



# **FAMILY ISSUE FACT SHEET**

**No. 2016-02 (February 2016)**

## **SB 1280 – EMPOWERMENT SCHOLARSHIP ACCOUNTS; ELIGIBILITY; ADMINISTRATION**

### **EXECUTIVE SUMMARY**

Arizona’s Empowerment Scholarship Account (ESA) program provides students from certain underserved populations the funding necessary to allow those children to pursue the education that will help them achieve their full potential. SB 1280 makes technical changes to the Empowerment Scholarship Account program in order to allow proper management and execution of the accounts. The enrollment cap to the Empowerment Scholarship Account program remains the same with less than 6,000 students each year allowed to qualify for the program at this time.

### **BACKGROUND**

In 2009, the Arizona Supreme Court struck down Arizona’s school voucher program for students with special needs and those in foster care, but noted that, “[t]here may well be ways of providing aid to these student populations without violating the constitution.”<sup>1</sup>

Following the Supreme Court’s direction, the 2011 Arizona legislature passed SB 1553, establishing empowerment accounts for students with disabilities. The empowerment accounts disburse 90% of the funds the state would have paid for that student at a public school into an account that parents can use on tuition at a qualified school, textbooks, curriculum, and even fees for standardized tests. This program was the first of its kind and led the nation in education innovation by placing students’ needs first.

Several groups, including the Arizona Education Association and the Arizona School Board Association, filed lawsuits to challenge the ESA program and sought an injunction to freeze the funds awarded to the students. The program was upheld in superior court and was unanimously upheld by a three-judge panel of the Arizona Court of Appeals on October 1, 2013. Although this decision was appealed to the Arizona Supreme Court, the Court denied consideration of the case on March 21, 2014, effectively upholding the constitutionality of the ESA program.

Between 2012 and 2015, the ESA program was expanded to include the following groups of students and improved with the following changes to ensure the program operates in alignment with the legislature’s original intent:

#### **2012**

- Students in a school or school district with an achievement profile grade of “D” or “F.”
- Students previously participating in the Arizona Scholarships for Pupils with Disabilities

program.

- Students in foster care who were adopted or who have a plan for permanent adoption.
- Children whose parents are in the United States military.

## 2013

- Students entering kindergarten who would otherwise be eligible for the program.
- The legislature provided additional funding to students participating in the program.
- The legislature placed a limit on the number of students that could enter the program each year in order to address concerns that a flood of new enrollees would overwhelm the Department of Education and the Treasurer's office, who jointly administer the program.

## 2014

- Program expanded to include preschool children with disabilities.
- Siblings of current ESA recipients were added to the eligibility list for ESAs.
- The legislature removed the "switcher" requirement for children of active duty or KIA military.
- The legislature made small, technical changes to the way the ESA program is administered.

## 2015

- All students living on Native American reservations were added to the eligibility list for ESAs.

As the first state in the nation to implement such an innovative program for parents and students, inevitably there are lessons learned along the way. SB 1280 will apply needed changes to ensure the proper execution of the ESA program. These changes include clarified definitions of qualifying students and updates to the list of expenses a parent may use the funds for. SB 1280 also allows the ESA application period to occur during the full fiscal year, as opposed to the current time frame of January 1 to April 1 of each year. The Arizona Department of Education will be required to approve or reject applications within 45 days of receiving them.

**It is important to note that SB 1280 does not change the enrollment cap on the ESA program** – currently set at 0.5 percent of the previous school year's total number of public and public charter school students.<sup>2</sup> At this time, the number equates to less than 6,000 children that the ESA program can accept.<sup>3</sup>

## TALKING POINTS

- **SB 1280 ensures the Empowerment Scholarship Account program runs smoothly.** This program can make a big difference in the lives of children and must operate with proficiency.
- **Arizona Empowerment Scholarship Accounts still save the state money.** With ESAs, 90% of what the state would have spent on that student in a charter school setting is available to the parent for the child's educational costs, providing a cost savings to Arizona.

- **Empowerment Scholarship Accounts allow parents to direct their children's education to best meet the needs of their child.** With parent satisfaction rates high, the program has been a successful option for parents looking for an alternative to public schools.

## CONCLUSION

Arizona's Empowerment Scholarship Account program is providing critical aid to children whose needs are not being met in a traditional public school environment. SB 1280 will ensure the program operates according to the original intent of the legislature and runs smoothly for the parents and children being impacted.

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<sup>1</sup> *Cain v. Horne*, 220 Ariz. 77, 84, ¶ 29, 202 P.3d 1178, 1185 (2009).

<sup>2</sup> The enrollment cap is set to expire in 2019.

<sup>3</sup> Arizona Department of Education, 2013-2014 State Report Card, [www.azed.gov/research-evaluation/files/2015/01/state-report-card-2014\\_final.pdf](http://www.azed.gov/research-evaluation/files/2015/01/state-report-card-2014_final.pdf) (last visited January 30, 2016).