

# THE FUTURE OF SCHOOL CHOICE IN MAINE

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THE  
MAINE HERITAGE  
POLICY CENTER

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# **The Future of School Choice in Maine**

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# EXECUTIVE SUMMARY

Sixty years ago the late Nobel Prize-winning economist Milton Friedman published a radical idea: just because we fund schools through government doesn't mean politicians know how to run schools or what education is best for other people's children.

To improve American education for all students, Friedman argued that parents should decide what schools are best for their children, schools and teachers should be free to innovate, and public funding should follow students to schools of their parents' choice.<sup>1</sup>

"Education spending will be most effective," Friedman explained, "if it relies on parental choice and private initiative—the building blocks of success throughout our society."<sup>2</sup>

Similar to Adam Smith, Thomas Paine, and John Stuart Mill, Friedman advocated a system of publicly-funded vouchers because it would free parents to choose the schools they thought were best for their children, and schools would have to compete for students and their associated funding.

As of this Milton Friedman Day, July 31st on what would have been his 103rd birthday, parental choice in education includes not only publicly-funded voucher scholarship programs, but privately-funded tax-credit scholarship programs, as well as personal-use tax credits and deductions to help offset out-of-pocket costs of private schooling, homeschooling, special education, and related expenses. Altogether these programs are helping more than 1.2 million students.<sup>3</sup>

## Figure 1. Private & Home School Parental Choice by the Numbers

Nearly 140,000 students participate in 23 voucher scholarship programs in 13 states and the District of Columbia.

More than 195,000 students are helped through 20 tax-credit scholarship programs in 16 states.

Nine personal use tax credit and deduction programs in eight states assist close to 890,000 families offset out-of-pocket educational expenses.

Another 1.8 million students are currently homeschooled, and their numbers are growing by as much as 8 percent annually.

Sources: *The Friedman Foundation for Educational Choice*, *the National Home Education Research Institute*, and *the U.S. Department of Education*.

Meanwhile Maine clings to a 19th century schooling model that rations children's education options based largely on where their parents can afford to live. The state should be enhancing its 142-year-old voucher program instead by implementing education savings accounts (ESAs).

ESAs are the latest advance in educational choice, fostering for students an unprecedented level of personalized learning opportunities customized by those who know and love them best: their parents.

The concept behind ESAs is simple. Parents who do not prefer a public school for their child simply withdraw him or her, and the state deposits 90 percent of what it would have spent into that child's ESA. Parents receive a type of restricted-use debit card to pay for authorized expenses including private school tuition, online courses, testing fees, tutoring, and special education therapies. Any leftover funds remain in the child's ESA for future education expenses, including college.

ESAs are also fiscally responsible. ESA funds are disbursed quarterly, but only after parents submit expense reports with receipts for verification. Regular audits also help prevent misspending. If parents misuse funds they forfeit their child's ESA and must repay misused funds or face legal prosecution.

Today ESAs are helping nearly 3,000 Arizona and Florida students, and so far this year ESA programs have been enacted in Mississippi, Tennessee, and Nevada. If recent polling results are any indication, several more states should follow suit—including Maine.

Fully 57 percent of Maine voters support ESAs, and more than two-thirds believe choice programs should be open to all students, not just those with special needs or circumstances. Operational and recently enacted ESA programs offer important models for state policymakers. Lessons from these programs include:

1. Make ESAs universal
2. Fully fund ESAs
3. Keep a lid on program caps
4. Beware of pilots
5. Let all education providers compete
6. Private administration is best

A schooling system that rations education based on families' zip codes is a relic of a bygone era. ESAs empower parents to customize their children's learning to degrees no one-size-fits-all system could ever match—no matter how lavishly funded. Rather than debating the future of parental choice, Maine policymakers should be enacting it.

# INTRODUCTION

Using public dollars for private education is not an earth-shattering idea. Currently, nearly 9 million college students nationwide are using more than \$32 billion in Federal Pell Grants to attend the colleges and universities of their choice, public and private, nonsectarian and religious alike.<sup>4</sup> In fact, close to 13,000 undergraduates students are using more than \$50 million in Federal Pell Grants to attend postsecondary institutions in Maine, including more than 450 students using almost \$1.7 million in public funds to attend St. Joseph's College—a Roman Catholic institution—in Standish.<sup>5</sup>

In just a few years most of those students will likely graduate and become parents themselves; however, they will largely be restricted from using public dollars to send their own children to the elementary, middle, and high school programs of their choice—until, of course, those children turn 18 when they too will be allowed to use public funds for their personal higher education choices.

Education savings accounts, or ESAs, expand the kind of personalized learning that has long been available for higher education students but not for school-age children—like Austin Fox, who has Asperger's syndrome.

Before 2011 when Arizona enacted the country's first ESA program, Austin was a sophomore on the verge of dropping out of his public high school. "He wasn't receiving an education," explained Austin's mother Crystal. "He was just being moved on." All that changed once Arizona enacted ESAs.<sup>6</sup>

ESAs are akin to education debit cards. Parents who do not prefer a district or charter public school for their child simply withdraw him or her, and the state deposits most or all of the funds it would have spent into an ESA designated for that child instead. With those funds parents can pay for authorized education expenses including private school tuition, online courses, testing fees, home schooling curricula, tutoring, and special education therapies. What's more, any leftover funds remain in the child's ESA and can be used for future education expenses, including eventually college.

When Chrystal told Austin that he could choose any school he wanted thanks to his ESA, Austin says he was "overjoyed." After touring a number of schools, Austin and his mother found one that he describes as "the perfect fit." Austin's teachers report that he came "out of his shell" and began thriving socially and academically. In fact, within just two years Austin's grades soared from a C average to straight A's, he earned high ACT and SAT scores, and upon graduation he had multiple college offers. Crystal credits the ESA program with "saving Austin's life."<sup>7</sup>

There is no good reason Maine schoolchildren should be denied the educational opportunities a growing number of students like Austin now have. Maine clings to a 19th century schooling model that rations children's education options based largely on where their parents can afford to live. The state should be enhancing its 142-year-old voucher program instead by implementing ESAs.

ESAs are a 21st century solution that turns this 19th century model on its head by putting the real experts in charge of their

children's education: parents, not politicians or vested special interest groups.



# EDUCATIONAL CHOICE

## The Education Establishment Claim Parents Have Enough Choices

According to the Maine Department of Education, it is “working toward an education system that offers families the ability to choose the educational setting that works best for each student, when they learn and where they learn.”<sup>8</sup> To expand parental choice in Maine the legislature created the School Choice Work Group based on the proposal by Governor Paul R. LePage.<sup>9</sup>

Unfortunately, a number of Work Group Stakeholder members insist that, as Michael Thurston of the Maine Education Association puts it, “Maine parents already have choices.”<sup>10</sup> Likewise, Stakeholders Jackie Perry of the Maine School Boards Association, along with Katy Grondin and Kevin Jordan of the Maine School Superintendents Association, each conclude that “Public Schools currently provide a variety of choices for students,” and recommend simply working to “enhance” the status quo.<sup>11</sup>

Yet there’s scant empirical evidence that spending more on more of the same will yield better results.

Since the early 1990s, Maine student performance on the National Assessment of Educational Progress (NAEP), also known as the Nation’s Report Card, has weakened relative to the national average.<sup>12</sup> Meanwhile from 1990 through 2013 real per-pupil funding increased nearly 10 times as much as student enrollment, more than 141 percent compared to 14.8 percent.<sup>13</sup> Even a recent independent review by the California-based

Lawrence O. Picus & Associates that recommended increasing annual education funding by more than \$300 million acknowledged in spite of being one of the country’s biggest spenders, student achievement in Maine remains essentially flat.<sup>14</sup>

Several other Work Group members, however, insist that Maine policymakers should be expanding parental choice.

Tim Walton, Director of External Affairs and Public Policy, Cianbro, explains that he is “a (proud) product of Maine’s traditional public school system, as is my wife and our children. We are very supportive of our local public schools and firmly believe this traditional system has been a very good path for our family.” Yet he acknowledges that one size certainly does not fit all. “With regards to choice, my view is very simple; the parent should be the ultimate decider or authority...on what is best for their child,” says Walton, adding that “for many families some of the constraints of this system have not worked best for them and thus has not been the best educational option for their children. In my opinion, expanding school choice options for all Maine students would prove highly successful for everyone involved. We simply shouldn’t be frightened by change, certainly not when it comes to expanding choice in education.”<sup>15</sup>

Along with Walton, several other Work Group Stakeholders emphasized that just



because the public school system may have been the right fit for them and their family members, there is no reason to believe it is the best option for all Maine families and children. In fact, they expressed concerns over the system-centered perspective displayed by a number of other Work Group members affiliated with the public school system and employees' unions. "Throughout our meetings we heard a lot about school budgets, local taxes, etc.," noted Matthew Hoidal, public school parent and Executive Director of the non-profit Camp Sunshine. "I didn't hear much about 'best interests of the student'."<sup>16</sup>

Heidi Sampson, Maine State Board of Education member, put it even more strongly insisting, "The importance and desire on the part of parents to have School Choice seems to be an issue the 'educational professionals' have a significant struggle grasping, or even acknowledging. ... At this point in time, parent's hands are tied. The schools have

disenfranchised them, belittled and marginalized them."<sup>17</sup>

The remarks of Wanda Lincoln, a former teacher, union member, and State Program Coordinator of the Eat Well Nutrition Education Program, aptly sum up the prevailing status quo in Maine relative to the rest of the country:

*...I have felt from the first meeting, that there was no openness by some of these folks [included representatives of the MEA, superintendents, principals, and school boards] to even discuss school choice (other than superintendent agreements) as an option for Maine. With over 40 states offering a variety of models (open enrollment, vouchers, charter schools, choice, magnet schools, virtual schools), Maine is really behind the 8 ball, in my opinion, in meeting the educational needs of students and parents.<sup>18</sup>*

## Education Options are Limited in Maine

As the state education department admits, options for personalized learning directed by students' parents remain the exception rather than the rule: "Generally, Maine students attending public school enroll in the district where their parents live."<sup>19</sup>

The School Choice Work Group likewise acknowledges that just 15 percent of Maine students are exercising some form of school choice.<sup>20</sup> This is a shockingly low figure compared to data from the U.S. Department of Education, which reports that more than twice as many parents nationwide (37.3 percent) say that public school choice is available to them.<sup>21</sup> Maine's prevailing school landscape helps explain why so few parents have education options.

Unlike parents in a growing number of states, Maine parents must get the approval of the local school boards or district officials if they wish to transfer their children to other public schools. In contrast, districts in more than half of the states are required to accept student transfers from within or outside of their boundaries.<sup>22</sup> Other public school choice options are similarly sparse in Maine.

On average, slightly more than 4 percent of public school students attend magnet schools nationwide. Maine, however, has the lowest percentage of any reporting state at less than 1 percent (0.06 percent).<sup>23</sup> Currently, Maine has only one public residential magnet school, the Maine School of Science and

Mathematics in Limestone. While the MSSM does not charge resident parents out-of-pocket tuition, they are required to cover room and board fees of \$8,300—an amount that exceeds the in-state tuition charged by many University of Maine and Maine Community College campuses.<sup>24</sup>

Public charter school choice is also sorely limited. As of the 2012-13 school year when Maine had just two public charter schools, the proportion of public school students enrolled in those schools was less than 1 percent, which was virtually identical to states with no charter schools and far below the national average of 5 percent.<sup>25</sup> Even though four more charter schools have opened since then<sup>26</sup>, all six schools reported waiting lists during the 2014-15 school year.<sup>27</sup>

Finally, while Maine has one of the country's oldest voucher programs, established in 1873, private school choice is limited to students who live in towns without public schools offering their grade levels, and

religious schools are barred from participating.<sup>28</sup>

Encouraging more options, not more of the same, is the way to improve education for all Maine students, as many School Choice Work Group Stakeholders recommended.<sup>29</sup> Research also backs them up. Expanding parental choice in education makes it more likely that students will find the education providers that are the best fit for them. Research also overwhelmingly shows that competition for students improves student achievement and public school performance.<sup>30</sup>

By putting parents in charge of their children's education funding, ESAs are empowering parents to customize their children's learning regardless of where they can afford to live. Recent opinion polls also confirm that parents and voters overwhelmingly support ESAs and the expanded options they make possible—sorely undermining opponents' claims that parents already have enough choices in education.

# THE CASE FOR EDUCATION SAVINGS ACCOUNTS

## Education Savings Accounts Offer Unlimited Choices

ESAs turn the prevailing one-size-fits-all wisdom of the schooling establishment on its head by personalizing learning to unprecedented levels.<sup>31</sup> Not only are parents more satisfied having greater options, students are thriving academically and socially for less than what it costs in a typical public school setting. The rapid expansion of ESA programs also shows that there is tremendous demand for more customization in education—not less.

Since 2011 Arizona has annually expanded its ESA program to include more students, such as those who would otherwise attend failing public schools, students in or adopted from the foster care system, children of Active Duty military parents, eligible kindergarteners, siblings of current and former ESA students, and children who reside within Indian Reservation boundaries.<sup>32</sup> The program is so popular participation has roughly doubled each year, growing from around 130 students in 2011 to more than 1,300 today.<sup>33</sup>

The freedom to choose not simply where but *how* their children are educated results in high parental satisfaction with ESAs. Fully 100 percent of participating Arizona parents report being satisfied with the program, with 71 percent reporting they are “very satisfied.” In contrast, just 43 percent of parents reported any level of satisfaction with their children’s previous public schools.<sup>34</sup>

ESAs are also expanding to students well beyond the Grand Canyon State. Florida was the second state to adopt ESAs for special needs students in 2014, and 1,700 students participated.<sup>35</sup> The 2014-15 school year had barely finished when it was reported that close to 2,000 ESA applications had already been submitted for the upcoming school year.<sup>36</sup> Meanwhile, in June 2015 funding for the program was tripled from \$18 million to \$54 million, and student eligibility was expanded to include a greater number of diagnosed disabilities.<sup>37</sup>

This is great news for Florida parents of special needs children like Stacey, who reports that the freedom to use her young son’s education funding for the tailored services he needs has sparked dramatic improvements in his learning. “Liam...is reading on grade level, which is huge. ... It’s helping his speech...and his overall communication has improved. ...This program is just such a game-changer for parents.”<sup>38</sup>

These results are especially impressive since under existing programs ESAs are funded at just 90 percent of what states would have otherwise spent to educate students. They also undermine another common refrain that more spending—rather than more efficient spending—is what schools need to achieve better results.

This year Mississippi,<sup>39</sup> Tennessee,<sup>40</sup> and Nevada also enacted ESAs, and its program

stands out for making all public school students eligible, not only those with special educational needs or circumstances.<sup>41</sup> If

recent polling results are any indication, several more states will likely adopt ESAs as well.

## ESAs are Now the Most Popular Form of Parental Choice

A national poll released by the Democratic Beck Research firm in early 2015 found that close to seven out of 10 likely voters supports greater parental choice in education and believes competition improves public schools.<sup>42</sup> A subsequent nationally representative poll released in June indicates that ESAs are the most popular form of parental choice among Americans. Fully 62 percent of respondents favored ESAs compared to favorable ratings of 61 percent for voucher scholarships, 60 percent for tax-credit scholarships, and 53 percent for charter schools.<sup>43</sup>

Support for ESAs is also strong across nearly all demographics, especially adults ages 18 to 34 (75 percent). Importantly, support for ESAs was strong across the political

spectrum, at 60 percent or higher for both Democratic and Democratic-leaning respondents as well as Republican and Republican-leaning respondents, and nearly two-thirds (65 percent) of Independents.<sup>44</sup> In fact, respondents who favor ESAs indicate that they are far more likely to vote for pro-ESA political candidates, ranging from 25 percent more likely among middle-income voters up to 40 percent more likely among voters ages 18 to 34.<sup>45</sup>

Finally, contrary to prevailing political wisdom that holds parental choice programs should be limited to certain groups of students, two out of three respondents believes that all students should be eligible for ESAs, not just select populations.<sup>46</sup>

## Mainers Want ESAs and Universal Choice

Support for ESAs among likely Maine voters is similarly strong. In fact, slightly more Maine respondents indicate they support ESAs than vouchers, 57 percent compared to 55 percent. This is a surprising finding given that Mainers have had vouchers since 1873.<sup>47</sup> Similar to results from the national survey, more than two out three Maine voters also prefer parental choice programs that are open to all students, 67 percent.<sup>48</sup>

Responses from likely Maine voters also indicate that existing public and private

school options are too limited. While 90 percent of elementary and secondary students attend district public schools, only around one-third of respondents (36 percent) believes these schools provide the best education for their children. In contrast, 52 percent of respondents indicate private and homeschooling are the best options for their children (42 percent and 10 percent, respectively).<sup>49</sup> Parental choice in education is both popular and has a proven track record of success.

## Parental Choice Works

Maine parents clearly want more—and better—education options, and research backs them up. Today, significant numbers of children with special needs and circumstances struggle academically, including students with disabilities, from military families, the foster care system, and those who are in or assigned to failing public schools.<sup>50</sup>

Research consistently shows that parental choice improves academic outcomes of participating students, most of whom are disadvantaged.<sup>51</sup> In fact, 11 of 12 “gold standard” random assignment studies to date find that disadvantaged students, including low-income and minority children, who use scholarships to attend the schools their parents think are best perform better in reading and math, have higher high school graduation rates, college attendance rates, and higher college graduation rates than their peers who do not use scholarships. No study to date has ever demonstrated negative impacts on students’ academic outcomes. Moreover, the sole study finding no impact was subsequently discredited for its unscientific methodology. Upon re-analysis using scientifically sound methodologies, researchers from another institution documented statistically significant improvements in student achievement.<sup>52</sup>

Parental choice programs also introduce competition for students and their associated funding putting powerful pressure on public schools to improve, thereby benefitting public school students as well. In fact, 22 out of 23 empirical studies show positive impacts from school competition, including improved

reading and math achievement, and none found negative effects.<sup>53</sup> Researchers from Columbia University’s Teachers College also reviewed more than 200 scientific analyses and concluded that competition benefits public schools “across all outcomes,” including higher student achievement, graduation rates, efficiency, teacher salaries, and smaller class sizes.<sup>54</sup>

Likewise, evaluations of the country’s largest scholarship program for special needs students, Florida’s McKay Scholarship Program, show that parental satisfaction rates with their children’s chosen private schools are nearly three times greater than with their previous public schools (93 percent compared to 33 percent). Participating private schools were also more responsive to children’s unique needs, scholarship students had fewer behavioral problems, were victimized less, and enjoyed smaller class sizes.<sup>55</sup> Competition for students from the McKay program also had positive effects on public school student math and reading performance.<sup>56</sup>

By expanding the realm of parents’ education choices beyond where their children are educated to how they are educated, ESAs maximize the positive effects of existing voucher and tax-credit scholarship programs since a greater number and variety of education providers can compete to meet children’s unique educational needs. Additionally, ESAs have several program advantages state policymakers should consider as they work to expand education options.

## ESAs are Easy to Use

Though all ESAs operate similarly, each state's program is unique, from which students are eligible, to funding levels, to certain mechanics. These elements are detailed in the Summary Appendix Table at the end of this report. In general, parents of eligible students who do not prefer a public school education for their child simply inform their state education agency. They sign a contract promising not to enroll their child in a public school as long they are using an ESA, and the state deposits 90 percent of what it would have spent into a designated ESA for that child instead.

Nevada stands out for depositing 100 percent of that funding into ESAs for low-income and special needs students. Under ESA programs in Arizona, Tennessee, and Nevada quarterly deposits are made, and parents make education-related purchases with restricted-use debit cards.

## ESAs are Fiscally Responsible

As Friedman noted decades ago, we make better choices when we're spending our own hard-earned money. Thus the more we avoid third-party payer schemes, the more sensitive we are to prices, costs, and most important, value. ESAs go a long way toward that reaching goal by putting parents directly in charge of their children's education funding and accounting for every expenditure—down to the last penny each quarter before additional funds are disbursed.

By design most ESAs are funded at 90 percent of state per-pupil public school amounts. Thus, even if parents spent all of

Florida parents of special education students apply to one of the two non-profit scholarship funding organizations authorized to oversee the ESA program and inform their local public school that their child will be participating in the ESA program instead. The non-profit then deposits an amount worth 90 percent of what the state would have spent into the child's ESA.<sup>57</sup> The two Florida non-profits overseeing the ESA program have similar procedures for participating families. One issues unique identification cards for parents to access their child's ESA account and submit quarterly preauthorized payments and expense claims.<sup>58</sup> The other authorizes debit transfers for pre-approved purchases.<sup>59</sup> Mississippi's ESA program also transfers reimbursements for authorized education purchases. With such approaches, it is important to have policies in place, as one Florida non-profit does, to assist low- and moderate-income families who cannot afford upfront, out-of-pocket expenses.

their children's ESAs each year, the state would still realize a savings. For example, one analysis of Arizona's ESA program estimates that the state saves approximately \$2.5 million for every 1,000 students who use ESAs, increasing to more than \$12 million for every 5,000 students.<sup>60</sup>

Additionally, ESA programs have built-in transparency and accountability requirements that most public school finance systems would struggle to meet, starting with providing current-year, quarterly reporting that is actually comprehensible. Today, most states' public school finance systems make sense to almost no one except a relative



handful of seasoned experts capable of navigating the complexities of prior-year budgeting and byzantine formulas. Thus the simplicity and transparency of ESAs alone is significant advantage especially since K-12 education spending typically represents the largest share of states' general fund budgets, averaging 35 percent nationally.<sup>61</sup>

Because ESAs are a student-centered finance approach instead of a system-centered one, reporting requirements are about as challenging as balancing the family checkbook. Participating parents must submit quarterly expense reports, with supporting documentation, to the agencies or organizations overseeing the programs, typically state education departments and/or treasury departments. They are also required to abide by clearly defined parent responsibilities. Administering agencies are also required to conduct quarterly, annual, and/or random account audits themselves or hire independent, licensed public accounting agencies. Arizona also has established anonymous toll-free telephone and online fraud reporting, and Tennessee plans to follow suit.

Administering agencies must also ensure all prior quarter ESA expenses are legitimate before disbursing subsequent quarterly

## ESAs Pass Constitutional Muster

Regardless of how effective or popular parental choice programs are, opponents have tried to litigate them to death for more than two decades, insisting they violate bedrock constitutional principles. ESAs are no exception. The ink was barely dry on the enabling legislation when lawsuits to kill newly-enacted ESA programs in Arizona<sup>64</sup> and Florida<sup>65</sup> were filed by teachers, school boards, and public school employee union

funds. Parents who do not comply forfeit their child's ESA. Arizona's program, for example, has a zero-tolerance policy for misspending. ESA accounts are immediately frozen if there is any suspicion of misspending. If substantiated, parents removed from the program, and they must repay misspent funds or face legal prosecution.<sup>62</sup> Programs in other states have similar sanctions for ESA misspending or fraud.

In addition to their structural program accountability, ESAs incentivize responsible stewardship and fiscal discipline. Unlike many government agency accounting schemes that encourage use-it-or-lose-it spending sprees near the end of each fiscal year, all existing ESA programs allow parents to roll over unused funds from one year to the next. This policy gives parents powerful motivation to find the best quality programs at the best prices and conserve leftover funds. For example, more than \$670,000 in total Arizona ESA funds were left over at the end of the program's first fiscal year alone.<sup>63</sup> Programs in Arizona, Florida, and Nevada maximize this value proposition by allowing parents in those states to save unused funds for even more distant education expenses, such as college tuition.

members, among others. Courts in those states, however, have consistently ruled that ESAs pass constitutional muster for several reasons.

First, ESAs are neutral with regard to religion because they make a variety of educational options available to parents, and they—not government—do the choosing. Second, ESAs do not run afoul of constitutional religious



aid bans or Blaine Amendments because funds are for the benefit of students, not schools, and no ESA funds are ever directed by government to any particular education provider. Third, state courts have made clear that ESA students do not forfeit their rights to a free public education because they can re-enroll in public schools if they leave an ESA program. Finally, the courts have rejected out of hand the notion that parental choice through ESAs harms public schools, students, and teachers by draining money. In fact, if that were the case no family would ever be allowed to move away from their current neighborhood, much less out of state, since

local public schools would lose students' associated funding in a subsequent budget year.

These state court rulings regarding ESAs reflect recent U.S. Supreme Court decisions upholding publicly-funded voucher scholarships (*Zelman v. Simmons-Harris*, 2002) and privately-funded tax-credit scholarships (*Arizona Christian School Tuition Organization v. Winn*, 2011).<sup>66</sup> They also raise doubts about the Maine legislature's ban late last century excluding religious schools from the town tuitioning voucher program.<sup>67</sup>

# CONCLUSIONS AND RECOMMENDATIONS

## The Time is Now for ESAs in Maine

A schooling system that largely rations education based on where children’s parents can afford to live is a relic of a by-gone era that cannot provide the customized preparation students need to succeed in a rapidly changing, increasingly competitive world. ESAs are popular, easy to use, fiscally responsible, and constitutional. Best of all, they empower parents to choose how, not just where, their children are educated, which customizes learning to degrees no one-size-fits-all system could ever match—no matter how lavishly funded.

Operational and recently enacted ESA programs offer important models for state policymakers interested in expanding such learning opportunities. Lessons from these programs include:

**1. Make ESAs universal.** Of the five enacted programs, Nevada’s ESA makes the most students eligible, both disadvantaged students as well as general education public school students. Although Arizona’s ESA makes several targeted populations of students eligible, and will likely include more groups in the future, this approach involves practical and principled problems. Annually re-writing and promulgating new regulations, not to mention expansive handbooks and applications, adds hefty administrative burdens to regular ESA program management. As a matter of principle, every student has unique academic

needs and deserves a personalized education their parents can customize for them.

**2. Fully fund ESAs.** Advancing parental choice programs is politically challenging enough for state lawmakers. That is why so many programs are designed to achieve positive fiscal notes. Though understandable, it’s worth recalling that taxpayer funding for education is supposed to be for the benefit of students, not any particular schooling system. Nevada fully funds ESAs for special needs and low-income students; however, this practice should be the rule for all students as a matter of fundamental fairness. Furthermore, even at 90 percent funding, as is the case with the remaining four ESA programs and regular education students under Nevada’s program, it will be interesting to see how just how much education funding remains at the end of each school year with parents in charge of purchasing decisions. For instance, altogether Arizona parents currently have hundreds of thousands of dollars left over at the end of each year for future education expenses. This reality is even more striking given that participating students are disadvantaged and likely require more expensive educational services than general education students. Such results challenge claims that public education is under-funded. State policymakers should keep this lesson in mind because ESA results to date certainly appear to show that it is indeed possible to do more with less once we stop subsidizing

costly overhead and administration along with various bells and whistles that have little to do with actual student learning.

**3. *Keep a lid on program caps.*** At best program caps are unnecessary, and at worst they are unjust. Limiting participation in parental choice programs is a common strategy state lawmakers use to pacify opposition just enough to enact or advance programs. For example, Mississippi caps the number of ESAs at 500 for the first year, increasing by 500 each subsequent year. Yet it is important to recognize—and counter—the illogic of calls for capping parental choice programs, including ESAs. If parents are indeed satisfied with existing education options under the status quo, as parental choice program opponents often insist, then it makes no sense to cap non-existent demand. It is probably more accurate to say what opponents fear most is unleashing pent-up parent demand for more and better education options—even in states like Arizona that have had a variety of expansive parental choice programs for nearly two decades. As part of its ESA expansion in 2013, Arizona capped the number of ESAs at no more than 0.5 percent of total prior-year public school enrollment (approximately 5,400 ESAs) until 2020. The official bill analysis at the time concluded that the cap would likely not be reached based on growth projections at the time.<sup>68</sup> Yet program growth has far exceeded expectations, roughly doubling each year. With more than 1,300 ESAs as of the 2014-15 school year, the cap could be reached as early as the 2016-17 school year if past growth is any indication, potentially leaving thousands of students languishing on waiting lists for years.

**4. *Beware of pilots.*** Similar to program caps, enacting pilot programs rather than full-scale programs is a common political compromise. Currently, only Mississippi has enacted its

ESA as a five-year pilot program. State lawmakers, however, should be wary of pilots for several reasons. Knowing a program may not last can discourage parents from enrolling their children. Pilot programs also often limit the types of students and education providers who can participate. These consequences have several negative ripple effects. Diminished enrollment makes it easier for political opponents to claim the program is unnecessary, unwanted, or ineffective. Also, in spite of well intentioned efforts to phase in programs that are pilot-tested to improve program awareness, pilots are rarely meaningful tests of full-scale parental choice programs. From a practical standpoint, with few exceptions (notably, Florida's McKay Scholarship Program), historically parental choice opponents have successfully directed substantial resources toward killing smaller pilot programs or preventing their expansion.<sup>69</sup>

**5. *Let all education providers compete.*** Government should not be in the business of cherry-picking service providers. Parents know and love their children best, so they should be in charge of choosing their children's education service providers. If parents are not satisfied, ESAs make it easy for them to choose better providers. Such freedom introduces immediate rewards for success and consequences for failure. This approach better ensures program accountability and efficiency than top-down mandates, which are expensive and can take years to enforce. Similarly, government is simply not well situated to pick winners and losers, particularly given the break-neck speed of technological and other advances that can benefit students. To maximize personalized learning opportunities for students, state lawmakers should foster diversity and competition among all education providers and be open to including future kinds of providers as well.

**6. Private administration is best.** Ensuring taxpayer dollars are used as intended is a core government responsibility. Most ESA program oversight and administration is handled by state education agencies and/or treasury departments. Administrative fees for existing ESA programs range from 3 percent (Florida) to 6 percent (Mississippi). Those fees are needed to cover the labor and overhead costs associated with processing applications, quarterly expense reviews, ongoing ESA audits, and other tasks. Administration costs must be accounted for in any parental choice program to ensure program continuity. However, good government oversight does not require government administration. In fact, this structure is far from ideal because no matter how supportive government agencies may be of ESAs and parental choice in general now, there is no guarantee that the political tides will not turn after the next election. Moreover, customer service is not exactly a hallmark of government bureaucracies—even ones that perform well by public-sector standards. For example, Arizona’s ESA is administered by the state education department, and the program garnered a 100 percent parental satisfaction rate. Participating parents even ranked the department as the most helpful of several available information resources. Nevertheless, it rejected close to half of the 2,300 ESA applicants for the 2014-15 school year.<sup>70</sup> The department claimed those applicants simply were not eligible, but it was criticized for failing to answer applicants’ phone calls and conducting informational workshops during regular working hours when most parents are at their jobs.

Thus, even as supportive as Arizona’s education department is to ESAs and other parental choice programs, commonsense practices that are standard for the private

sector are still exceptional in government, including hiring personnel to staff 24-hour information hotlines and online web chats, conducting live interactive online workshops that can be recorded and archived for viewing later by parents who could not attend in person, providing web-based ESA applications, and having personnel available to help non-native English speakers with ESA application questions. In contrast, non-profit scholarship organizations handle ESA administration in Florida, which helps overcome the innate inertia and inflexibility of government bureaucracy and minimizes the potential for program politicization.<sup>71</sup> Yet lawmakers in states without non-profit scholarship organizations have plenty of models outside the halls of government that can provide effective and efficient administration.

Private financial institutions already have the infrastructure in place for defined-use debit or credit cards and detailed expense reports, not to mention highly trained staff and streamlined processes to answer cardholders’ questions and process paperwork. For example, the military uses pre-programmed travel cards that allow authorized purchases, flag questionable purchases that may have to be refunded unless subsequently approved, or decline if a charge is obviously not travel-related. Moreover, travel cards can be automatically de-activated during non-travel periods to prevent fraudulent purchases. Online banking also provides real-time transparency, the tools to scan transaction receipts, and the ability to generate reliable expense reports. Additionally, categorized annual spending reports can be generated automatically like the ones most credit card companies already provide to customers. Using existing private-sector capacity would help provide necessary ESA program

oversight at a fraction of the government-sector overhead and labor cost.

Every student, regardless of his or her circumstances, should have the opportunity for personalized learning. Parents empowered over their children's education funding in a growing number of states are now free to seek a variety of education service providers. And, because education providers are not constrained to work within a rigid, bureaucratic public school system, more providers can enter the education

marketplace where they have the freedom to innovate and tailor their services to the needs of individual students. This situation increases competition for students and introduces powerful pressure on all providers to offer effective, high quality programs at reasonable prices, or lose students to providers that can. ESAs are a student-centered funding mechanism that can personalize learning for all students by putting their parents in charge. This policy approach is a win-win for students, families, and taxpayers.

# SUMMARY APPENDIX

**Summary Appendix Table: Existing ESA Programs**

States	Arizona	Florida	Mississippi	Tennessee	Nevada
<b>PROGRAM OVERVIEW</b>					
<b>Official ESA program name</b>	Empowerment Scholarship Accounts (ESAs)	Personal Learning Scholarship Accounts (PLSAs)	Equal Opportunity for Students with Special Needs Program Five-Year Pilot	Tennessee Individualized Education Account Program (IEA)	Education Savings Accounts
<b>Year Enacted</b>	2011	2014	2015	2015	2015
<b>Year Operational</b>	2011	2014	2015	2016	2016
<b>Students participating: 2014-15</b>	1,311	1,265	n/a	n/a	n/a
<b>Student Funding</b>	90% of charter school base funding amount	90% state and local public school funding	\$6,500	100% state and local public school funding	<ul style="list-style-type: none"> <li>●100% public school funding, special needs &amp; low-income students</li> <li>●90% all other students</li> </ul>
<b>Current Amount</b>	<ul style="list-style-type: none"> <li>●\$5,300 average general ed.</li> <li>●\$3,500 - \$26,000 average special ed.</li> </ul>	\$10,000 average	\$6,500	\$6,200 average	<ul style="list-style-type: none"> <li>●\$5,700 average at 100%</li> <li>●\$5,100 average at 90%</li> </ul>

<b>Student Eligibility</b>	State resident and at least one of the following: <ul style="list-style-type: none"> <li>● Identified with a disability; or</li> <li>● In/would otherwise attend a failing public school; or</li> <li>● Parent/guardian is Active Duty military or</li> <li>● In/adopted from the foster care system; or</li> <li>● Sibling of a current/former ESA recipient; or</li> <li>● Pre-K or K students eligible to attend a public school; or</li> <li>● Received a tax-credit private school scholarship as a student with disabilities or from the foster care system</li> <li>● Child residing within an Indian Reservation</li> </ul>	State resident ages 3 through Grade 12 ● With an IEP; or <ul style="list-style-type: none"> <li>● Diagnosed disability; or</li> <li>● Kindergarteners deemed "high risk" for developmental delays</li> </ul>	State resident identified with an IEP in the past 18 months.	Eligible to enroll in K-12 public schools, identified with an IEP, diagnosed with a disability, and one of the following: <ul style="list-style-type: none"> <li>● Enrolled in a state public school during the previous 2 semesters; or</li> <li>● Be attending a public school for the first time; or</li> <li>● Received an IEA in the previous school year</li> </ul>	All students who attended a state public school at least 100 days prior to ESA application.
<b>LEGAL STATUS</b>					
<b>Legal Challenge(s)</b>	Yes- <i>Niihau's v. Huppenthal (2011)</i>	Yes- <i>Faasse v. Scott (2014)</i>	No	No	No
<b>Filed By</b>	<ul style="list-style-type: none"> <li>● AZ School Boards Association;</li> <li>● AZ Education Association;</li> <li>● AZ Association of School Business Officials; and</li> <li>● Sharon Niehaus, Continental Elementary</li> </ul>	<ul style="list-style-type: none"> <li>● FL Education Association;</li> <li>● Tom Faasse, FEA member, public school teacher, and parent; and</li> <li>● three more public school parents</li> </ul>			



	School District (in Green Valley) Governing Board member				
<b>Status</b>	<p>Program upheld in 2012 &amp; 2013-ESAs are:</p> <ul style="list-style-type: none"> <li>●Neutral toward religion- parents have a variety of educational choices; and parents choose, not government.</li> <li>●Do not violate the "Aid Clause"-beneficiaries are students, not schools; and no public funds are earmarked for a particular private school;</li> <li>●Do not forfeit students' right to a "free public education"- they can re-enroll, just like home- and private-schooled students; parents are not coerced into accepting ESAs; and ESAs expand options, not restrict them</li> </ul> <p><i>2014-AZ Supreme Court refuses to review appeal.</i></p>	<p>Program upheld in 2014-Plaintiff's motion dismissed with prejudice for: Failure to show special injury, as claimed, to public school children and teachers because public schools will lose funding</p>	n/a	n/a	n/a

<b>PROGRAM MECHANICS</b>					
<b>ESA Fund Disbursement</b>	Prepaid, restricted-use debit card through private bank account. State agency makes quarterly deposits upon submission and approval of quarterly expense reports. Leftover funds roll over.	Direct deposit reimbursement of approved expenses (pre-authorization recommended for items not on pre-approved expense list); or direct payment can be sent to approved providers. One non-profit has policies for parents who cannot afford out-of-pocket expenses.	State Education Department reimburses parents quarterly after review of reimbursement form and documentation. Funds can also be paid to education provider directly if parent approves.	Prepaid, restricted-use debit card through private bank account. State agency makes quarterly deposits.	Private financial management firms approved by the State Treasurer. State agency makes quarterly deposits.
<b>Unused Funds Rollover</b>	Yes	Yes	Yes	Yes	Yes
<b>Eligible for College Savings</b>	Yes	Yes	No. Return to state upon completion of high school	Yes	No. Return to state upon completion of high school
<b>RULES &amp; REGULATIONS</b>					
<b>Family Income Limit</b>	No	No	No	No	No
<b>Prior Year Public School Requirement</b>	Yes-with exceptions	No	No-but preference is given to public school students	Yes-with exceptions	Yes
<b>Geographic Limit</b>	No-Statewide	No-Statewide	No-Statewide	No-Statewide	No-Statewide
<b>Enrollment Cap</b>	Yes-0.5 percent of total traditional public and public charter school students through 2019: ~5,400 students.	No	Yes-500 in 2015-16; increasing 500 students each year thereafter.	No	No

<b>Account Cap</b>	90% of charter school per-student base funding amount	90% state and local public school funding	\$6,500 in 2015-16; tied to proportional annual base cost changes	100% of state and local funds reflected in the state funding formula and categorical grants for students with special needs	100% public school base formula funding.
<b>Testing Mandates</b>	No	State or nationally norm-referenced test	No	State or nationally norm-referenced tests	State or nationally norm-referenced test
<b>OVERSIGHT &amp; ACCOUNTABILITY</b>					
<b>Administering Agency</b>	State Department of Education; Treasurer	State-approved non-profits (currently 2)	State Board of Education; State Department of Education; approved non-profit	State Board of Education	State Treasurer; approved private financial institutions
<b>Agency Administration Fee</b>	Yes-State Department of Education can retain up to 5%; 1% of that amount must go to Treasurer	Yes-non-profits have an allowance worth 3% of total awards	Yes-State Board of Education can retain up to 6%	Yes-State Department of Education can retain up to 4%	Yes-State Treasurer to establish "reasonable fees" for management of ESAs.
<b>Expense Reports</b>	Yes-quarterly	Yes-quarterly	Yes-quarterly	In development	In development
<b>Audits</b>	Quarterly and annually all accounts; random audits; and anonymous fraud reporting, phone and website	Annual Auditor General audit of all non-profit PSLA accounts	Random throughout the year. Biennial Program reviews starting in 2019.	Quarterly and annually all accounts; random audits; and anonymous fraud reporting, phone and website	Randomly and annually by a CPA/licensed public accountant. State Treasurer can require additional audits.

<b>Sanctions for Misspending</b>	Account frozen or terminated if not repaid; legal action to recover funds.	Commissioner of Education can deny, suspend, or revoke funds.	Any fraudulently spent funds must be repaid. Fraudulent providers will be removed from program. Violators may be referred to appropriate law enforcement agency.	In development	Accounts frozen or dissolved; legal action to recover funds.
<b>PROTECTONS FOR PARENTS &amp; PRIVATE PROVIDERS</b>					
<b>Express Prohibition Against State Control of Private Schools/Providers</b>	Yes	Yes	Yes	Yes	Yes
<b>Express Prohibition Against Treating ESAs as Taxable Income</b>	Yes	Yes	No	Yes	Yes

**Sources:** Author's table based on data from the Friedman Foundation for Educational Choice, the Institute for Justice, and respective state legislatures and education agencies. Data last updated July 24, 2015.

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Vicki Alger, Ph.D., is a member of the Friedman Foundation for Educational Choice Speakers Bureau. She is also a Research Fellow at the Independent Institute in Oakland, California, with a forthcoming book on the history of the U.S. Department of Education. Alger also holds Senior Fellowships at the Fraser Institute in Vancouver, British Columbia, and the Independent Women's Forum in Washington, D.C. Alger's research focuses on education reforms that promote a competitive education marketplace and increase individuals' control over their and their children's education.

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## About The Maine Heritage Policy Center

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<sup>8</sup> Maine Department of Education (hereafter MDE), School Choice, <http://maine.gov/doe/teaching/choice.html>.

<sup>9</sup> *Ibid.*, Maine Law & School Choice, <http://www.maine.gov/doe/teaching/law.html>; and School Choice Work Group, <http://www.maine.gov/doe/choice-work-group.html>.

<sup>10</sup> See “Input from Michael Thurston, Maine Education Association,” MDE, Stakeholder Group Recommendations, <http://www.maine.gov/doe/choice-work-group/group-recs.html>

<sup>11</sup> See “Input from Jackie Perry, Maine School Boards Association” and “Input from Katy Grondin and Kevin Jordan, Maine School Superintendents Association,” MDE, Stakeholder Group Recommendations, <http://www.maine.gov/doe/choice-work-group/group-recs.html>.

<sup>12</sup> Patrick Marvin, “A Real Plan for Education Reform,” Maine Heritage Policy Center Blog, May 22, 2015, <http://mainepolicy.org/a-real-plan-for-education-reform/>.

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<sup>17</sup> See “Input from Heidi Sampson, Maine State Board of Education” MDE, Stakeholder Group Recommendations, <http://www.maine.gov/doe/choice-work-group/group-recs.html>

<sup>18</sup> See “Input from Wanda Lincoln, Eat Well Nutrition Education Program,” Maine Department of Education, Stakeholder Group Recommendations, <http://www.maine.gov/doe/choice-work-group/group-recs.html>.

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<sup>26</sup> MDE, Public Charter Schools in Maine, <http://www.maine.gov/doe/charterschools/>; and Authorized Charter Schools, <http://www.maine.gov/csc/schools.html>.

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<sup>28</sup> Friedman Foundation, Maine - Town Tuitioning Program, <http://www.edchoice.org/School-Choice/Programs/Town-Tuitioning-Program.aspx>. See also Institute for Justice, *Anderson v. Town of Durham*, <https://www.ij.org/anderson-v-town-of-durham>.

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<sup>32</sup> Jonathan Butcher, *A New Day for School Choice: Education Savings Accounts Turn 3 Years Old*, Goldwater Institute Policy Brief No. 264, December 16, 2013, [https://goldwater-media.s3.amazonaws.com/cms\\_page\\_media/2015/1/29/ESA%20Year%203.pdf](https://goldwater-media.s3.amazonaws.com/cms_page_media/2015/1/29/ESA%20Year%203.pdf).

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<sup>42</sup> American Federation for Children, “New National Poll Shows Growing Momentum for School Choice as 2016 Race Kicks Off,” January 22, 2015, <http://www.federationforchildren.org/new-national-poll-shows-growing-momentum-school-choice-2016-race-kicks-off/>.

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<sup>45</sup> *Ibid.*, p. 70.

<sup>46</sup> *Ibid.*, pp. 48 and 52.

<sup>47</sup> Paul DiPerna, *Maine K-12 School Choice Survey: What Do Voters Say About K-12 Education?* Polling Paper No. 12, Maine Heritage Policy Center and The Friedman Foundation, March 6, 2013, pp. 14-15, 33-35, <http://www.edchoice.org/CMSModules/EdChoice/FileLibrary/973/Maine-K-12-and-School-Choice-Survey.pdf>; cf. “New Poll Shows Maine Voters Favor Private School Choice,” Friedman Foundation Press Release, March 06, 2013, <http://www.edchoice.org/Newsroom/News/New-Poll-Shows-Maine-Voters-Favor-Private-School-Choice.aspx>.

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