



ARIZONA DEPARTMENT OF EDUCATION

July 3, 2024

VIA EMAIL

Kathryn Boughton, Assistant Attorney General
Office of Arizona Attorney General
Solicitor General's Office
2005 North Central Ave.
Phoenix, Az 85004-1592

Dear Ms. Boughton,

I have received your letter dated July 1, 2024 pertaining to Public Monies Investigation No. PM2024-008.

Solicitor General's claims

In the letter, the Solicitor General's Office makes 2 primary claims regarding Empowerment Scholarship Account (ESA) program practices based on information included in the ESA Program's Parent Handbook and "Allowable Expenses for all ESA Students" document posted on the Arizona Department of Education's (ADE) website. Specifically, the Solicitor General is critical of the ESA program's practice of:

- allowing ESA Holders to use their Empowerment Scholarships to purchase supplemental materials without curricula that justifies the purchase of such materials.
- not identifying for ESA Holders what documentation they are required to submit when purchasing curricula and textbooks so that the Arizona Department of Education can evaluate the items under its authority to approve or reject curricula.

The Solicitor General states that these practices contradict the intent of the Program and constitute a payment of funds without authorization of law. The letter also states that it is unclear whether the ESA program meets its statutory duty to approve

curriculum, as well as to verify whether textbooks are required by qualifying schools and post-secondary institutions.

Solicitor General's directives

As a result of the claims, the Solicitor General has directed the Arizona Department of Education to promptly cease approving supplemental materials and textbooks without curricula and other supporting documentation and provide the Program's plan for compliance. ADE was also directed to answer a series of 17 questions posed by the Solicitor General within 30 days.

ADE will comply with Solicitor General's directives

Supplemental materials without curricula and textbooks without supporting documentation will no longer be allowed—The 2023-2024 ESA Parent Handbook, which is the current Handbook in force, continued the preexisting practice of allowing ESA Holders to purchase supplemental materials without curricula—a practice begun in the prior ADE administration. The current ESA Parent Handbook and the practice in question, which preceded my tenure, were adopted by the State Board of Education (SBE) on April 24, 2023. ADE will promptly implement this directive to ensure compliance with Arizona Revised Statutes §§ 15-2401 and 15-2402.

The ESA program will communicate to ESA Holders that this practice will no longer continue and will provide guidance for compliance. ADE will also work with the SBE to ensure that this practice is removed from the 2023-2024 ESA Parent Handbook. Additionally, ADE will ensure that all parts of the Handbook will be revised as necessary to reflect this directive.

ADE will provide responses to the 17 questions posed by the Solicitor General—ADE will carefully respond to the Solicitor General's questions and work with ClassWallet, the State's financial solutions vendor, to produce the data requested in the questions.

Given the number of questions, the level of data requested, and the complexity in pulling some of the data, ADE will need 60 days to provide the data.

Conclusion

The Arizona Department of Education will review its practices and procedures to ensure compliance with the Solicitor General's directives. When ADE provides responses to the questions posed to it, along with the associated data, we will provide a status update on the changes the ESA program has made to ensure compliance.

Respectfully,

John Ward

Executive Director
Empowerment Scholarship Account Program
Arizona Department of Education

Copy emailed to:

Art Harding, Chief Operations Officer

Maria Syms, Associate Superintendent of Legal Services

Tom Horne, Superintendent of Public Instruction