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# Should Reformers Support Education Savings Accounts?

EDUCATION NEXT TALKS WITH MATTHEW LADNER AND NELSON SMITH

Education Savings Accounts (ESAs) apply the logic of school choice to the ever-expanding realm of education offerings. Rather than simply empowering families to select the school of their choice, ESAs provide families with most or all of the funds that the state would have spent on their child's education. Funds can be spent on private school tuition, tutors, and online courses, for example, or be saved for future use. In this forum, Matthew Ladner, senior advisor for policy and research at the Foundation for Excellence in Education, argues that ESAs offer a grand advance over charter schooling and deserve the support of reformers. Nelson Smith, education policy consultant and senior advisor to the National Association of Charter School Authorizers, argues that the latest incarnation of ESAs in Nevada poses substantial risks and threatens to disrupt an increasingly successful charter school movement.

THE NEXT STEP IN  
SCHOOL CHOICE  
BY MATTHEW LADNER



**WE KNOW LITTLE ABOUT HOW TO IMPROVE** the cost-effectiveness of K-12 spending, and our ignorance is not likely to diminish under the status quo. Paul Hill, of the University of Washington's Center on Reinventing Public Education, succinctly summarizes our situation:

Money is used so loosely in public education—in ways that few understand and that lack plausible connections to student learning—that no one can say how much money, if used optimally, would be enough. Accounting systems make it impossible to track how much is spent on a particular child or school, and hide the costs of programs and teacher contracts. Districts can't choose the most cost-effective programs because they lack evidence on costs and results.

*(continued on page 64)*

EXPAND CHOICE,  
BUT KEEP THE PUBLIC  
INTEREST IN MIND  
BY NELSON SMITH



**THERE ARE ABOUT A QUARTER MILLION** low-income kids enrolled in Nevada schools. Some of these children live in small rural communities, but most reside in the Clark County school district surrounding Las Vegas. Their numbers are concentrated in the state's worst-performing schools, and 49 of the 78 schools identified by the state as chronically failing are in Clark County.

The state's overall academic performance lags national averages, with its students scoring in the bottom quartile in both reading and math on the 2015 National Assessment of Educational Progress results. But the state's urgent task is to provide new, high-quality seats for the 57,000 students languishing in its worst schools, those occupying the bottom 10 percent of academic performance for at

*(continued on page 65)*

## LADNER

(CONTINUED FROM  
PAGE 63)

In a few states, policymakers have taken a creative step toward solving this problem by giving public-education money directly to K–12 parents in a liberal but use-restricted and monitored account that encourages

families to treat the money as their own. Known as Education Savings Accounts, these young programs represent a possible path out of our ignorance.

The founders of American public education promised fantastic returns on investment from Prussian-inspired schools run by local governments. This system has worked well for many children, but for others, not so much. It's a safe bet, however, that public education is here to stay. Every state constitution guarantees state funding for K–12 education, and the public broadly and deeply supports it. Sadly, though, our current public-school practices fall far short on equity, efficiency, and overall effectiveness. A 19th-century institution cannot fulfill the needs of 21st-century America.

Policymakers have engaged in a series of decentralized efforts to improve education outcomes by increasing choice for families. “First-generation” choice programs such as open enrollment, magnet and charter schools, and voucher plans have indeed increased the number of schooling options available. However, these models provide no incentive for parents to consider the issue that Hill rightly spotlights: cost-effectiveness.

Building on the success of charters and vouchers, supporters of Education Savings Accounts hope to overcome the inherent limitation of those choice strategies. The next generation of choice programs must not only give parents and guardians the freedom to try different methods but must also incorporate incentives for them to consider academic benefits and financial costs.

A small but growing number of states (Arizona, Florida, Mississippi, Nevada, and Tennessee) have created ESA programs, which enable parents to choose educational services for their children from among a wide range of offerings. Parents enroll in the program by agreeing to provide their children with an alternative education that replaces the one the public school would provide. In return, the parent receives a state-funded account that can be put toward multiple but limited uses: private-school tuition, tutoring from certified tutors, individual public-school courses, online programs, community college and university tuition, standardized testing fees, curriculum costs, and saving for future higher-education expenses in a tax-advantaged federal Coverdell Account. ESA program details vary by state, but the core features generally include parent-managed accounts, a range of allowed uses, and the option to save funds for future educational use.

The first ESA program in the nation, Arizona's Empowerment

Scholarship Accounts, aims for a system of “ordered liberty.” Parents can freely mix education methods and providers, but while their options are many, they are not infinite. Accounts operate under state supervision, with safeguards in place to ensure the appropriate use of funds. Arizona's lawmakers initially crafted the ESA program for families of children with disabilities and have since expanded it to other groups, including children in foster care, military dependents, children who attend low-rated schools and districts, children living on Native American reservations, and the siblings of otherwise eligible students. Lawmakers in Florida, Mississippi, and Tennessee chose to limit eligibility to students with special needs, while Nevada lawmakers, facing extreme overcrowding in public schools, made all public school students (if previously enrolled for at least 100 days) eligible to participate in an ESA.



First-generation choice programs such as open enrollment, magnet and charter schools, and voucher plans lack an incentive for parents to consider cost-effectiveness.

### A Better Mousetrap and Why We Need It

The British coined the phrase “quasi-market mechanism” to describe policies that replace state service monopolies with a roster of independent providers who compete for business. The American experiments with charter schools, school vouchers, and now ESAs fit comfortably within this definition. High-quality evaluations of charter and voucher programs demonstrate greater parental satisfaction, along with higher graduation rates, often at lower overall taxpayer cost. Account-based programs, the most recent of these innova-

tions, may offer the greatest potential benefits yet for students and taxpayers. Assuming that ESA administrators can successfully develop oversight techniques, ESAs could become the most powerful and flexible mechanism we have for customizing education to individual student needs.

Charters, vouchers, and tax credits have had some impact on cost-effectiveness. The available evidence suggests they provide a bigger bang for the education buck and have contributed to the evolution of our K–12 delivery and governance models. But these market-based reforms lack an incentive for consumers themselves to consider cost—a crucial element for market efficiency and effectiveness. Value seeking in the process of voluntary exchange has driven human material progress, but until now it has been all but absent in public education. An ESA system incorporates competition and thus encourages service providers to create and offer the best possible product at the lowest possible price.

Despite the success of the charter school enterprise, such schools have not faced pressure to improve their product while continuously lowering costs. Applying such a principle to the education sphere may sound Darwinian, but in the rest of the world—whether in manufacturing, technology, energy, or agriculture—it is simply the way things are (*continued on page 66*)

## SMITH

(CONTINUED FROM  
PAGE 63)

least three years. A new Achievement School District (ASD), modeled after those in Louisiana and Tennessee, is charged with transforming these very low-performing schools by taking in a small number (no more than six

per year) and pairing them with successful charter networks, with the hope that they will return to district supervision once they're humming. The ASD has a distinct, limited mission, its resources aimed squarely at saving students who are stuck in intolerably lousy schools.

That work could be supplemented by a more general expansion of charter schools. The state has no cap on charters, and there is ample room to grow. Clark County has more than 19,000 students in charter schools, but they account for just 6 percent of the district's more than 336,000 public-school students. Furthermore, the sector's performance is far from exemplary at this point, and aggressive efforts by state charter officials to recruit top operators from around the country have been hampered by Nevada's abysmally low per-pupil funding.

However, the state has taken major strides to position its charter sector for increased success. New state revenues from last summer's tax hike will help attract strong operators to the state; the federal Department of Education has just awarded a \$16 million grant for new charter start-ups; and reforms passed in 2013 and 2015 persuaded the National Association of Charter School Authorizers to declare Nevada's charter law the strongest in the nation.

Instead of keeping an unrelenting focus on students facing dire needs, however, Nevada is rolling the dice on another marquee program, a custom version of Education Savings Accounts (ESAs). Typically, ESAs are designed to provide education options to families who otherwise could not afford them. The Nevada program is explicitly not targeting low-performing schools or low-income families but rather is being made available to all, including affluent families who can already exercise choice by locating in a good school district or paying tuition for a private school.

That feature is what lost the support of longtime social-justice warrior (and founder of the pro-school choice Black Alliance for Educational Options) Howard Fuller, who in July shocked many allies by stating his opposition to the Nevada plan: "Parental choice should be used principally as a tool to empower communities that face systemic barriers to greater educational and economic opportunities ... I could never approve of a plan that would give those with existing advantages even greater means to leverage the limited number of private

school options, to the detriment of low-income families."

That is not only a sound moral argument but also a good synopsis of the program's flawed economics. An ESA provides \$5,100 per pupil (\$5,700 for a low-income student or one with disabilities), which is supposed to secure a private-school spot. But average tuition for private elementary schools in Nevada is \$8,558, and at the high school level, \$10,322. That leaves a mighty big gap for a low-income parent to fill, but it's a much lesser lift for folks who bring home a generous paycheck.

Supporters argue that upscale families won't be tempted away from their public schools by the lure of ESAs, but indications are to the contrary. According to data from the state treasurer's office, early enrollment is coming mostly from well-off neighborhoods. "Overall, half of the nearly 3,100 applications submitted as of

Oct. 28 list an address in a ZIP Code among the top 40 percent of median households in Nevada. That's in contrast to just 10.7 percent of applications from households with median incomes in the bottom 40 percent."

Now, my forum partner Matt Ladner dismisses this as a "poorly considered" argument because "nothing in American K-12 education (or higher education for that matter) employs a means test." Come again? Buying a home in Greenwich or Grosse Pointe or Chevy Chase so your child can attend a great public school certainly involves a hefty means test—and if you don't agree, ask the low-income folks in the urban centers down the road. Moreover, we apply means tests every day in deciding which students and schools will benefit from Title I and other programs that are federally-resourced but administered at the district level. True, no

child would ever be told, "Your parents are too wealthy so you aren't allowed to attend this school." But that point misstates the issue. Susie's wealthy parents are already taking good care of her schooling and don't need an additional state subsidy. We ought to spend scarce public dollars on those who need the help. To use an analogy: Everyone pays taxes that fund the fire department, so everyone's entitled to protection. But that doesn't mean you send trucks to spray every house in town. You deploy them to the fires.

Here, let me note what I am *not* worried about: the set of church-state issues raised by the ACLU, which is currently suing Nevada state treasurer Dan Schwartz to halt implementation of the accounts because they will steer tax dollars to sectarian institutions. While Nevada's constitution is unusually direct in forbidding such funding—and about half of the state's private schools are sectarian—the ESA program has been carefully crafted to fit the contours of the U.S. Supreme Court's landmark *Zelman v. Simmons-Harris* decision (2002), which held that an Ohio voucher program allowed parents "to exercise genuine choice among options public (*continued on page 67*)



New private schools won't just materialize automatically. Hard experience in the charter sector teaches that you can't hothouse good schools, and that even replicating successful ones takes skill.

## LADNER

(CONTINUED FROM  
PAGE 64)

done. Innovators have developed amazing devices and services whose prices continue to fall. Meanwhile, in both voucher and charter models, schools simply spend the maximum amount the state provides them.

### The Future and Her Enemies

My forum partner Nelson Smith has leveled a number of critiques against the Nevada legislation—by far the boldest of the ESA experiments. It is true that ESAs remain a learn-by-doing experience. No legislation (ESA or otherwise) passes in perfect final form, and an undertaking as ambitious as Nevada's will require further refinement.

Smith's concerns range from serious to poorly considered. Let's start with one of the latter. Smith expresses concern that the Nevada ESA law does not employ a means test. This is an odd objection, given that nothing in American K–12 education (or higher education for that matter) employs a means-test. A student is never told, "Sorry, Susie, but your parents are too wealthy so you aren't allowed to attend this school." Everyone pays the taxes that support public education, and everyone is eligible to participate. Polling by *Education Next* and others continues to find that the public prefers universal programs to means-tested approaches—responding more positively, for instance, to the notion of vouchers for all than to vouchers for low-income families only (see "The 2015 EdNext Poll on School Reform," *features*, Winter 2016).

Smith notes that the education reformer Howard Fuller opposes Nevada's ESA program because it could reinforce the advantage of the rich over the poor in gaining access to a scarce supply of private school seats. In states where private schools are a major presence, this could be a legitimate concern. However, a phase-in starting with lower-income families would be preferable to a marginalizing means test. For instance, the Cleveland Scholarship Program gives enrollment preference to low-income students, but includes students of all income levels. Large Midwestern cities in the 1990s had a significant number of inner-city private schools with available seats, making for a valid concern in terms of their distribution. In Nevada's case, the preexisting stock of private schools is simply too small to cause much concern.

Nevada public schools are badly overcrowded, and the school-age population projects to grow further still by the hundreds of thousands. The *New York Times* quoted the Clark County (Las Vegas area) superintendent as saying that he could build 23 new elementary schools and they would quickly become overcrowded. Las Vegas schools are surrounded by

portable buildings manned by substitute teachers. The current Nevada private schools, however, will not be riding to the rescue for many. Few private schools exist in Nevada, and those that do mostly (and predictably) operate in areas with enough high-income families to support them. In 2010, the Nevada Department of Education estimated K–12 private-school enrollment in the state at a whopping 3 percent of the total. Let's assume those schools could clear out their basements and make room for an additional 1 percent of the students. This limited number of new seats would barely move the needle on coping with overcrowding, requiring us to look elsewhere.

Success or failure for the Nevada ESA program lies in innovation—new private schools, new micro-schools, new Cristo Rey-model schools (students sharing office jobs to generate revenue), blended schools, co-op arrangements drawing from the home schooling experience, combinations of the above, and who know what else? As one of many reforms promoted by the Nevada legislature, the ESA program is not a magic cure-all, nor does it represent a "fire-it-and-forget-it" missile. The program will need considerable philanthropic investment if it is to realize its full potential—especially for low-income children.

Nevada's ESA program does, however, provide every low-income student with schooling options they previously lacked—professional tutoring, textbooks, therapies, university, college or community college tuition, transportation, curriculum, distance education, testing, individual public school courses, and extracurricular activities, in addition to private school tuition. What uses will Nevada parents make of this new freedom? There is only one way to find out.

Nevada lawmakers chose to reflect equity concerns by providing additional resources to disadvantaged students. The law provides \$5,700 to participants whose families qualify for free or reduced-price lunch or who have an Individual Education Plan, and \$5,100 to all other students. Critics have been quick to criticize both the relatively low level of funding overall and the amount of the additional assistance (about 12 percent more) given to low-income children and children with disabilities.

These relatively low allotments would have been higher, something close to the full amount of per-pupil spending, if not for a late amendment to the enabling legislation. The amendment grew from the lawmakers' desire to protect the interests of school districts rather than an indifference to equity concerns on the part of school choice supporters.

A tendency to view locally generated funds as the entitlement of districts rather than the entitlement of the child, however, is a problem that afflicts both charter and private choice programs. Many states, for instance, attempt to make up for the lack of local funding for charters with additional (*continued on page 68*)



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## SMITH

(CONTINUED FROM  
PAGE 65)

and private, secular and religious.”

Rather, my concerns are secular and pragmatic.

**The Supply Side Is Weak**

Right now there are 186 private schools in Nevada serving just over 29,000 students in a state with more than 450,000 students in public schools. According to a separate lawsuit that concentrates on funding issues, “very few of Nevada’s private schools are in the urban core of Nevada’s two largest cities, accessible to students in those neighborhoods.” This sounds plausible, since just 23 percent of those enrolled in the state’s private schools are minority students.

The scarcity of private options is conceded by ESA advocates, including Ladner. As he notes: “Few private schools exist in Nevada, and those that do mostly (and predictably) operate in areas with enough high-income families to support them”—a striking admission. He recommends focusing on the creation of new private school seats and on options outside of private schools.

Some of those nonschool options are appealing. I have a hard time objecting to a program that gives parents funding for tutoring and technology, so long as the available resources are of sufficiently high quality (an especially pertinent question in Nevada’s vast rural areas). But parents may also need some help in sifting through vendor claims and judging the type and depth of services to purchase. For example, in a 2012 American Enterprise Institute paper examining No Child Left Behind’s “supplemental educational services” (SES) provisions, Carolyn J. Heinrich and Patricia Burch noted a “critical threshold” in terms of how much time a student spends in tutoring: “Below 40 hours [of total tutoring time] we do not identify any statistically significant effects of SES on students’ math and reading gains.” They also found that online providers (who charged more for their services) were less likely to produce learning gains, a finding that regrettably parallels research showing dismal performance of virtual schools in the tuition-free charter sector. Findings like these suggest a strong need for robust, accurate information, provided by a disinterested third party.

As for new private schools, they won’t just materialize automatically and may be of dubious quality. Hard experience in the charter sector teaches that you can’t hothouse good schools, and that even replicating successful ones takes skill. We’ve learned that you need serious review of operator applications, plenty of due diligence about their track record, and a good long on-ramp to ensure a successful opening.

Nevada’s ESA program provides none of these guardrails, relying instead on two assurances. One is found in Section 11

of the enabling legislation, which requires that schools and other vendors likely to receive more than \$50,000 in ESA funds annually obtain a surety bond. This requirement will help the state avoid financial losses if a school goes belly-up, but it is no defense against shoddy operators, since such bonds are not exactly hard to come by. (Check surety company websites and you’ll see repeated variations on “Bad Credit? No Problem!”)

The act also requires that participating schools be accredited. But the provision only applies to private schools that are licensed by the state, and religious schools are exempt, creating a rather considerable loophole.

Of course, quality will depend mainly on parents making sound choices. But where one would hope for plentiful public information to help parents understand the performance of participating schools, Section 12 of the act requires only that the department publish aggregated results, sliced by grades and income levels, and that it conduct a survey of parent satisfaction with the ESA program, not the schools.

Finally, the act allows the state treasurer to deny participation in the program to any entity that routinely fails to comply with the law, or fails “to provide any educational services required by law to a child receiving instruction.” Stern-sounding but vague, these provisions don’t actually provide a clear course of action when a school is doing a lousy job. While the ASD and other authorizers like Nevada’s State Public Charter Schools Authority create contracts with clear performance expectations, the ESA program provides no apparent standards for judging whether public funds are buying strong outcomes.



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**Are Student Interests Protected?**

Schools taken under the ASD umbrella will be open to all students currently enrolled and any others who satisfy geographic requirements. The state’s charter schools are similarly open to all. Private schools, on the other hand, do not share this obligation to openness, and nothing in the program’s enabling legislation directly addresses discrimination, further narrowing the chances that choice will be realized for those who need it most.

While the U.S. Supreme Court has ruled since 1976 that private schools cannot deny admission based on race, some states have upheld the right of private schools to expel students because of their own or their parents’ sexual orientation. Nor are private schools required to enroll students with disabilities. According to the U.S. Department of Education, students with disabilities “do not have an individual entitlement to services they would receive if they were enrolled in a public school. Instead, the [local school district] is required to spend a proportionate amount of IDEA [Individuals with Disabilities (continued on page 68)]

**LADNER**(CONTINUED FROM  
PAGE 66)

state assistance on a per-pupil basis. Such assistance is very much needed, but it also creates a growing strain on state general funds. This is an issue that both charter and private choice supporters must soon confront; but

it is hardly unique to the Nevada ESA program.

The additional funds provided to special-needs children stand as clearly inadequate, but that is because Nevada overall does not use a weighted funding formula that would provide extra money for special-needs children. The state should develop such a system for funding the public schools and apply it to the ESAs as well.

Additional assistance to low-income children would also be most welcome, but much of the criticism on this front sorely lacks context. The Nevada public school system routinely gives the most to the kids born on third base. If you attend Incline High School in the upscale town of Incline Village, for instance, you in effect “receive” more than \$13,248 in public funds—that is, the per-pupil expenditure in that community, which is far above the state average of \$8,274 per pupil. I agree that giving low-income students just 12 percent more funding in an ESA program is not enough, but it’s important to note that few people balk at students in communities such as Incline Village receiving some 60 percent more funding than average. Compared to the general Nevada funding formula or the formulas that govern most district and charter schools nationally, the Nevada ESA program looks positively progressive in giving more money to kids starting off with less.

### Investments and Institutions Needed to Make ESAs Work

Fortunately, governments and private enterprise have been developing techniques applicable for ESA account oversight for

decades. ESA implementation efforts must adapt and customize techniques and lessons learned from programs such as food assistance (which transitioned from a voucher system to an account mechanism) and health savings accounts. A system of public oversight and controlled reimbursement for expenses can ensure public confidence in proper use of funds.

Many will rightly worry about the possibility of charlatans duping parents with education snake oil. Smith correctly notes that start-up enterprises are of uneven quality. Once again, practices outside of education suggest a way forward. Online rating systems such as Yelp that aggregate customer reviews could easily be adapted to ESAs. If I were an ESA parent, I would have zero interest in what my state education officials had to say about the quality of, say, the online courses offered by a given university. On the other hand, I would be very interested in whether other ESA parents and students found such courses useful, appropriate, and worthwhile. With an online consumer rating system, parents themselves could evaluate the programs and services of the vendors, such as tutors, universities, schools, and community colleges. Such a system could be a valuable resource for ESA parents and might help them avoid the rip-off artists and substandard providers.

Account mechanisms such as ESAs could well become our most powerful tool in reengineering the way we provide public services, not only in education but also in health care. There is much to be gained from incorporating voluntary exchange as a core principle of public education. Those of us who support ESAs recognize how little we know. We don’t have the answer to Paul Hill’s cost-effectiveness puzzle, but we do have an idea about how to empower parents to figure it out themselves. Experience is the best teacher, so let’s get on with it. We just might learn something. ■

**SMITH**(CONTINUED FROM  
PAGE 67)

Education Act] federal funds to provide equitable services to this group of children. Therefore, it is possible that some parentally placed children with disabilities will not receive any services while others will.” A similar

approach is taken for English language learners; district help is available if a private school chooses to enroll the student in the first place.

It must be possible to navigate the trade-offs between the public and private spheres when seeking to provide benefits of private schooling through the use of public funds. The Nevada program doesn’t make much of an attempt.

I wish it were possible to applaud Nevada’s Education Savings Accounts without reservation. The program is a bold stroke, and it has broken school choice out of the tiny, marginal voucher programs seen in other states. With some modifications, the

program could have a vast and important impact without the unintended side effects noted here. Taking greater cognizance of income would not only direct the benefits of ESAs to where they are truly needed, but would also reduce the risks of overburdening existing private schools and of encouraging charlatans to open new ones simply to collect public monies. If the state is successful in its current court appeal and the ESA program moves forward, I would love to see the kind of robust Yelp-like parent evaluations Ladner envisions—so long as they’re paired with strong oversight representing the public interest of all the taxpayers whose kids aren’t attending ESA-financed schools.

Until such changes are made, the best way of getting help to high-need students in Nevada is through the two charter-based channels: a modest quickening of the pace at which the ASD takes in troubled schools for turnaround and a concentrated effort to attract high-caliber talent that can expand capacity and enhance performance in the state’s public-charter sector. ■