



Action Alert #10

Education Savings/Scholarships Accounts and the Impacts on Students with Disabilities

March 21, 2024

This year, the legislature will consider multiple instruments creating Education Savings or Scholarships Accounts, also known as ESAs. ESAs are being promoted as an option for parents to ensure the educational needs of their child(ren) are being met. Essentially, those eligible for an ESA would be able to utilize public funding to attend non-public or private schools and acquire other approved educational services.

While many individuals who support school choice are happy to see ESA expansion in Louisiana, there are many disability advocates and related groups who are concerned about the impacts ESAs may have on students with disabilities, children from low-income families and the public education system as a whole. Specific concerns include:

- Waiving of civil rights protections and limited or no access to Free and Appropriate Education (FAPE)
- Lack of accountability and monitoring of ESA providers and schools
- Reduced funding to public schools
- Ballooning costs associated with ESAs in future years
- Inequitable access to ESAs for all students

For detailed information about ESA impacts on students with disabilities, refer to the Additional Information section below.

The legislature needs to hear from you as they debate whether or not to bring ESAs to Louisiana. The time to take action is NOW!

How to Take Action

Share with your State Representative and State Senator how Education Savings Accounts would impact you or someone you know.

1. **Email or call** your State Representative and State Senator
 - [State Representative](#) and [State Senator](#) full contact information
 - Don't know your State Representative or State Senator? Click [here](#) and enter your home address. The first person listed will be your State Representative. The second will be your State Senator.
2. **Email or call** members of the House and Senate Education committees
 - House Education Committee member list can be found [here](#).
 - Senate Education Committee member list can be found [here](#).
 - Click on the member's name for see their contact information.

With your comments, please ensure to include your name, address, phone number, email address, and bill numbers (HB66, HB191, HB745 and SB113). **Please note, SB313 has already passed with amendments out of Senate Education. HB745 will be heard in House Education on Tuesday, March 26th.** Don't forget to thank your Representative, Senator and all committee members for considering the needs of students with disabilities.

If you need more information or would like help contacting your State Representative and/or State Senator, reach out to your [LaCAN Leader](#) today!

Additional Information

Concern #1 - Waiving Civil Rights Protections

[House Bill \(HB\) 191](#) by Rep. Freiberg, [HB745](#) by Rep. Emerson and the amended [SB313](#) by Sen. Edmonds contain specific language that would require parents to waive their children's rights to any special education services afforded to them under federal law while attending a public school. They would have to agree to accept only those services the school or program they opt to attend is willing to provide. The bills state

If a participating student enrolled in a participating school would have been entitled to receive special education services in the resident school system, his parent shall acknowledge in writing, as part of the program enrollment process, that the parent agrees to accept only such services as are available to all students enrolled in the participating school.

If this language and practice is included in the enrollment process for an ESA, it is inevitable that students with disabilities, especially those with significant disabilities, **will not have equal and fair access** to participate in these programs. They also risk losing many protections afforded to them through the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) which ensures school facilities are accessible.

Private schools have no obligation to adhere to IDEA provisions such as:

- Engage in Child Find
- Conduct initial evaluations
- Conduct reevaluations
- Write individualized education programs (IEPs)
- Hold IEP Team meetings
- Place students in the least restrictive environment
- Provide written responses to parental requests surrounding the identification, evaluation, and placement of students with disabilities, or the provision of FAPE to students with disabilities
- Provide access to student records
- Provide procedural safeguards, including impartial administrative hearings

The ADA has a specific carve out for religious private schools. Even under the ADA, a school owned or controlled by a religious organization can bar an application for admission by a student with a disability, blatantly saying "we don't take kids with disabilities".

It is worth noting [HB66](#) by Rep. Butler does not contain the specific language mentioned above. However, most ESA legislation includes language giving ESA providers and schools the "maximum freedom to provide for the education needs of participating students without governmental control". It also prohibits these entities from having to "alter its creed, practices, admissions policy, or curricula in order to accept account funds". This sort of language leads to little or no accountability and monitoring

for these providers and schools who will be receiving public dollars to ensure academic outcomes are met and the needs of children with disabilities are provided for.

Concern #2 – Funding

ESAs also divert limited state resources away from public schools already critically underfunded when it comes to special education services. In recent years, the special education population has increased, but state funding has not kept pace with the need. Most of the fiscal notes for these ESA bills are unable to determine the impacts to local school systems, especially since schools receive various funding from their local education authorities in addition to state funds. Regardless, schools will have less funding, but their fixed expenses will remain the same. Schools still have to:

- Provide the same level of supports, resources and opportunities to all students,
- Retain qualified teachers and staff, and
- Maintain their buildings and grounds

In states that have already allowed students to use ESA's, data shows the beneficiaries are largely those who are already attending private schools, not those attending public schools who would otherwise attend private schools. Traditional public schools are the primary choice of parents who have students with disabilities for many reasons. ESA's will strip both local and state dollars out of these schools and require public schools to do more with less funding. This may have negative impacts on all students, especially those with disabilities.

Costs associated with ESAs have skyrocketed in these other states too. Why would Louisiana be any different? In fact, available fiscal notes for the ESA bills estimate administrative costs alone will increase by 100% over the next five years! This doesn't even account for the increases in state general fund needed to cover eligible students participating in an ESA. Testimony in committee estimated the annual cost to be \$650 million annually in the next five to seven years.

Concern #3 - Inequitable Access for All

There are also concerns that ESAs are not accessible to all public school students especially those with disabilities, from low-income families and/or English as a second language learners. Available fiscal notes estimate a per pupil allocation of approximately \$5,500 to over \$10,000 annually depending on student characteristics and the type of ESA. This funding does not include an administrative fee of up to 5% the Department of Education is allowed to take from the student to administer the ESA.

- Many families who have children with disabilities will find it difficult, if not impossible, to find the specialized services their child needs for the amount of funds provided especially when services are not guaranteed from the school.
- The average cost of tuition for a private school in Louisiana is \$7,300. The funding provided from ESAs rarely covers the cost of tuition and fees at non-public schools forcing low-income families to make tough decisions about how to cover the remaining balance if they can even afford to participate in an ESA.
- Non-public schools are not required to offer transportation to and from school which may also create additional hardships on families.

[HB745](#) and the amended [SB313](#) did not have fiscal notes available at the time this alert was released, but these ESAs allocate funds to families based on income and student exceptionalities throughout a phase in period. So as written, participants in this ESA may receive less funding than the averages stated above.

Confirm Your Action

- Email your [LaCAN Leader](#) after you take action
- Why confirm your action? This helps the Council know how effective we are reaching you with important information and engaging members across our state in advocacy for systems change.

Tips & Tools for Advocacy

Looking for tips and tools to help you in your advocacy? Check out the Council's [Advocacy 101](#) page. You can also find tips for:

- [Writing/emailing your legislators](#)
- [Calling your legislators](#)
- [Writing your story](#)

Contact Us

LaCAN is an initiative of the LA Developmental Disabilities Council. If there are any questions about the information in this email, contact the Council by replying to this email, or calling the toll free number listed below:

phone: 1-800-450-8108

email: info@laddc.org

website: www.lacanadvocates.org

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