

EDUCATION SAVINGS ACCOUNTS

for West Virginia Students with Special Needs

By: Jonathan Butcher





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INTRODUCTION

When you entrust your child to someone else's care, you appreciate knowing what to expect. Planning ahead is even more important for parents of children with special needs. Unfortunately, Kimber Cartwright and her son, David, did not know how his traditional school was going to meet David's unique needs.¹

Doctors diagnosed David with multiple special needs, including cerebral palsy, sensory integration dysfunction, and microcephaly (improper brain development that coincides with a small head size).

School officials told Kimber that David would be moved to an exclusion classroom, but Kimber did not know when that would happen. Meanwhile, David's classroom in Arizona included a dozen other students with special needs, more than the teachers (and David) could handle.

"My son was being completely left behind with no attention whatsoever," Kimber says. She learned about Arizona's education savings accounts (called Empowerment Scholarship Accounts) from a friend and applied right away.

"We've been able to choose what schools he goes to, what therapies, and even add extra curriculum to the private school that he's in," she says. Kimber uses the account to provide David with vision and anger management therapy, and she has also purchased curricular materials.

"We are extremely grateful for what we've been able to do up to this point," Kimber says.

Arizona is one of six states where lawmakers have made education savings accounts available to eligible families. With an account, the state deposits a portion of a child's funds from the state

education formula into a private account that parents use to buy educational products and services for their students.

As the Cardinal Institute wrote last year, the accounts are becoming law in states around the country and could provide West Virginia children and families with new educational options.² Families remove their child from a public school and use their child's funds for tuition at K-12 private schools, but parents can also hire personal tutors for their student, find educational therapy services, and save money from year to year, to name a few possible uses.

In this brief, the Cardinal Institute explains how the accounts can benefit children with special needs, specifically. Because families can choose more than one learning opportunity at a time with an account and find education services to meet a child's unique needs, education savings accounts can help students that struggle to fit in a traditional school.

Nationally, state lawmakers continue to make education savings accounts a part of their state's education landscape. Arizona's accounts are the oldest such program in the U.S., created in 2011. Today, some 12,500 students are using the accounts across Arizona, Florida, Mississippi, and Tennessee. Lawmakers in Nevada and, last year, North Carolina have also enacted account laws, though state lawmakers have not funded Nevada's law and North Carolina's accounts will begin enrolling students this year.

Children with special needs have a central place in the history of these accounts. Arizona's accounts were first conceived as an opportunity for children with special needs. Florida, Mississippi, Tennessee, and North Carolina's accounts are either exclusively for children with special needs or name children with special needs specifically in the state law as students that are eligible for an account.

¹Kimber Cartwright's story was first included in Jonathan Butcher, "Dollars, Flexibility, and an Effective Education: Parent Voices on Arizona's Education Savings Accounts," October 11, 2014, <https://goldwaterinstitute.org/article/dollars-flexibility-and-effective-education-parent/> (accessed January 3, 2018)

²Jonathan Butcher, "West Virginia and Education Savings Accounts," Cardinal Institute, September 19, 2016, https://www.cardinalinstitute.com/app/uploads/2016/09/WV_ESA_Study_091916-1.pdf.

³For more information, including references to the state statutes, see Jonathan Butcher, "A Primer on Education Savings Accounts: Giving Every Child the Chance to Succeed," The Heritage Foundation Backgrounder No. 3245, September 15, 2017, available at <http://www.heritage.org/sites/default/files/2017-09/BG3245.pdf> (accessed December 4, 2017).

⁴Jonathan Butcher, "More States Putting Parents in Charge with Education Savings Accounts," The Daily Signal, July 5, 2017, <http://dailysignal.com/2017/07/05/states-putting-parents-charge-education-savings-accounts/>.

This brief will explain how education savings account laws operate and can help children with special needs find quality educational services. This paper will provide information on West Virginia's special needs student population and how to design an education savings account proposal to help students with varying physical and intellectual needs in the state.

EDUCATION SAVINGS ACCOUNTS IN OTHER STATES

As of January 2018, lawmakers in six states had enacted education savings accounts: Arizona, Florida, Mississippi, Tennessee, Nevada, and North Carolina.³ Of note, three of these laws are

TABLE X: EDUCATION SAVINGS ACCOUNT ELIGIBILITY BY STATE		
STATE	ELIGIBILITY	INCLUDE CHILDREN WITH SPECIAL NEEDS?
Arizona	Children with special needs; children attending failing public schools; children adopted from the state foster care system; Native American students living on tribal lands; children of active-duty military families; a child of a parent who is legally blind or deaf; incoming kindergarteners; preschool children with special needs; siblings of existing account holders ⁵	Yes
Florida	Children with special needs that meet specific diagnoses	Must meet specific diagnoses
Mississippi	Children with special needs	Yes
Tennessee	Children with special needs that meet specific diagnoses	Must meet specific diagnoses
Nevada	All public school students	Yes
North Carolina	Incoming kindergarten and first grade students; foster children; children of active-duty military families.	Yes

Source: Nevada Legislature, 2015 Session, S.B. 302, <http://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=705>; Arizona Revised Statutes, Title 15, Chapter 19, Article 1, 15-2401-15-2404, <http://www.azleg.gov/arsDetail/?title=15>; Mississippi Legislature, 2015 Regular Session, S.B. 2695, <http://billstatus.ls.state.ms.us/2015/pdf/history/SB/SB2695.xml>; Florida Senate, 2014 Session, S.B. 850, <https://www.flsenate.gov/Session/Bill/2014/0850>; and Tennessee General Assembly, 2015 Session, S.B. 27, <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0027>; North Carolina General Assembly, 2017 Legislative Session, S.B. 257, <http://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S257v8.pdf>.

⁵In 2017, Arizona lawmakers expanded the accounts to include all children attending public schools. Implementation of this law is pending a repeal effort. For more information, see Jonathan Butcher, "Interest Groups Threaten Arizona Children's Access to Educational Options," The Daily Signal, August 11, 2017, <http://dailysignal.com/2017/08/11/interest-groups-threaten-arizona-childrens-access-educational-options/>.

exclusively for children with special needs (Florida, Mississippi, and Tennessee), while North Carolina has a short list of eligibility categories in addition to children with such needs.⁴

While Arizona's accounts served children with special needs exclusively in the 2011-12 school year, policymakers have expanded the program to include students assigned to failing schools and children in active duty military families, to name just a few categories of Arizona students now eligible.⁶

While each state's account law is slightly different, the laws have the following provisions in common:

- With an account, the state deposits a portion of a child's funds from the state education formula into a private account that parents use to buy educational products and services for their child;
- And families are not required to enroll their student in a private school and can use an account to choose from multiple learning options—simultaneously, if they choose.

These features distinguish education savings accounts from K-12 private school vouchers or tax credit scholarships. Such scholarship laws, available in more than half of U.S. states, allow families to choose a private school for an eligible student, while education savings accounts allow families to choose a new school or customize their child's education.

Here's how families and students access and use an account:

- In Arizona, eligible families complete an application available on the state department of education's website.⁷ Tennessee and Mississippi's respective education agencies operate similar enrollment systems.⁸ In Florida, families submit an application to a nonprofit private school scholarship organization.⁹

⁶Butcher, "A Primer on Education Savings Accounts."

⁷See Arizona Department of Education "2017/18 ESA Applicant Handbook," available at <http://www.azed.gov/esa/parent-handbook/> (accessed January 3, 2018).

⁸See Tennessee Department of Education, "Individualized Education Account Program," available at <https://www.tn.gov/education/iea.html> (accessed January 3, 2018) and Mississippi Department of Education, "Education Scholarship Account," available at <http://www.mde.k12.ms.us/ose/esa> (accessed January 3, 2018).

⁹Step Up for Students, "Special Needs Scholarship," available at <https://www.stepupforstudents.org/for-parents/special-needs/how-the-scholarship-works/> (accessed January 3, 2018).

- Once a state agency or scholarship organization approves an application, the agency or organization sends families their account information. Arizona families, for example, are sent a prepaid Visa card and account number.
- State agencies (or, in Florida, nonprofit scholarship organizations) make quarterly deposits of a child's funds into an account. As explained in last year's Cardinal Institute report, Arizona account holders use their Visa card to buy approved expenses, including (allowable expenses are similar across state laws):¹⁰
 - o Tuition or fees at a qualified school.
 - o Textbooks required by a qualified school.
 - o Educational therapies from a licensed or accredited practitioner or provider.
 - o A licensed or accredited paraprofessional or educational aide.
 - o Tuition for vocational and life skills education approved by the department.
 - o Associated services that include educational and psychological evaluations, assistive technology rentals and braille translation services approved by the department.
 - o Tutoring or teaching services provided by an individual or facility accredited by a state, regional or national accrediting organization.
 - o Curricula.
 - o Tuition or fees for a nonpublic online learning program.
 - o Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination or any exams related to college or university admission.
 - o Contributions to a Coverdell education savings account established pursuant to United States Code section 530 for the benefit of the qualified student or a 529 college savings plan pursuant to United States Code section 529 or prepaid

¹⁰Arizona Revised Statutes, Title 15, Chapter 19, 15-2402, <https://www.stepupforstudents.org/for-parents/special-needs/how-the-scholarship-works/> (accessed January 3, 2018).

tuition program, except that money used for elementary or secondary education expenses must be for expenses otherwise allowed under this section.

- o Tuition or fees at an eligible postsecondary institution.
 - o Textbooks required by an eligible postsecondary institution.
 - o Fees for management of the empowerment scholarship account.
 - o Services provided by a public school, including individual classes and extracurricular programs.
 - o Insurance or surety bond payments.
 - o Uniforms purchased from or through a qualified school.
- Participating students and families complete expense reports at the end of each fiscal quarter. In Arizona, the state education agency reviews the reports to make sure the expenses comply with state law. Once this review is complete, the Arizona Department of Education makes the next quarterly deposit in a student's account.

HOW DO STUDENTS WITH SPECIAL NEEDS BENEFIT FROM EDUCATION SAVINGS ACCOUNTS?

Education savings accounts allow families to choose a new school for a child and/or select from the allowable uses of an account in their state. Such customization holds benefits for children with special needs because the additional interventions that a child needs may not be available in a traditional classroom setting.

- Customization. Melissa Ward, a Florida parent, explains that with a Gardiner Scholarship she could provide the learning environment that her son, Ethan needed. Ethan has cerebral palsy, and Melissa educates him at home.

“His education is being tailored to him,” Melissa said in a 2014 interview.¹¹

¹¹PLSA Moms: Melissa Ward, Goldwater Institute video, July 31, 2014, <https://www.youtube.com/watch?v=vDwK2HfFPIQ&index=5&list=PLJ1G-XkvzMobqyU1-uWBV4KdOXpdZj5L2> (accessed January 3, 2018).

“We have really focused on physical therapy for [Ethan],” Melissa says. “Because walking and just those gross motor skills of just being able to get from point A to point B without falling we felt like was really the most important thing.”

A doctor even advised the Ward family that Ethan was “an ideal student for homeschooling because in the areas where he was challenged we could really slow down and go at the pace that worked for him and the areas that he could do really well and succeed then we could just move right along and he wouldn’t be held back or feel like he couldn’t progress.”

Across Florida, Mississippi, Tennessee, and Arizona, students with special needs like Ethan can take advantage of the account’s flexibility. Research from Arizona finds that approximately one-third of account holders use their accounts to buy multiple products and services simultaneously, exactly the customized learning experience that helps children with unique needs.¹²

- New school. As Kimber Cartwright’s example demonstrates, parents of children with special needs can use an account to pay for private school tuition at a school that provides services for these students. As of the 2014-15 school year, the Arizona Department of Education reported that account holders were able to finance an education at 149 private schools across the state.¹³ Notably, this is an increase from the 2012-13 school year, when the state agency reported families accessed 87 private schools.

Families using an account can choose to buy multiple products and services as the example above illustrates or choose a new school for their student. Either way, the accounts allow parents to choose the best education setting for their child.

“I don’t like that being attacked or questioned, that parents aren’t going to make the best decisions for their children,” Melissa Ward said.

¹³Jonathan Butcher and Lindsey M. Burke, “The Education Debit Card II,” pp. 11-14.

WEST VIRGINIA AND CHILDREN WITH SPECIAL NEEDS

West Virginia has a slightly higher percentage of students with special needs than the national average, but this figure is not as concerning as the data from 2015-16 demonstrating that, as a percent of the state's population, the state's population declined at a higher rate than any state in the country.¹⁴

- West Virginia has more than 44,000 children with special needs.¹⁵ If lawmakers adopted an education savings account proposal similar to Arizona's original law or current account laws in North Carolina and Mississippi, all of these students would have more learning opportunities through the accounts.
- According to federal data, West Virginia has a slightly higher percentage of students identified as special needs than the national average (16 percent v. 13 percent).¹⁶

Meanwhile, a combination of an ageing population and individuals and families leaving the state means West Virginia is losing students.¹⁷ West Virginia had 12 percent fewer children with special needs today in 2014-15 than in 2000-01 (Figure X).¹⁸

Such a decline mirrors the decrease in the state's overall student population: While enrollment in public schools has increased 11 percent nationally from 1969-70 to 2011-12, the West Virginia enrollment dropped by 27 percent.¹⁹

Adopting education savings accounts would be a significant innovation for West Virginia and make the state home to one of the nation's most innovative learning options. The accounts could be a reason for families of children with special needs to stay and take advantage of additional

¹⁴Ian Hicks, "West Virginia Population Declines Continue," The Intelligencer, December 21, 2016, available at <http://www.theintelligencer.net/news/top-headlines/2016/12/west-virginia-population-decline-continues/> (accessed January 11, 2018).

¹⁵National Center for Education Statistics, 2016 Digest of Education Statistics, Table 204.70: Number and percentage of children served under Individuals with Disabilities Education Act (IDEA), Part B, by age group and state or jurisdiction: Selected years, 1990-91 through 2014-15, available at https://nces.ed.gov/programs/digest/d16/tables/dt16_204.70.asp (accessed December 20, 2017).

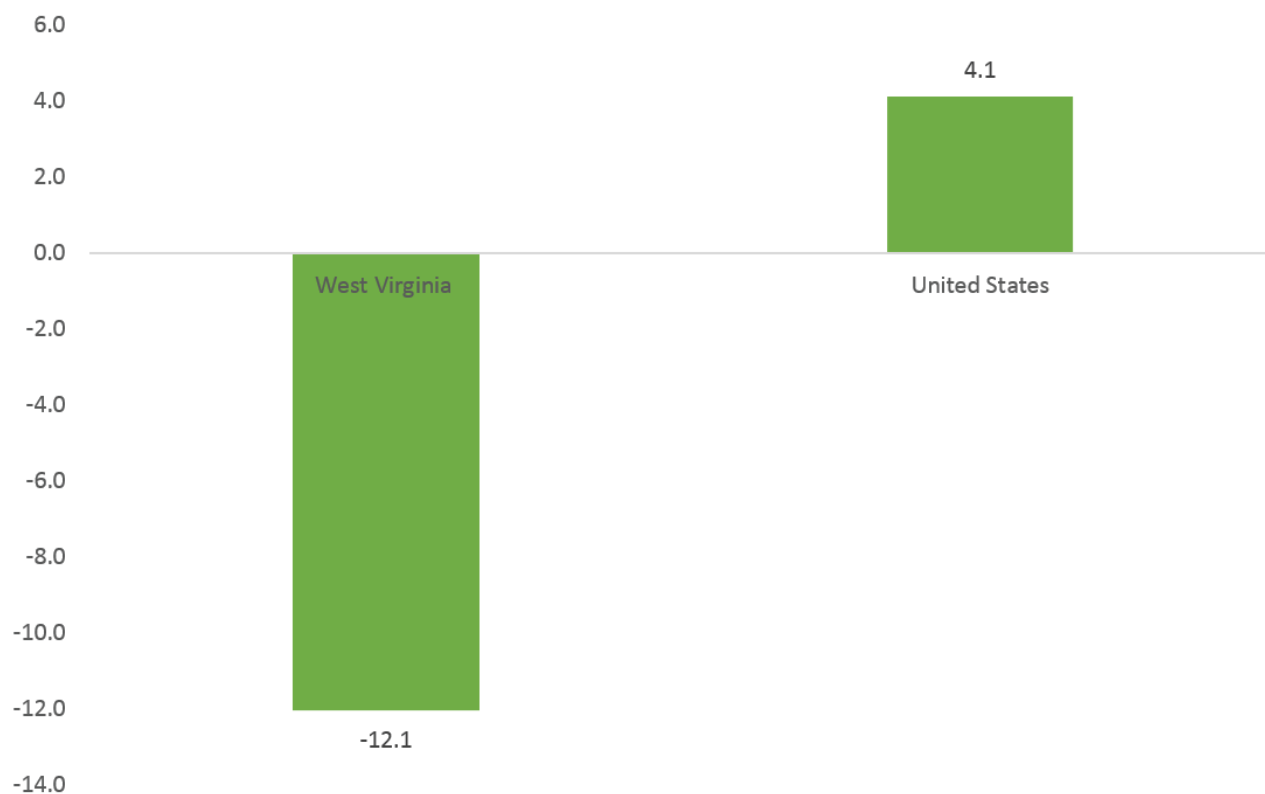
¹⁶National Center for Education Statistics, 2016 Digest of Education Statistics, Table 204.70: Number and percentage of children served under Individuals with Disabilities Education Act (IDEA), Part B, by age group and state or jurisdiction: Selected years, 1990-91 through 2014-15.

¹⁷Casey Leins, "West Virginia Is Dying and Trump Can't Save It," U.S. News & World Report, May 25, 2017, available at <https://www.usnews.com/news/best-states/articles/2017-05-25/west-virginia-is-dying-and-trump-cant-save-it> (accessed January 11, 2018).

¹⁸National Center for Education Statistics, 2016 Digest of Education Statistics, Table 204.70.

¹⁹U.S. Department of Education, National Center for Education Statistics, 2014 Digest of Education Statistics, Table 203.80, Average daily attendance (ADA) in public elementary and secondary schools, by state or jurisdiction: Selected years, 1969-70 through 2011-12, https://nces.ed.gov/programs/digest/d14/tables/dt14_203.80.asp.

FIGURE X: PERCENT CHANGE IN POPULATION OF CHILDREN WITH SPECIAL NEEDS, WEST VIRGINIA V. UNITED STATES AVERAGE, 2000-01 TO 2014-15



Source: National Center for Education Statistics, 2016 Digest of Education Statistics, Table 204.70: Number and percentage of children served under Individuals with Disabilities Education Act (IDEA), Part B, by age group and state or jurisdiction: Selected years, 1990-91 through 2014-15, available at https://nces.ed.gov/programs/digest/d16/tables/dt16_204.70.asp (accessed December 4, 2017).

education opportunities. There's no guarantee that education savings accounts would reverse the state's population decline, but if lawmakers adopted the accounts, this action would demonstrate that officials are taking steps to reverse a troubling demographic trend.

POLICY RECOMMENDATIONS FOR EDUCATION SAVINGS ACCOUNTS AND CHILDREN WITH SPECIAL NEEDS

Cardinal's 2016 report described the features of education savings account proposals that lawmakers should consider when drafting legislation, including eligibility, allowable expenses, and preventing misuse of account funds.

Lawmakers should consider the following additional provisions for children with special needs:

- **Eligibility.** West Virginia lawmakers should make all children with special needs eligible for an education savings account. As explained in Table X, Arizona, Mississippi, and North Carolina lawmakers made education savings accounts available to all children with special needs, while Florida and Tennessee lawmakers made children eligible if doctors had diagnosed students with specific conditions.

Experience from other states demonstrates that students from all walks of life can benefit from the accounts, so lawmakers should not limit account availability to students with certain needs.²⁰

- **Allowable uses.** Among the allowable uses commonly found in education savings account laws listed above, children with special needs benefit from being able to use their accounts for educational therapies, personal tutors, private schools, and assistive computer technologies, in particular. With such flexibility, parents can design a unique learning experience to help a child that may have multiple diagnoses and need interventions designed just for him.

Additionally, as a child develops, his needs may change. Account holders should be allowed to save unused funds from year to year to prepare for future needs.

- **Age limitations.** Children with special needs do not always graduate with their peers in their age group—nor do children with special needs always earn a traditional high school diploma. Lawmakers should make sure students can receive services until age 21, at least, or make sure the state’s education savings account law corresponds to state and federal statutes governing services provided to children with special needs.

Federal law requires that public schools provide a “free and appropriate” public school education for children with special needs for children and individuals aged 3-21. Education savings account legislation should mirror this provision of federal law.²¹

²⁰Children from low-income families and mainstream students, along with children with special needs use the accounts in Arizona. Families in Arizona and Mississippi report high levels of satisfaction across multiple studies. For more information, see Butcher, “A Primer on Education Savings Accounts.”

²¹National Center for Education Statistics, “Children and Youth with Disabilities,” available at https://nces.ed.gov/programs/coe/indicator_cgg.asp.

For example, in Arizona, lawmakers amended the savings account law so that account holders could continue to receive deposits in their education savings account until age 22 if that child would have received services in a public school until that age.²²

- **Funding.** Lawmakers should make sure that children with special needs receive the same funding that they would have received had the student attended a traditional school. Children with special needs often are funded using a multiplier system that provides additional funding based on a child's diagnosis. Education savings account statutes should correspond to such funding formulas.

Likewise, funding statutes should not exclude children with special needs from funding sources if they choose to use an account instead of attending a traditional school. In Tennessee, policymakers excluded children with special needs from certain line items in the state formula, giving eligible students using an account less than the amount provided to students in traditional schools.²³

CONCLUSION

Kimber Cartwright's story demonstrates how children with special needs benefit from education savings accounts because parents can customize a child's education according to his needs. Or if they choose, families can choose a school that specializes in helping students with certain medical or education-related diagnoses. In both examples, parents and families decide how and where a child learns.

As West Virginia lawmakers consider education savings accounts, lawmakers should use the experiences from other states to design a policy that meets the needs of children with unique challenges, including the importance of making all children with special needs eligible for an account, flexible uses for the accounts, addressing certain age limitations, and creating funding formulas that do not discriminate against families that choose to use an account.

²²See Arizona Revised Statutes, Title 15, Chapter 19, 15-2402, B(4)(o), <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/15/02402.htm> (accessed January 4, 2018).

²³See Tennessee Department of Education, "Individualized Education Account Program, 2016-17 Program Report, November 2017, p. 3, https://www.tn.gov/content/dam/tn/education/iea/iea_program_implementation_report_2016-17.pdf (accessed January 4, 2018).

NOTES

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