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Empowerment Scholarship Accounts

The Trade-Offs of Empowerment Scholarship Accounts (ESAs) for Students with Disabilities

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The Trade-Offs of Empowerment Scholarship Accounts (ESAs) for Students with Disabilities

Empowerment Scholarship Accounts (ESAs) are growing popular among parents of students with disabilities, providing them options to choose how and where to educate their children with financial assistance provided by the state. According to the Arizona Department of Education (ADE), ESA enrollments, the majority of whom are students with disabilities, are projected to explode by 700 percent in just three years, with expenditures growing by more than 900 percent. That is almost ten percent of state funding for special education that is projected to be diverted to private options in 2015. The program, essentially, cedes all decisions about the child's education to the parents. For many parents, this is liberating. They feel like they don't have to struggle for every accommodation needed for their child's education, and they appreciate having the flexibility to do what is needed. Thus, ADE reports that 75 percent of ESA holders are renewing this year because they are satisfied with the program.

But, this flexibility and control comes at a cost for some parents. ADE numbers reveal that only 747 out of the 2,349 new applicants (32 percent) for the 2014-2015 school year decided to participate in the program. Many parents did not fully understand the program, including all of the responsibilities they had to assume. There are several fact sheets available outlining ESA merits, including what they are, how ESA funds can be spent,¹ and how to enroll,² but there remains confusion about how ESAs affect students with disabilities. It is important that

¹ ESA Informational Meeting - Spending and Expense Reports:
http://www.azed.gov/esa/files/2014/07/esa-informational-meeting_spending-.pdf

² ESA brochure: <http://www.azed.gov/esa/files/2011/09/e-s-a-brochure-finished-copy.pdf>;
Empowerment Scholarship Account Handbook:
<http://www.azed.gov/esa/files/2014/03/empowerment-scholarship-account-handbook2014.pdf>

parents understand the pros and cons of the program before they decide whether or not the program is the best fit for their student.

1. ESAs are not targeted to educating students in “least restrictive environments.”

Since its inception, ESAs for students with disabilities have been primarily spent on segregated options, including education at home, private day programs for students with disabilities and other specialized private school programs for students with disabilities, and/or private tutors.

Disadvantage: Before the Individuals with Disabilities Education Act ([IDEA](#)) was adopted in 1975, students with disabilities were typically educated in specialized schools for children with disabilities, at home or, in some cases, not at all. In response, IDEA mandates that the student’s instruction be provided, to the extent possible, in a general education setting, or the least restrictive environment. Numerous studies have shown the benefits of being included in the general education classroom alongside students without disabilities.³ Regardless of the social, economic, and long term benefits of classroom inclusion, the ESA options parents select are similar to those offered to students with disabilities pre-1975,

³ Bunch, G., & Valeo, A. (2004). Student attitudes towards peers with disabilities in inclusive and special education schools. *Disability and Society*, 1(1), 61–78; Frederickson, N., Simmonds, E., Evans, L., & Soulsby, C. (2007). Assessing the social and affective outcomes of inclusion. *British Journal of Special Education*, 34(2), 105–115; Freeman, S. (2000). Academic and social attainments of children with mental retardation in general and special education. *Remedial and Special Education*, 21(1), 3–26.; Lawrence-Brown, D. (2004). Meeting the needs of all students through differentiated instruction: Helping every child reach and exceed standards. *American Secondary Education*, 32(3), 34-62; McPhail, J.C., & Freeman, J. G. (2005). Beyond Prejudice: Thinking toward genuine inclusion. *Learning Disabilities Research and Practice*. 20(4), 254–267. Wiener, J., & Tardif, C. (2004). Social and emotional functioning of children with learning disabilities: Does special education class placement make a difference. *Learning Disabilities Research and Practice*, 19(1), 20–32.

before civil rights protections were in place. Thus, in most cases, the ESA option does not meet the vision of educating students in the least restricted environment.

Advantage: Some parents believe that ESAs are their only non-public school option. They believe a smaller, specialized private school for students with disabilities with adequately trained staff or educating at home offers their child a safe environment where their needs can be more easily met. Further, for some in the public education system, the student may have been spending most of his or her time in a separate resource room or segregated classes before the decision to enroll in an ESA was ever made.

2. Parents gain flexibility, but opt out of IDEA protections and federal and state academic accountability requirements.

By accepting an ESA agreement, parents release the school district from all obligations to educate their child and the parent becomes the administrator of their child's education. Thus, they no longer have the IDEA protections attached to public schools that ensure students' rights to a Free and Appropriate Public Education (FAPE).⁴ Under FAPE, public schools are required to provide children with disabilities the same support provided to students without disabilities, free of charge, and schools must adhere to the child's individualized education plan (IEP). And, ESAs do not have to adhere to federal or state education mandates requiring standardized testing to measure a student's academic performance.

Disadvantages: It is unclear whether ESAs are either improving education or saving the state money. Further, there is no way to determine how private school programs are performing without accountability measures in place. Private schools are not legally required to provide supports or accommodations for students with disabilities that may be necessary to assure educational progress or benefit. Thus, without adequate resources, most private schools that

⁴ FAPE requires public schools to employ special education and other disability-related services designed to *meet a students' unique needs and prepare them for further education, employment, and independent living...*" 20 U.S.C. 1400(d)

aren't specialized in disabilities don't admit these students. As a result, the choice of private schools the parents can access is limited. Instead, they are selecting education at home or specialized programs or specialized programs for students with disabilities.

Moreover, parents who are dissatisfied with their child's ESA funded education services do not have the same access to the grievance procedures afforded to them in the public school system that is protected under IDEA. The only appeals process available to parents is when disputing removal from the program, at which time they may request an administrative hearing. The judge's decision at this hearing is then forwarded to ADE who decides to accept, reject, or modify the recommended decision. Since ESAs are funded by public dollars, final decisions over education spending rest solely with ADE.

Advantages: Some parents feel that they aren't receiving FAPE protections under the current public school system. They believe ESAs offer more flexibility and control to secure the accommodations they would have received if the IEP was followed. In addition, some parents don't think standardized testing is an adequate way to measure their child's skills and talents. Many parents use ESAs to send their children to specialized private schools that can better understand and be more responsive to their child. Thus, IDEA is not needed in these environments.

3. The eligibility determination requirement remains in effect.

Even though the child is no longer eligible for special education services, he/she still must be recertified every three years as eligible for special education services by the student's district of residence.

Disadvantage: Some families have had negative experiences with their former public school district and/or district personnel may have never actually met their child. But, the student and family must still meet with district personnel to evaluate their child's disability and determine funding eligibility. This may affect eligibility as the child's needs change throughout the school years. Further, if parents disagree with an eligibility determination resulting in an ESA

funding reduction, there is no recourse, since the rights for due process under IDEA have been surrendered.

Advantage: [SB1237](#), passed this session, assigns the responsibility of eligibility determinations with ADE. ESA staff will be hiring contractors to conduct student evaluations within the next few years, so the student does not have to return to his/her district of residence for evaluation.

4. ESAs prioritize academics over vocational preparation.

Because ESAs focus on academics they do not provide reimbursement or incentives for participation in vocational programs and apprenticeships. According to ADE, allowing anything other than academics, such as vocational education and transition classes, as an approved funding category would potentially be so expensive that the decision to include them would require legislative action. Thus, the ESA program cannot afford funding for vocational preparation or for students 19 or older.

Disadvantages: Although students with disabilities may remain enrolled in public schools until age 22 to allow them additional time to acquire the employment and life skills needed to succeed, many of Arizona's transition programs are failing. Arizona schools have focused largely on academics until the child turns 16 when a transition plan is developed. As a result, 34 percent of youth with disabilities are either not employed or not enrolled in a post-secondary education option.⁵ For some students with disabilities, focusing on academics does not prepare them for success after they complete high school; many students benefit more from job preparation and training and independent living-skills training they could receive from a transition or employment program. ESA's focus on academics is often a mismatch for students with disabilities as they near exiting the ESA program.

⁵ *U.S. Census, 2012, 16-24 year old Arizona PUNS Person File*

Advantages: The ESA program offers students striving to meet academic goals an opportunity to learn using various formats, i.e. tutors, on-line, specialized programs. ADE also provides some flexibility in determining what content a student may be tutored in to help them reach their academic goals. Further, students who have unspent ESA funds after they graduate high school are allowed to spend them over an additional four years if they are enrolled in a post-secondary academic program.⁶

5. There is an option to exit ESAs mid-year, but the option is not guaranteed.

Some parents determine that ESAs were not the correct choice for their child and would like to return to the public school system during the same school year the ESA was received.

Disadvantage: If the parent signs a contract with a private school, the family could potentially be locked into that contract for the duration of the agreement. It is the prerogative of the school to determine if a student can be released from that contract.

Advantage: Although the ESA agreement is for one full year, parents may be able to exit the program sooner. ESA staff makes their decisions on early exits on a case-by-case basis after reviewing the individual's account. After a 10-day waiting period, at which time ESA staff determine that all funds have been expended appropriately, the student may be allowed to return to public school, but this is not guaranteed.

Conclusion When parents sign up for an ESA, they are signing a contract with ADE to become the superintendent of their child's education and are allocated the funding that would've been spent on that child if he or she was enrolled at a public school. For some parents this option has been beneficial for them and their child, but others do not fully understand how they work. They enroll, become disenchanted or overwhelmed, and abandon them within a year. Thus, there is no single, correct solution for how parents should

⁶ Career or technical education or vocational programs are not included.

educate their children. It is incumbent upon the family to assess the strengths and weaknesses of the ESA before selecting – or rejecting - the option.

For more information about the program, visit <http://www.azed.gov/esa/>.