

Public Comments and Recommended Language Changes for the New Proposed EFA Rules

Submitted by: Family Council, Education Alliance, and the Arkansas Justice Institute

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As organizations committed to educational freedom and excellence in education, we commend the Arkansas Department of Education for its hard work in administering the Educational Freedom Account program. This program has resulted in better, more thoroughly equipped home schools throughout the state, and students have demonstrated excellent educational achievement with test scores that exceed the national median and surpass statewide public school proficiency rates. Because this program is already proven to help advance quality education for Arkansas students, we should approach rule changes carefully and examine potential unintended consequences. In addition, while some advocate for reducing EFA funds and strictly limiting expenditures, it is important to remember that the public school average for spending per student in Arkansas is more than \$13,000, with some districts spending more than \$25,000 per student. The vast majority of parents can be trusted to steward the EFA funds to the best benefit of their students, and imposing stringent limitations and administrative burdens will have the unintended consequence of reducing student learning opportunities and educational achievement. To this end, we submit the following public comments and recommendations for language changes:

1. Extracurricular Activity Definition and Sports Coverage:

The definition of “extracurricular activity” in 6 CAR Section 35-102 (12)(B) on page 5 of the Proposed Rules should be amended to tie EFA coverage to the legitimacy of the program instead of tying program payments to lack of a competitive nature. The current wording of the language would prohibit students from using EFA funds to play on any teams that require tryouts. This provision will likely have a disparate impact on homeschoolers.

As a state, we recognize the value of competitive sports in education, including in teams that require tryouts, and that is why we fund such programs through state funds allocated to public schools. Students receiving EFA funding should be able to use their funds in the same manner as allowed by law. The proposed EFA rules also note that an “extracurricular activity” “has a developmental purpose that promotes personal growth, discipline, physical health, teamwork, responsibility, or civic engagement.” These goals are often best met through opportunities involving competitive team sports. To avoid hindering student opportunities and development while protecting the integrity of the program, **the following is recommended substitute language:**

- **“Extracurricular activity” does not include team sports unless the team sports are provided through a participating school, an education service provider, an Arkansas Activities Association-sanctioned program, or a community or homeschool sports league that does not exclude students based on tryouts or ability.**

Because AAA-sanctioned programs, participating schools, and education service providers are vetted by the state, these opportunities could be included in EFA coverage without subjecting the program to abuse. It is also important to note that the current 25% limit on expenditures for extracurricular activities in state law already functions well to impose prudent limits on expenditures for sports and other extracurricular activities. It is not necessary to prohibit funding for competitive team sports, thereby unduly restricting student achievement and development. **The 25% cap for extracurricular activities already functions to protect fiscal responsibility in EFA accounts.**

2. The Framework for Core Educational Expenses v. Qualifying Expenses:

The new definition of “core educational expenses” is much narrower than the definition of “qualifying expenses” and is used to create a burdensome framework that is not present in Act 237 of 2023. **Act 237 contains only a definition for “qualifying expenses” and specifically provides EFA coverage for “supplemental materials or supplies required by a course of study for a particular content area.”** (See A.C.A. Section 6-18-2503 (11)(B)(iv) on page 84 of Act 237). However, the Proposed Rules (see 6 CAR Section 35-111(F)(i)(d) on page 39) state that “a parent of a participating student may only be reimbursed for a qualifying expense that is not a core educational expense if the parent receives approval from the Department before the expense is incurred.” The definition of “Core Educational Expenses” in 6 CAR Section 35-102(4)(B) does not include supplies for courses in the list of what is considered to be “Core Educational Expenses. **This will create a very burdensome framework that will result in substantial delays for legitimate qualifying expenses that are covered under the statute.**

We see reimbursement requests and approval requests often taking more than a month now. **This will compound the problem of delay due to the increased workload for the Department and will result in students not receiving the supplies they need for courses in time, thus negatively impacting student learning.** For example, a student who needs a microscope for a science course or art supplies for an art course may not be able to receive those supplies in time for them to receive the full benefit of their course. These delays will result in lower educational achievement.

3. Ability for Parents to be Reimbursed Up to an Acceptable Amount:

Many homeschool families in the EFA program have had significant issues involving reimbursements for qualified expenses being denied because the

Arkansas Department of Education deemed the cost of the purchased item to be too high. The problem is that parents were not reimbursed up to an acceptable amount. Instead, reimbursement for the expenditure was completely denied. In these circumstances, it would be more equitable to allow parents to purchase a higher-quality item, such as a better musical instrument, and **be permitted to pay the difference while being reimbursed up to an acceptable amount.** This has been a major issue for many homeschool families. The complete denial of reimbursement for these qualified expenses is not dealt with in this version of the Proposed Rules, but a new provision should be added before the rules are finalized. **Quality purchases of educational supplies and equipment should not be discouraged, particularly where parents are willing to subsidize EFA spending with personal resources to purchase higher-quality instruments, equipment, or supplies that are otherwise qualifying expenses.**

4. **\$8,500 Rollover Limit:**

Educational expenses tend to rise in junior high and high school. **The Department of Education should keep the \$20,000 rollover limit for students approaching upper grade levels so funds are available for higher-cost programs, such as career/vocational training and dual enrollment coursework.** While some concurrent coursework can be obtained at low costs, this is not true of all dual/concurrent enrollment programs. **In addition, the \$20,000 limit should be kept for students who have a diagnosed disability and might incur higher costs in a particular year.** For example, a year of intensive speech therapy multiple times a week will cost more than \$8,500. It is important for students with severe educational disabilities to obtain the help they need, including more intensive therapy in certain stages of their development. This helps ensure they will be prepared to become independent, productive members of society. **As the Department works to set appropriate rollover limits, it is important to remember that the average Arkansas public school spends more than \$13,000 to educate each student every year, with some districts spending more than \$25,000 per student each year.**

5. **Co-curricular Courses:**

Under the definition of “Qualifying Expenses” (see 6 CAR Section 35-102 (26)(T) on page 12), Educational Freedom Accounts allow coverage of “reasonable costs associated with co-curricular courses in the fine arts, music, or STEM fields if the co-curricular course is offered by a public school within the state.” **This should be amended to include courses offered by an Institute of Higher Education.** This is important so that student achievement is not hindered for advanced art, music, and STEM students. Making this change would also fit within the state public policy of advanced educational achievements while in high school, as recognized and promoted by the Arkansas ACCESS to Acceleration program.

6. **Unintentional Misuse vs. Intentional Violations of Rules and Procedures:**

Most of the provisions in the Proposed Rules have an excellent delineation of the important distinction between unintentional misuse of EFA funds vs. intentional misuse of the funds. Because of the importance of this distinction, **the word “intentionally” should be added before the phrase “violated any state laws, rules, or procedures related to the program”** on the second sentence of 6 CAR Section 35-108(c)(3)(C) on page 35. This will help this provision fit better with other provisions in the rules governing misuse of program funds.