-the-comprehensive-longitudinal-evaluation-of-the-milwaukee-parental-choice-program-summary-of-third-year-reports.pdf>

33 Clive Belfield, “The Evidence on Education Vouchers: An Application to the Cleveland Scholarship and Tutoring Program.” National Center on the Study of Privatization in Education. (2006) Posted at <http://ncspe.tc.columbia.edu/working-papers/OP112.pdf>

34 Patrick Wolf, et al., “Evaluation of the DC Opportunity Scholarship Program. U.S. Department of Education.” (2010) <http://ies.ed.gov/ncee/pubs/20104018/pdf/20104018.pdf>.

35 Atila Abdulkadirglu, Parag A. Pathak, and Christopher R. Walters, “School Vouchers and Student Achievement: Evidence from the Louisiana Scholarship Program,” National Bureau of Economic Research. (December 2015). Joseph Waddington and Mark Berends, “Vouchers in the Crossroads, Heterogeneous Impacts on Student Achievement and Attendance across Private Schools in Indiana” (November 2015). <https://appam.confex.com/appam/2015/webprogram/Paper14317.html>



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