



April 7, 2026

Public Comment on Proposed DESE Rule Governing the Arkansas Children's Educational Freedom Accounts

Submitted to: Arkansas Division of Elementary and Secondary Education

Thank you for the opportunity to comment on the proposed rules governing the Arkansas Children's Educational Freedom Account (EFA) program. For background, the [Southern Education Foundation](#) (SEF) is the nation's longest-standing education opportunity organization, committed to advancing education policies and practices that elevate learning for students from low-income families and students of color in the South since 1867. We focus on systemic solutions to ensure that students of color and students from low-income families receive a high-quality education. Arkansas is one of 17 states in our region that we support through research, public policy, technical assistance, and leadership development.

As you know, the Arkansas [constitution](#) states, "Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable, and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education." In simpler terms, it is the duty of the state to provide a suitable and efficient system of free public schools, not private, for all. Further, the [vision](#) of the state's Division of Elementary and Secondary Education is to transform Arkansas to lead the nation in student-focused education. Despite the constitutional obligation and goal to transform Arkansas's education system, the state ranks [36 out of 51](#) in the Education domain of the 2025 Annie E. Casey Foundation's Kids County report, with 72% of the state's public school 4th graders deemed not proficient in Reading and 80% of public school 8th graders scored below grade-level in Math. The state has yet to make good on its constitutional and public responsibility to administer not only a suitable but a leading public school system.

A key education priority of state leadership and policymakers has been the EFA program – an effort that, by design, does not create equal educational opportunities for all students. The EFA program allows parents to receive public funding to attend private or home schools, even though only [4.5%](#) of students in the state attend private schools and [73%](#) of private schools are located in urban or suburban areas. Despite this reality, in the 2026 fiscal session, the state [proposed](#) a \$6.7 billion budget that includes \$190 million for the EFA program. At this time, there is no comparable effort being considered for the state's public K-12 schools, which serve the majority, 94%, of the state's students.

Further, just last year, an [analysis](#) of the EFA program's annual report found that 88% of Year 2 EFA participants were already enrolled in private schools before participating in this program. This is evidence that an overwhelming majority of participants did not matriculate from public schools in need of intensive support, which was among the initial justifications for implementing the program. Instead, the majority of students taking advantage of the EFA come from families who were already able and planning to send their children to private school.

While we fundamentally oppose the diversion of taxpayer dollars to support students in private schools through school voucher programs, we acknowledge that this program is operating and offer the following comments and recommendations to ensure the EFA program directs resources to the families and students in greatest need.

I. The proposed rules for the EFA program do not prioritize students with the greatest needs or students in public schools that require intensive support.

Proposed Rules 6 CAR § 35-103 outline two parameters for participating student eligibility. The first requirement is that a student is eligible to participate if they have a parent physically present in Arkansas with a permanent residence, and the second is if a student is eligible to enroll in a public elementary or secondary school in the state. This means that families who already send their children to private school and never intended to send them to public school can participate. Further, beginning in 2025, there are no longer limits to participation based on family income, meaning all students, including those in multi-millionaire households, are able to receive an EFA voucher. Proposed Rules 6 CAR § 35-104 outline several priority categories for student applications once the maximum number of applications has been received. Students who are considered homeless under the McKinney-Vento Act and students in foster care are the fourth and fifth priority groups, respectively. Students in public schools that have a rating of “D” or “F” or were in need of intensive support the year before their application are the sixth priority group.

The first two priority groups are reserved for prior program participants. As previously mentioned, an [analysis](#) of data from the University of Arkansas’ annual [report](#) on the EFA program found that a total 88% of Year 2 program participants did not attend a public school the year before participating in this program. Entering the third year of the EFA program, if the majority of participating students are not leaving their public schools and, in fact, have never attended public schools, this program is not serving public school students desiring alternative options or choices. Furthermore, because the current proposed rules are designed to prioritize previous program participants, while students wishing to leave their public schools that may be on an intensive support list, are not even among the top three priority groups. The current proposed rules do not provide meaningful choices and options for families in the greatest need.

***Recommendation:** SEF urges policymakers to use the publicly available data on student participation and demographics to make the necessary changes to ensure this program is designed to effectively serve students with the greatest needs. We recommend that the state exclusively prioritize students living in low-income households, students in foster care, homeless students, and students who attend schools that were recently labeled in need of intensive support.*

II. The proposed rules do not require participating private schools to administer state standardized tests analogous to tests administered in public schools, eliminating the ability to measure the program’s effectiveness in participant academic achievement.

Proposed Rules 6 CAR § 35-112 outline the parameters for program evaluation. This section gives the participating school, parent, or service provider the option to choose between administering an examination identified by the State Board of Education that is required for students attending public schools or a nationally recognized norm-referenced test approved by the state Board. A nationally norm-referenced test does not provide any meaningful benchmark to compare how these students were achieving before the program nor how the students are faring compared to their public school counterparts. If the program’s goal is to ensure Arkansas students achieve academically, the state must track participating students’ progress compared to their public school counterparts. Otherwise, the state and the public won’t be able to understand the program’s effectiveness and value to students and families without an accurate understanding of how well students are performing on comparable state-approved benchmarks. Furthermore, ensuring there is high-quality and easily accessible data to understand the program efficacy and impact on student achievement is important for empowering parents and caregivers to make the best and most informed choices for their children.

Recommendation: SEF strongly urges the state to require participating private schools to administer the same state standardized tests, at the same time and in the same general manner as public schools, such that a meaningful understanding of participating students' academic achievement compared with their public school counterparts can be attained. It is the state's fiscal responsibility to have a clear understanding of how taxpayer dollars are utilized, and parents and taxpayers alike deserve to have access to this information as well.

III. The proposed rules could provide stronger transparency mechanisms for parents and families with children who rely on IDEA.

Proposed Rules 6 CAR § 35-105 outline the expectations for the signed agreement and funds transfer process. The rules require the state Department of Education to provide account holders with a written explanation of qualifying expenditures for EFA funds, and that enrolling in a private school with EFA funds waives federal rights to free special education services. This is a crucial provision, as a U.S. Government Accountability Office [study](#) found that 83 percent of private voucher programs nationwide provide either inaccurate or no information about how students' rights change under IDEA. Families deserve full transparency before making decisions that may limit their access to essential services.

Recommendation: SEF urges state leaders and policymakers to further require the state Department of Education to "make available on its website in a conspicuous location" that parents would lose their federal disability rights if participating in this program. This would add opportunity for clarity and transparency for parents and caregivers exploring this opportunity for their children.

In closing, SEF urges the State Board of Education to revise the proposed EFA rules to better align with Arkansas's state obligation to maintain a general, suitable, and efficient system of education for all students. Without clearer prioritization for students with the greatest needs, stronger accountability for the use of public funds, and meaningful measures of student outcomes, the EFA program risks widening, not narrowing, academic performance gaps. However, thoughtful rulemaking can ensure that any program utilizing taxpayer dollars is transparent and demonstrably effective for families with the greatest needs. We appreciate the opportunity to submit these comments and stand ready to support policy solutions that advance educational excellence and opportunity for every Arkansas student.

Sincerely,

Darian Burns, Legislative and Public Policy Analyst

