



FAMILY ISSUE FACT SHEET

No. 2017-01 (February 2017)

SB 1431/HB 2394 – EMPOWERMENT SCHOLARSHIPS; EXPANSION; PHASE-IN

EXECUTIVE SUMMARY

Arizona’s Empowerment Scholarship Account (ESA) program currently 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 1431/HB 2394 expands the program to provide equal access for all students by phasing in eligibility by grade level for current public and charter school students over the next four years. The bill also requires that students in the ESA program be given a standardized test each year.

BACKGROUND

History of the ESA Program

In 2009, the Arizona Supreme Court struck down the Arizona Scholarship Program for Pupils with Disabilities and the Displaced Pupils Choice Grant Program, which provided grants for students with special needs and those in foster care to attend private schools. However, the Court noted that, “[t]here may well be ways of providing aid to these student populations without violating the constitution.”¹

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 charter 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 Boards 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, 2013.² 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.

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. The contract signed

by the parent to enroll a student in the ESA program releases the public school system from educating the student or providing additional services. Currently, the Empowerment Scholarship Account program only covers certain classes of students: children with special needs, children in foster care or adopted out of foster care, children assigned to failing schools, children of active duty military members or military members killed in action, children living on tribal lands, and children whose parents are legally blind or deaf.

SB 1431/HB 2394 seeks to expand eligibility to all public and charter school students. The expansion is phased in over four years. Beginning in the 2017-2018 school year, students in kindergarten and grades 1, 6, and 9 may apply. Students in grades 2, 7, and 10 are added in the 2018-2019 school year. Students in grades 3, 8, and 11 may apply for the 2019-2020 school year. Finally, all public and charter school students in kindergarten through twelfth grade are eligible to apply in the 2020-2021 school year. Throughout the expansion, the current cap on the program of 0.5% of the total student population remains in place, limiting enrollment in the program to approximately 5,400 students per year.

This program is a winner for all Arizonans. Parents are given the flexibility to choose educational options that will work best for their children. Taxpayers save money over educating students in the traditional public schools because the amount of the ESA scholarship is 90% of the funding the state would have paid for the student if the student switched from a district school to a charter school.

SB 1431/HB 2394 also includes an accountability measure to help parents verify the progress made by their child. Each student in the program must take a national norm-reference standardized test, an advanced placement exam, or a college entrance exam each year, and the results must be reported to the student's parent. Parents can use these results to evaluate the options they have chosen for their students and make changes as needed to help the students succeed.

TALKING POINTS

- **Every child should have the opportunity to meet their full potential.** Because not all children thrive in the same educational environment, parents ought to have several options available to them. Seven-year old Savana is a great example. She struggled with ADHD in an Arizona public classroom of 30 kids. Now she thrives, even reads in front of her class at a private school, thanks to the ESA program. Every Arizona family deserves that chance.
- **Every parent has the right to choose how best to educate his or her children** – whether that is public school, private, charter or homeschooling. Parents should be making that decision, not bureaucrats. SB 1431/HB 2394 provides an opportunity to give that choice back to more parents.
- **Expanded ESA eligibility means everyone will have an equal opportunity to apply.** Because the eligibility is phased in over four years and there is still a cap on the total number of ESAs provided, public schools will continue to be a valuable choice for

parents.

- **We have seen the success of the ESA program.** Tim is a father of five adopted foster children, all of whom attend a local private school where they get the extra attention they need. They are thriving there. Tim could never afford to send five kids to a private school without the ESA program. Doesn't every family deserve that same opportunity?

CONCLUSION

Arizona's Empowerment Scholarship Account program allows parents to direct their children's education to best meet the needs of each child. The program has already proven to be a successful option for parents looking for an alternative to public schools. Now it is time to give all parents the choice to apply for this pioneering program that has benefitted so many kids.

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

² *Niehaus v. Huppenthal*, 233 Ariz. 195, 310 P.3d 983 (Ct. App. 2013), *review denied* (Mar. 21, 2014).