

The Alabama Accountability Act

Background

On February 28, the Alabama State Legislature passed the Alabama Accountability Act of 2013 which, in addition to expanding flexibility with respect to state educational requirements, establishes a tax credit scholarship program for Alabama. The Accountability Act also creates a refundable income tax credit to reimburse Alabama taxpayers who are the parents of students enrolled in or assigned to attend a failing K-12 public school to offset the cost of transferring the student to a nonfailing public or nonpublic school of the parents' choice.

The Accountability Act brings Alabama in line with 12 other states that provide educational tax credits and tax credit scholarships.¹ The new law allows parents of students in the worst-performing schools to receive a tax credit to offset the cost of sending a student to a nonfailing public or nonpublic school. The law also sets up an opportunity for low-income students to apply for a tax credit scholarship, funded by individual or corporate taxpayers and administered by a scholarship-granting organization.

A parent is eligible for the income tax credit if the parent can certify: a) the student was enrolled in or was assigned to attend a failing school; b) the student subsequently transferred to, and was enrolled in and attended a nonfailing public or nonpublic school of the parent's choice; and c) proof of the actual cost of attendance for the student at the nonfailing public or nonpublic school.²

The income tax credit a parent receives will be equal to 80% of the average annual state cost of attendance for a public K-12 student during the

ISSUE SNAPSHOT

The Alabama Accountability Act creates education flexibility from certain state requirements for existing public schools, establishes a tax credit scholarship program, and institutes refundable tax credits for parents of students in failing K-12 public schools.

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applicable tax year, or the actual cost of attending a nonfailing public or nonpublic school, whichever is less.³ If the parent owes less in income taxes than the total value of the tax credit, the parent is entitled to a rebate or refund for the difference.⁴

The Accountability Act also provides a tax credit for individuals or corporations who contribute to a scholarship-granting organization that provides educational scholarships to students assigned to failing schools.⁵ The Accountability Act dictates that at least 75% of first-time scholarship recipients must not have been previously enrolled in a private school and that the percentage of low-income scholarship recipients must be equal to the percentage of low-income students in the county where the scholarship-granting organization awards the majority of its scholarships.⁶

The Accountability Act also contains a critical section on flexibility, allowing the State Board of Education to enter into a contract with a local

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school to allow for flexibility from certain state laws and regulations in order to encourage innovation and creativity and promote school system autonomy.⁷

Policy Consideration

One contentious issue with The Accountability Act is whether tax credits should be extended to students who are zoned for a failing public school, but are already enrolled in nonpublic schools. Even in its amended form, the bill seems to apply to students assigned to failing public schools who currently attend nonpublic schools. This provision is not entirely uncommon. Other states, like Oklahoma, do not restrict eligibility past the requirement that a student be zoned for a failing school.⁸

There is some concern that allowing previously enrolled private school students to take advantage of the tax credit will mainly benefit families who do not need it and never intended to send their children to public schools in their area. On the other hand, there are parents residing in failing school districts who struggle financially in order to send their children to private schools. To exclude these families from eligibility would be in conflict with the true purpose of The Accountability Act. One practical way to resolve this issue is to insert a means test, or cap on household income, which would apply only to the students who have previously attended a private school. In Pennsylvania, for instance, students with family incomes of \$60,000 or less are eligible to receive a tax credit scholarship.⁹

Alternatively, the bill could merely be reworded to incorporate the term “eligible student” in reference to those students who were previously enrolled in nonpublic schools. The definition is contained in Section Four and currently is used only in reference to scholarship eligibility. This change would effectively create a means test for the tax credit portion of the law and render a student eligible if the student is a member of a household whose total annual income the year prior does not exceed an amount equal to 150% of the median household income. The Act also clearly states that no school,

public or nonpublic, will be forced to enroll any student.”¹⁰ There are valid, although limited, reasons that a nonfailing public school might reject a new transfer on the basis of logistics. If a sizeable number of eligible students in a particular school district sought to enroll in the same nonfailing school for the same school year, that school could face significant challenges with issues such as space and staffing levels. The Act gives schools flexibility to set the terms and conditions for accepting students who opt to use the tax credit, but stipulates that those terms “may not discriminate on the basis of race, gender, religion, color disability status, or the ethnicity of the student or the student’s parents.”¹¹ This non-discrimination clause should alleviate any suggestion that the Act leaves the door open for discriminatory enrollment.

Conclusion

The Alabama Accountability Act is a significant step towards improving the educational outcomes of students in failing schools. Alabama is now poised to share in the educational successes experienced by other states who have implemented similar tax credit programs. At the heart of this historic legislation is the clear-cut objective of providing better educational opportunities to students who stand to benefit the most. Inserting some form of means testing limits on eligibility for the tax credit will ensure that the resulting beneficiaries will truly be those families that the Act aims to assist.

Now that the 2013 legislative session has concluded, the crucial next step is to ensure that these new programs will be fully and honestly utilized. School board members, administrators, and parents must take time to understand the Act’s provisions and the opportunity for *choice* that it affords students in failing schools.

¹ AMERICAN FEDERATION FOR CHILDREN, *In Your State* (2013), www.federationforchildren.org/school_choice (last visited June 4, 2013).

² Alabama Accountability Act of 2013, Act 2013-64, §8(a)(2) (2013).

³ *Id.* at §8(a)(1).

⁴ *Id.*

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⁵ Alabama Accountability Act of 2013, Act 2013-64, §9(a) (2013).

⁶ Id. at §9(b)(1)(f)-(g).

⁷ Id. at §3.

⁸ NAT'L CONF. STATE LEGISLATURES, SCHOOL CHOICE: TUITION TAX CREDITS: WHAT STATES HAVE DONE (2012), <http://www.ncsl.org/issues-research/educ/school-choice-scholarship-tax-credits.aspx>.

⁹ FRIEDMAN FOUND. FOR EDUC. CHOICE: PA.- EDUC.

IMPROVEMENT TAX CREDIT (2013),

[http://www.edchoice.org/School-](http://www.edchoice.org/School-Choice/Programs/Educational-Improvement-Tax-Credit.aspx)

[Choice/Programs/Educational-Improvement-Tax-Credit.aspx](http://www.edchoice.org/School-Choice/Programs/Educational-Improvement-Tax-Credit.aspx).

¹⁰ Alabama Accountability Act of 2013, Act 2013-64, §8(d)(1) (2013).

¹¹ Id. at §8(d)(2).