

EducationNext

On Designing K-12 Education Savings Accounts

Jason Bedrick and Lindsey M. Burke

January 26, 2015

As we celebrate National School Choice Week, education-reform advocates would be wise to reflect on purpose of school choice as articulated by Milton Friedman, the father of the modern school choice movement. Friedman first proposed the concept of school vouchers in 1955, arguing that by introducing consumer choice into education, vouchers could help create a competitive marketplace. “Vouchers are not an end in themselves,” Friedman [wrote](#) in 1995; “they are a means to make a transition from a government to a market system.”

Friedman was likely even more innovative than education-reform advocates realize, because he saw that a real education market would create its own path, pushed along by market forces. Noting in 2003 that “there’s no reason to expect that the future market will have the shape or form that our present market has,” Friedman [wondered](#): “How do we know how education will develop? Why is it sensible for a child to get all his or her schooling in one brick building?” Instead, Friedman proposed granting students “partial vouchers”: “Why not let them spend part of a voucher for math in one place and English or science somewhere else?... Why can’t a student take some lessons at home, especially now, with the availability of the Internet?”

Education savings accounts operate like the “partial voucher” that Friedman envisioned more than a decade ago, allowing families to seek out the best educational opportunities for their students—whether those be in a private or parochial school or a mix of non-traditional education options. Two states have already adopted ESAs, and numerous other state legislatures have considered them. ESAs constitute a critical refinement of Friedman’s voucher idea, moving from *school* choice to *educational* choice. The challenge for state policymakers is to overcome implementation issues, avoid constitutional roadblocks, and resist harmful regulations masquerading as “accountability.”

EXPANDING THE EDUCATION MARKETPLACE

As the first ESA program to be implemented in the United States, Arizona’s [Empowerment Scholarship Accounts](#) offer a useful example of how the accounts can work in practice. Under the Arizona law, passed in 2011, eligible families that opt not to enroll their children in a public school full time can access 90% of what the state of Arizona would have spent on their children if they had enrolled in the public-school system. The Arizona Department of Education deposits funds directly into a privately managed bank account, and parents can access the funds through a restricted-use [debit card](#). The parents can then spend the money on any qualifying education-related service or provider they choose.

Parents can also save unused funds from year to year and roll the funds into a college savings account. These two features of ESAs—the ability of parents to completely customize their child’s education and save for future educational expenses—make them distinct from and improvements upon traditional school vouchers. ESAs empower parents with the ability to maximize the value their children get from their education services. And because they control how and when the money is spent, parents also have a greater incentive to control costs. In practice, therefore, ESAs work very much like Friedman’s “partial vouchers,” seeking to harness the way people naturally make spending decisions to create a competitive education marketplace.

It appears that such a market may be beginning to take shape in Arizona. Early analyses of the Arizona program indicate that parents are using the money to purchase a wide variety of educational services and products. In 2013, the Friedman Foundation for Educational Choice [examined](#) how families are using their ESA funds, using restricted data from the Arizona Department of Education. The analysis found that families chose a wide variety of private schools for their children, including Montessori schools, parochial schools (Protestant, Catholic, and Jewish), single-sex schools, Waldorf academies, and schools that cater to children with autism. Sixty-six percent of families used their ESAs solely to pay tuition at a chosen private school of choice, in a manner similar to a school voucher.

Notably, 34% of participants used their ESAs to purchase multiple educational products and services, including curricula, textbooks, private tutoring, therapy, and online educational options. Some families used these products and services to supplement their children’s private-school education, while others used them to completely tailor their children’s education outside of any traditional school, public or private. In addition, 26% of ESA funds were unspent through the first quarter of 2013, suggesting that families were saving a portion of their funds in anticipation of future education-related expenses.

Parents are overwhelmingly satisfied with the enhanced educational choice that ESAs provide. In 2013, the Friedman Foundation [surveyed](#) Arizona families with ESAs to measure the levels of parental satisfaction. (All of the survey respondents had children with special needs.) The respondents unanimously reported being more satisfied with the education they purchased for their child with the ESA funds than with their child’s prior public school: 71% of respondents reported being “very satisfied” with their ESAs, 19% were “satisfied,” and 10% reported being “somewhat satisfied.” Not a single parent reported being dissatisfied, or even having “neutral” feelings about the program.

ADMINISTRATIVE CHALLENGES

As promising as these ESA programs seem to be, they present novel implementation challenges. After Governor Jan Brewer signed the Empowerment Scholarship Accounts into law in 2011, the Arizona Department of Education had to answer difficult questions about how to run the program: How would it determine which products and services would qualify for ESA funds? Was the department responsible for ensuring the quality of qualifying products and services? How would it prevent parents from using the ESA debit cards on non-qualifying purchases?

Navigating these issues was a complex and difficult process. Over time, the department worked through these issues and used the experience to develop an [impressive handbook](#) detailing how

the ESA works, the history of the program, student eligibility, parents' rights and responsibilities, education providers' responsibilities, qualifying purchases, and reporting requirements, among other details. The handbook will be of particular interest to policymakers considering ESAs in other states.

However, there are some areas of implementation where the department is in need of improvement. Enrollment in Arizona's ESA program nearly doubled from 692 students in 2013-14 to about 1,300 in 2014-15, but [nearly half of the 2,300 applicants were rejected](#), indicating either that the state needs to re-evaluate its eligibility criteria or that the department was inappropriately rejecting qualified applicants. The department blamed "uninformed" families, but a prominent nonprofit that helped families apply say that's "insulting" and "misleading." The Hispanic Council for Reform and Educational Options (HCREO) [claimed](#) that, even after they had screened applicants to ensure eligibility, the department rejected three-quarters of their roughly 600 applicants. HCREO also faulted the department for lacking Spanish-language translators, failing to return phone calls to parents, and scheduling ESA workshops during business hours when most low-income parents had to be at work.

HCREO recommended that the department make three changes to improve the application process: Create an online application, employ flex hours so that staff can be available outside of regular business hours, and ensure that staff members return phone calls. To its credit, the department's website now allows applications via email. (Previously, applications had to be mailed, hand-delivered, or faxed—but the department's fax machines were [out of order](#) during the final week of the 2014-15 application period, which may have prevented some families from applying in time.) Whether the department will implement the other suggestions remains to be seen.

Crucially, these implementation challenges occurred under an administration that was vocally supportive of educational choice and dedicated to providing good customer service. When the political winds shift, the department's administrators may be less supportive of or even hostile to educational choice, as is the case in many state education agencies around the country. Bureaucrats who view the ESAs and other choice programs as inimical to their core mission may even work to undermine the programs.

Florida was the second state to create an ESA program. Their ESA law, called [Personal Learning Scholarship Accounts](#), manages to avoid subjecting the program to bureaucratic inertia or political fortune. While publicly funded, the PLSAs are privately managed by the same non-profit scholarship organizations that participate in the state's scholarship tax-credit program. The PLSA program was created in May 2014, and within six months of being signed into law, the state's largest scholarship organization, Step Up For Students, had already [approved](#) ESA scholarships for more than 1,200 students.

It's too soon to draw any firm conclusions, but there are several reasons to believe that Florida's model of privately managed ESAs holds advantages over Arizona's government-managed model. First, the non-profit scholarship organizations are less likely to be captured by opponents than is a government agency. The non-profits are dedicated to the scholarships, and the idea of school choice is built into their mission. Second, awarding scholarships is the primary mission of

a scholarship organization but only an ancillary function of a state education agency—which means that not only will they be more dedicated to the concept but they can generate and retain best practices more easily. Third, scholarship organizations have the ability and incentives to be more flexible in their operation than government agencies, and therefore more responsive to the needs of families. The Arizona education department did not offer workshops for parents outside of regular business hours because employees were not paid for those hours. Non-profits can more easily implement policies like flextime.

CONSTITUTIONAL CHALLENGES

Before they can tackle any administrative challenges, policymakers in some states must address a constitutional challenge to the taxpayer funding of private education. While the United States Supreme Court has ruled that publicly funded school vouchers are constitutional under the First Amendment’s Establishment Clause, most state constitutions contain a version of the so-called “[Blaine Amendment](#),” which bars state aid to parochial schools. In addition, most state constitutions also contain an older “compelled support” clause, which forbids compelling taxpayers to support religious institutions through public funding.

Arizona’s ESA law [survived](#) a Blaine Amendment challenge, despite the fact that the state supreme court previously struck down a voucher law on those grounds. The court distinguished the ESAs from vouchers because the latter “set aside state money to allow students to attend private schools” whereas under the ESA law, “the state deposits funds into an account from which parents may draw to purchase a wide range of services” and “none of the ESA funds are pre-ordained for a particular destination.”

It is an open question, however, whether other state supreme courts that have adopted more restrictive interpretations of their Blaine Amendments will find that distinction compelling. Currently, the Florida Education Association is challenging the constitutionality of the state’s nascent ESA law under the state constitution’s Blaine Amendment and other provisions.

Policymakers could avoid the constitutional uncertainty altogether by funding the ESAs privately, through tax credits, rather than through government allocation. This approach would have the added benefit of avoiding the compulsion inherent in all taxpayer-funded programs. As Milton and Rose Friedman wrote in *Free to Choose*, “Voluntary gifts aside, you can spend someone else’s money only by taking it away as government does. The use of force is... a bad means that tends to corrupt the good ends.” [Conflicts in public education](#) over issues such as political agendas, teaching evolution, and sex education spark social conflict in part because citizens are forced to pay for the promulgation of ideas with which they disagree. Shifting to a model of education funding that allows taxpayers to choose what forms of education they will financially support with their own money would likely reduce social conflict over these programs.

Two existing laws already embody some elements of the tax-credit-funded ESA model, and they can help point a way forward. As noted, Florida’s publicly funded ESA program is privately administered by the same non-profit scholarship organizations whose donors receive dollar-for-dollar tax credits for their contributions to scholarships. In addition, [New Hampshire’s scholarship tax-credit law](#) includes an ESA-style provision that allows homeschoolers to spend

scholarship funds on a variety of educational products and services similar to those permitted by the Arizona and Florida ESA laws.

REDUCING REGULATORY THREATS

In addition to placing them on firmer constitutional ground, funding ESAs through tax credits could also reduce the threat of harmful regulations.

In a generally well-meaning effort to impose “accountability,” some policymakers have attempted to regulate school choice programs as they regulate district schools, including by mandating state tests. However, rules designed to regulate a monopoly like a public-school system are not appropriate for a market. Beyond basic health and safety regulations, top-down accountability measures are generally unnecessary at best and harmful at worst. Centralized standards, especially in the form of state testing mandates, [induce conformity](#) that can undermine the innovation and diversity that give educational choice its value. Whereas government-run schools are primarily accountable to elected school boards and unelected state education bureaucrats, private education providers are accountable directly to parents, and the same market forces that place competitive pressure on other kinds of businesses operate on these education providers as well.

Research indicates that privately funded school-choice programs are less likely to be overregulated than publicly funded programs. A 2010 [study](#) by Andrew J. Coulson of the Cato Institute found that direct government expenditures, “but not tax credits, impose a substantial and statistically significant additional regulatory burden on participating private schools.” In May 2014, a [study](#) by Andrew Catt of the Friedman Foundation found that scholarship tax-credit laws generally imposed very few additional regulations on schools when first enacted and over time.

At least two reasons explain why scholarship tax-credit programs are less likely to be overregulated. First, as with tax deductions and tax exemptions, policymakers are less likely to attach strings to tax credits than to public expenditures, since the money never actually comes into the state treasury. Second, scholarship tax-credit laws enable supporters of school choice to organize so that they can more effectively fight harmful regulations: Scholarship organizations can help both scholarship recipients and the donors mobilize against potentially harmful legislation. Educational-choice programs are therefore more likely to be politically sustainable in the long run if they are privately managed and privately funded.

VISIONARY BUT PRACTICAL

Most school-choice programs offer significant but not revolutionary changes to the traditional educational model. But true educational choice, and the educational market it could help foster, promise to radically improve education for many children. As Milton Friedman [observed](#), “not all ‘schooling’ is ‘education,’ and not all ‘education’ is ‘schooling.’” Charter schools and voucher programs still conflate the two, but education savings accounts embody a more expansive understanding of education.

ESAs offer several key advantages over traditional school-choice programs. Because families can spend ESA funds at multiple providers and can save unspent funds for later, ESAs incentivize families to economize and maximize the value of each dollar spent, in a manner

similar to the way they would spend their own money. ESAs also create incentives for education providers to unbundle services and products to better meet students' individual learning needs.

For our nation's education system to incorporate this key insight, states must rethink at the most basic level how to fund education—a process that will not be without challenges. Like other educational-choice policies, ESAs face administrative challenges, constitutional obstacles, and regulatory threats. And while not conclusive, the relative experiences of Arizona and Florida may suggest that private administration of an ESA program will be more efficient and effective than government management. While government-funded voucher laws have had a mixed record in state courts, educational-choice laws that are privately funded through tax credits have a perfect constitutional record thus far. And empirical research suggests that educational-choice laws are less likely to be over-regulated when they are privately funded.

As Friedman said of school choice decades ago, this proposal is visionary but not impractical. Two states have already adopted ESA laws and more are likely to follow in the coming years. These laws hold great potential to expand educational opportunity and remake the entire education system in ways that better and more efficiently meet the needs of children.

- Jason Bedrick and Lindsey M. Burke

Jason Bedrick is an education policy analyst at the Cato Institute's Center for Educational Freedom.