



# **FAMILY ISSUE FACT SHEET**

**No. 2016-09 (February 2016)**

## **SB 1457 – EMPOWERMENT SCHOLARSHIPS; PERSONS WITH DISABILITIES**

### **EXECUTIVE SUMMARY**

Arizona’s Empowerment Scholarship Account (ESA) program provides students from certain underserved populations the funding necessary to allow them to pursue the education that will help them achieve their fullest potential. SB 1457 creates a mechanism that allows students with disabilities who are already in the Empowerment Scholarship Account program to continue receiving ESA funds after their 12th grade year if it is determined that they need to continue their education.

### **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.

### **The Current Public School System**

The Individuals with Disabilities Act (IDEA) requires that “free appropriate public education must be available to all children residing in the State between the ages of 3 and 21” for children with disabilities.<sup>2</sup> In traditional public schools, every child who receives special education courses must be evaluated, and an Individualized Education Program (IEP) be developed for that student. This IEP – determined by qualified professionals – contains very specific, customized goals for the student and allows school staff, parents, and the child to work together to

accomplish those objectives. At least once a year, the IEP team reassembles and evaluates how the student is performing. If the student is unable to complete their graduation requirements with their 12th grade cohort, then under the guide of an IEP that student may continue towards their goal of graduation through the end of the school year that they turn 22.

### Empowerment Scholarship Accounts

Arizona was the first state in the nation to implement the innovative ESA program for parents and students, initially creating the program just for children with disabilities. Once a student is enrolled in the ESA program and signs their contract, they release the public school system from educating the student or providing additional services. Currently, the Empowerment Scholarship Account program only covers students through their 12th grade cohort year, regardless of the child's ability to graduate.

SB 1457 seeks to create a mechanism for students with disabilities to continue on the ESA program through age 22 if they meet certain requirements, just like public school students with disabilities are permitted. The bill creates the Annual Education Plan Development Council within the Department of Education. This Council is charged with determining the criteria for a brand new evaluation called an Annual Education Plan (AEP). An AEP will essentially replace a public school's IEP by setting out individualized goals for the student and determining whether that student is eligible to continue to receive ESA funds to further their education past their 12th grade year. Once an AEP is conducted by an independent evaluation team, the Department of Education will review the report and make the final determination of whether the special needs student should continue in the ESA program.

Other provisions in the bill require the AEP to be renewed each year and sets out a way for a parent to appeal the Department of Education's determination if they find that a child is no longer eligible for the ESA program. SB 1457 also lists the creation of an AEP as an approved expense for ESA funds.

### **TALKING POINTS**

- **SB 1457 ensures the Empowerment Scholarship Account program serves the population that it was initially created for.** This program can make a big difference in the lives of children, especially those with special needs.
- **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 1457 will ensure the program continues to serve the population of students for which the program was initially created by allowing ESA students with disabilities to continue in the program beyond age 18 just like public school students.

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

<sup>2</sup> 20 U.S.C. § 1401 (9), available at [www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap33-subchapI-sec1401.pdf](http://www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap33-subchapI-sec1401.pdf).