

114TH CONGRESS
2D SESSION

S. 2455

To expand school choice in the District of Columbia.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2016

Mr. CRUZ introduced the following bill; which was read twice and referred to
the Committee on Finance

A BILL

To expand school choice in the District of Columbia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Educational Freedom
5 Accounts Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADMINISTERING ENTITY.**—The term “ad-
9 ministering entity” means the entity that receives
10 the contract under section 3(a) for a fiscal year.

1 (2) CHIEF FINANCIAL OFFICER.—The term
2 “chief financial officer” means the Chief Financial
3 Officer of the District of Columbia.

4 (3) ELIGIBLE CHILD.—The term “eligible
5 child” means a child—

6 (A) who is a resident of the District of Co-
7 lumbia;

8 (B) who is eligible to receive a free public
9 education in the District of Columbia;

10 (C) who—

11 (i) was enrolled in a public school or
12 preschool program of the District of Co-
13 lumbia, including a charter school, during
14 the previous school year; or

15 (ii) is entering prekindergarten or kin-
16 dergarten;

17 (D) whose parent chooses to not enroll the
18 child in a public elementary school, secondary
19 school, or prekindergarten program for the
20 school year for which the child will receive a
21 scholarship under section 4; and

22 (E) whose parent does not submit a notifi-
23 cation of home schooling described in section
24 5202 of title 5, Code of the District of Colum-
25 bia Regulations (or any successor notification)

1 to the Office of the State Superintendent of
2 Education of the District of Columbia for any
3 year for which the parent enters into an agree-
4 ment under section 4(a)(2)(B).

5 (4) INSTITUTION OF HIGHER EDUCATION.—The
6 term “institution of higher education” has the
7 meaning given the term in section 102 of the Higher
8 Education Act of 1965 (20 U.S.C. 1002).

9 (5) PARENT.—The term “parent” means the
10 guardian, custodian, or other person with the au-
11 thority to act on behalf of a child.

12 (6) PARTICIPATING PROVIDER.—The term
13 “participating provider” means an entity that—

14 (A) is—

15 (i) a nonpublic school located in the
16 District of Columbia that provides edu-
17 cation to prekindergarten, elementary
18 school, or secondary school students;

19 (ii) a public school, including a char-
20 ter school, located in the District of Co-
21 lumbia, except only with respect to pro-
22 viding individual courses or extracurricular
23 activities described in section 4(c)(1)(E) or
24 transportation described in section
25 4(c)(1)(H) to such services;

1 (iii) a tutor or tutoring facility;

2 (iv) a nonpublic provider of distance
3 learning;

4 (v) a therapy center or other provider
5 of special education or disability services;

6 (vi) an institution of higher education
7 located in the District of Columbia; or

8 (vii) an entity that provides edu-
9 cational services or products;

10 (B) notifies the administering entity of the
11 entity's intent to become a participating pro-
12 vider; and

13 (C) agrees, as a condition of receiving
14 funds from an education savings account estab-
15 lished under section 4, to comply with the re-
16 quirements of this Act.

17 **SEC. 3. CONTRACT AUTHORIZED.**

18 (a) IN GENERAL.—Beginning with the 2017–2018
19 school year, the Chief Financial Officer shall carry out this
20 Act for each school year by awarding a contract to 1 entity
21 described in subsection (b) to enable the administering en-
22 tity to carry out the program under section 4 for all eligi-
23 ble children in the District of Columbia.

24 (b) ELIGIBILITY.—In order to be eligible for a con-
25 tract under this section, an entity shall be—

1 (1) exempt from Federal income tax pursuant
2 to 501(c)(3) of the Internal Revenue Code of 1986;
3 (2) based within the District of Columbia; and
4 (3) able to demonstrate an ability to meet all
5 requirements of this Act.

6 (c) APPLICATION.—An eligible entity desiring a con-
7 tract under this section shall submit an application to the
8 Chief Financial Officer at such time, in such manner, and
9 containing such information as the Chief Financial Officer
10 may require.

11 (d) ADMINISTRATIVE EXPENSES.—From the
12 amounts made available under the contract described in
13 subsection (a), the administering entity may reserve an
14 amount that is not greater than the sum of 5 percent of
15 the funds allocated under section 4(a)(4) for each eligible
16 child with an education savings account, to be used by the
17 administering entity for the administrative expenses asso-
18 ciated with the program under this Act.

19 **SEC. 4. UNIVERSAL EDUCATIONAL CHOICE FOR DISTRICT**
20 **OF COLUMBIA STUDENTS.**

21 (a) BASIC ELEMENTS OF PARENTAL CHOICE IN
22 EDUCATION.—

23 (1) EDUCATIONAL CHOICE.—Except as pro-
24 vided in paragraph (6), the parent of any eligible
25 child may enter into an agreement under paragraph

1 (2)(B) with the administering entity for any year
2 during which the eligible child will be in a grade for
3 which the District of Columbia provides free public
4 education.

5 (2) PROVISION OF EDUCATION SAVINGS AC-
6 COUNTS.—

7 (A) IN GENERAL.—Beginning for the
8 2017–2018 school year, the administering enti-
9 ty shall provide, to each eligible child whose
10 parent enters into or renews an agreement de-
11 scribed in subparagraph (B) with the admin-
12 istering entity for the school year, an education
13 savings account described in paragraph (3),
14 into which scholarship amounts for the year
15 shall be deposited in accordance with paragraph
16 (4).

17 (B) AGREEMENT.—The agreement re-
18 quired under this subparagraph shall be in a
19 manner and on a form determined by the ad-
20 ministering entity and shall provide that—

21 (i) the eligible child will receive an
22 education savings account described in
23 paragraph (3) and the administering entity
24 will deposit a scholarship into the account

1 for each year that the agreement is in ef-
2 fect, in accordance with paragraph (4);

3 (ii) the eligible child may be educated
4 pursuant to any of the methods described
5 in subparagraphs (A) through (G) of sub-
6 section (c)(1);

7 (iii) the parent shall direct the use of
8 the funds provided in the education savings
9 account for educational expenses described
10 in subsection (c), and the administering
11 entity shall distribute such funds in ac-
12 cordance with paragraph (3)(B); and

13 (iv) the parent agrees to the terms
14 and conditions of the education savings ac-
15 count, including any participation nec-
16 essary for the accountability activities re-
17 quired under subsection (d)(3).

18 (3) EDUCATION SAVINGS ACCOUNT.—An edu-
19 cation savings account described in this paragraph
20 means a parent-controlled account, established exclu-
21 sively for the purpose of paying for the educational
22 expenses described in subsection (c) for an eligible
23 child who is the designated beneficiary of the ac-
24 count, that meets the following requirements:

1 (A) No funds shall be deposited into the
2 account unless the funds are—

3 (i) a disbursement of an annual schol-
4 arship from the administering entity as
5 provided under paragraph (2)(A); or

6 (ii) a deposit of opportunity scholar-
7 ship funds, in accordance with section
8 3007(a)(2) of the Scholarships for Oppor-
9 tunity and Results Act (D.C. Code, sec.
10 38–1853.07(a)(2)).

11 (B) The funds in the account shall be dis-
12 tributed by the administering entity on behalf
13 of the eligible child to 1 or more participating
14 providers, upon direction by the parent, at the
15 appropriate time.

16 (C) Except as provided in subparagraph
17 (D), any amount in the account that is attrib-
18 utable to a deposit provided under paragraph
19 (2)(A) or a deposit of any opportunity scholar-
20 ship funds awarded under section 3007 of the
21 Scholarships for Opportunity and Results Act
22 (D.C. Code, sec. 38–1853.07) may be paid or
23 distributed out of the account only for the pur-
24 pose of paying education expenses described in
25 subsection (c) for the eligible child.

1 (D) Any balance remaining in the account
 2 shall be returned to the Chief Financial Officer
 3 on the last day of the period covered by an
 4 agreement described in paragraph (2)(B) if—

5 (i) such agreement is broken or ended
 6 by the parent during the agreement period;

7 (ii) the parent of the eligible child
 8 does not renew the agreement for the eligi-
 9 ble child for the immediately succeeding
 10 academic year;

11 (iii) during the most recent year of
 12 the agreement, the parents do not use any
 13 funds in the account for eligible expenses
 14 described in subsection (c); or

15 (iv) the child no longer qualifies as an
 16 eligible child.

17 (4) AMOUNT OF SCHOLARSHIP AND TRANSFER
 18 OF FUNDS.—

19 (A) TRANSFER OF FUNDS.—By not later
 20 than August 1 of each school year—

21 (i) the administering entity shall no-
 22 tify the Chief Financial Officer of the total
 23 amount calculated under subparagraph (B)
 24 to be provided under this Act for scholar-

1 ships to eligible children for such school
2 year; and

3 (ii) the Chief Financial Officer shall
4 transfer such amount, from any funds or
5 revenues available to the District of Co-
6 lumbia, to the administering entity to en-
7 able the administering entity to pay for the
8 scholarships and the administration ex-
9 penses for the full fiscal year, in accord-
10 ance with subparagraphs (B) and (D) and
11 section 3(d).

12 (B) AMOUNT.—The total amount provided
13 under this section for a full-year scholarship on
14 behalf of an eligible child shall equal—

15 (i) in the case of an eligible child from
16 a family with an income of not more than
17 185 percent of the poverty level described
18 in subparagraph (C) or an eligible child
19 who is a child with a disability, as defined
20 in section 602 of the Individuals with Dis-
21 abilities Education Act (20 U.S.C. 1401),
22 90 percent of the funds that would other-
23 wise be allocated by the District of Colum-
24 bia Public Schools for such child, as deter-
25 mined by the uniform per student funding

1 formula defined in the District of Colum-
2 bia School Reform Act of 1995 (D.C.
3 Code, sec. 38–804.01);

4 (ii) in the case of an eligible child
5 from a family with an income of more than
6 185 percent, and not more than 300 per-
7 cent, of such poverty level, 85 percent of
8 the funds that would otherwise be allocated
9 by the District of Columbia Public Schools
10 for such child as determined by such uni-
11 form per student funding formula; and

12 (iii) in the case of an eligible child
13 from a family with an income that equals
14 or exceeds 300 percent of such poverty
15 level, 80 percent of the funds that would
16 otherwise be allocated by the District of
17 Columbia Public Schools for such child as
18 determined by such uniform per student
19 funding formula.

20 (C) CALCULATION OF POVERTY LEVEL.—

21 In determining the poverty level for purposes of
22 this paragraph, the administering entity shall
23 use the criteria of poverty used by the Bureau
24 of the Census in compiling the most recent de-
25 cennial census, as the criteria have been up-

1 dated by increases in the Consumer Price Index
2 for All Urban Consumers, published by the Bu-
3 reau of Labor Statistics.

4 (D) QUARTERLY DISBURSEMENT.—The
5 administering entity shall distribute the amount
6 of a scholarship provided under this section to
7 an eligible child whose parent has entered into
8 an agreement under paragraph (2)(B) into the
9 eligible child’s education savings account
10 through 4 equal quarterly deposits.

11 (5) OWNERSHIP OF THE EDUCATION SAVINGS
12 ACCOUNT.—An education savings account estab-
13 lished for an eligible child under this Act, and any
14 funds deposited within the education savings ac-
15 count, shall belong to the eligible child. Funds avail-
16 able in the education savings account shall be used
17 as directed by a parent of the eligible child, on be-
18 half of the child, for education expenses described in
19 subsection (c).

20 (6) INTERACTION WITH OPPORTUNITY SCHOL-
21 ARSHIPS.—Notwithstanding paragraph (2)(A) or
22 any other provision of this Act, a child who receives
23 an opportunity scholarship under section 3007 of the
24 Scholarships for Opportunity and Results Act (D.C.
25 Code, sec. 38–1853.07) for a school year shall not

1 be eligible for a scholarship under this Act for the
2 same school year. Upon the request of any parent of
3 an eligible child who receives an opportunity scholar-
4 ship and the completion of an agreement described
5 in paragraph (2)(B), the Secretary shall establish an
6 education savings account described in paragraph
7 (3) for the child, in order for the parent to deposit
8 any amount of an opportunity scholarship under sec-
9 tion 3007 of the Scholarships for Opportunity and
10 Results Act (D.C. Code, sec. 38–1853.07) into the
11 education savings account.

12 (b) CONTINUED AVAILABILITY OF FUNDS.—Any bal-
13 ance in an educational savings account established for an
14 eligible child under this section that is not used during
15 an academic year shall remain available in the education
16 savings account of the eligible child for future education
17 expenses described in subsection (c), as long as an agree-
18 ment described in subsection (a)(2)(B) remains in effect
19 for the eligible child.

20 (c) ELIGIBLE EDUCATION EXPENSES.—

21 (1) IN GENERAL.—Funds available in an edu-
22 cation savings account established under this section
23 for an eligible child shall only be used on behalf of
24 such child for 1 or more of the following educational
25 purposes:

1 (A) The costs of tuition and fees at a non-
2 public school, or distance education, provided
3 through a participating provider.

4 (B) Tutoring services offered by a partici-
5 pating provider.

6 (C) The costs of curricula or online
7 courses, including any supplemental materials,
8 textbooks, or supplies necessary to administer
9 the curriculum or to complete the course, of-
10 fered by a participating provider or purchased
11 for self-study.

12 (D) Fees for any special education or re-
13 lated services provided through a participating
14 provider.

15 (E) The costs of tuition and fees required
16 to complete individual courses or extra-
17 curricular activities at a public school, including
18 a charter school, within the District of Colum-
19 bia.

20 (F) The costs of tuition and fees required
21 to complete any dual credit courses, which are
22 courses that qualify for both secondary and
23 postsecondary education credit, from a partici-
24 pating provider in the District of Columbia.

25 (G) Fees for any—

1 (i) national norm-referenced achieve-
2 ment examination;

3 (ii) advanced placement or similar ex-
4 amination; or

5 (iii) standardized examination re-
6 quired for admission to an institution of
7 higher education.

8 (H) Transportation required for the eligi-
9 ble child to travel to and from a participating
10 provider, except that not more than \$2,000 per
11 year from the education savings account may be
12 used for this purpose.

13 (I) A contribution to a qualified tuition
14 program (as defined in section 529(b) of the In-
15 ternal Revenue Code of 1986) with respect to
16 which the eligible child is a designated bene-
17 ficiary or a contribution to a Coverdell edu-
18 cation savings account (as defined in section
19 530(b) of such Code) with respect to which the
20 eligible child is a designated beneficiary, except
21 that not more than a total of \$2,000 per year
22 may be used for contributions under this sub-
23 paragraph.

24 (J) Any other education expenses approved
25 by the administering entity.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to require an eligible
3 child to attend a nonpublic school or a program of
4 distance education described in paragraph (1)(A) in
5 order to receive an academic scholarship under this
6 section to be used for other eligible education ex-
7 penses described in paragraph (1).

8 (d) GOVERNMENTAL AND ADMINISTERING ENTITY
9 RESPONSIBILITIES.—

10 (1) NO EXTENSION OF REGULATORY AUTHOR-
11 ITY.—The creation of the program under this Act
12 does not expand the regulatory authority of the
13 Mayor of the District of Columbia, the officers of
14 the District of Columbia, the District of Columbia
15 Public Schools, or the Federal Government to im-
16 pose any additional regulations on nonpublic schools
17 beyond the regulations necessary to enforce the re-
18 quirements of this Act.

19 (2) ANNUAL LIST OF PARTICIPATING PRO-
20 VIDERS.—

21 (A) CREATION OF LIST.—Beginning in
22 academic year 2016–2017, and each year there-
23 after, the administering entity shall ensure that
24 all eligible children, and their parents, are in-
25 formed of the schools participating in the pro-

1 gram under this Act for the next academic year
2 by providing to the Chief Financial Officer, and
3 making publicly available, a list of participating
4 providers each school year.

5 (B) INCLUSION ON CFO'S WEBSITE.—The
6 Chief Financial Officer shall ensure that the
7 annual list of participating providers prepared
8 by the administering entity under subparagraph
9 (A) is made publicly available on the website of
10 the Chief Financial Officer.

11 (3) ACCOUNTABILITY.—The administering enti-
12 ty and the Chief Financial Officer shall take such
13 steps as are necessary to ensure the proper imple-
14 mentation of this Act, including—

15 (A) conducting periodic audits of education
16 savings accounts established under this section;

17 (B) ensuring that the funds disbursed
18 from education savings accounts are used ap-
19 propriately and in accordance with this Act;

20 (C) freezing or revoking the education sav-
21 ings account of an eligible child if fraud is de-
22 tected; and

23 (D) if appropriate, referring parents or
24 participating providers found to be using edu-

1 cation savings account funds for unlawful pur-
2 poses for criminal prosecution.

3 (4) EXCHANGE OF RECORDS.—Upon request by
4 the administering entity, the District of Columbia
5 Public Schools shall provide, to any participating
6 provider that is a school and that has admitted an
7 eligible child who previously attended a public
8 school, a complete copy of the child’s school records,
9 following the standard procedures established by the
10 administering entity for purposes of the program
11 under this Act.

12 (e) PARTICIPATING PROVIDER REQUIREMENTS AND
13 RIGHTS.—

14 (1) REFUND AND REBATE LIMITATIONS.—

15 (A) GENERAL PROHIBITION.—A partici-
16 pating provider that receives scholarship funds
17 provided under this Act for an eligible child
18 shall not—

19 (i) refund or provide a rebate, of all
20 or any portion of such funds, to the eligible
21 child or a parent of the eligible child; and

22 (ii) share such funds with such eligi-
23 ble child or parent in any manner.

24 (B) REFUND PROCEDURES.—Any refund
25 that is needed for an item that is being re-

1 turned or an item or service that has not been
2 provided shall be provided to the administering
3 entity and deposited into the education savings
4 account from which the money refunded was
5 originally paid.

6 (2) ADMISSIONS.—A participating provider may
7 enforce the admission requirements of the school or
8 program offered by the provider and may accept the
9 students best qualified to attend the school, except
10 that a participating school may not discriminate on
11 the basis of race, color, national origin, or sex, in ac-
12 cordance with subsection (f).

13 (3) TRANSFER OF DOCUMENTS.—Each partici-
14 pating provider that is a school shall agree, as a con-
15 dition of participation in the program under this
16 Act, to provide the complete academic records of an
17 eligible child attending the school who receives an
18 education savings account under this Act to any
19 other nonpublic school or public school to which the
20 child transfers.

21 (f) NONDISCRIMINATION AND OTHER PROVISIONS.—

22 (1) IN GENERAL.—A participating provider
23 shall not discriminate against program participants
24 or applicants on the basis of race, color, national ori-
25 gin, or sex.

1 (2) APPLICABILITY AND SINGLE SEX SCHOOLS,
2 CLASSES, OR ACTIVITIES.—

3 (A) IN GENERAL.—Notwithstanding any
4 other provision of law, the prohibition of sex
5 discrimination in paragraph (1) shall not apply
6 to a participating provider that is operated by,
7 supervised by, controlled by, or connected to a
8 religious organization to the extent that the ap-
9 plication of such paragraph is inconsistent with
10 the religious tenets or beliefs of the partici-
11 pating provider.

12 (B) SINGLE SEX SCHOOLS, CLASSES, OR
13 ACTIVITIES.—Notwithstanding paragraph (1) or
14 any other provision of law, a parent may choose
15 and a participating provider may offer a single
16 sex school, class, or activity.

17 (3) RELIGIOUSLY AFFILIATED PARTICIPATING
18 PROVIDERS.—

19 (A) IN GENERAL.—Notwithstanding any
20 other provision of law, a participating provider
21 that is operated by, supervised by, controlled
22 by, or connected to a religious organization may
23 exercise its right in matters of employment con-
24 sistent with title VII of the Civil Rights Act of

1 1964 (42 U.S.C. 2000e et seq.), including the
2 exemptions in such title.

3 (B) MAINTENANCE OF PURPOSE.—Not-
4 withstanding any other provision of law, funds
5 made available through education savings ac-
6 counts established under this section to eligible
7 children, which are used for a participating pro-
8 vider as a result of the choice of the parents of
9 such children, shall not, consistent with the
10 first amendment of the Constitution of the
11 United States—

12 (i) necessitate any change in the par-
13 ticipating provider’s teaching mission;

14 (ii) require any participating provider
15 to remove religious art, icons, scriptures,
16 or other symbols; or

17 (iii) preclude any participating pro-
18 vider from retaining religious terms in its
19 name, selecting its board members on a re-
20 ligious basis, or including religious ref-
21 erences in its mission statements and other
22 chartering or governing documents.

23 (4) RULES OF CONSTRUCTION.—

24 (A) TREATMENT OF ASSISTANCE.—For
25 purposes of any Federal law, assistance pro-

1 vided under this section shall be considered as-
2 sistance to the child and shall not be considered
3 assistance to the participating provider that en-
4 rolls the child in a school or program. The
5 amount of any scholarship under this section
6 shall not be treated as income of the child or
7 the parents of the child for purposes of Federal
8 tax laws or for determining eligibility for any
9 other Federal program.

10 (B) NO ABILITY TO CONTROL THE CUR-
11 RICULUM.—Nothing in this section shall be con-
12 strued to authorize any officer or employee of
13 the Federal Government, through grants, con-
14 tracts, or other cooperative agreements, to man-
15 date, direct, or control the curriculum, program
16 of instruction, instructional content, specific
17 academic standards, assessments, or allocation
18 of resources, of the District of Columbia or of
19 any school in the District of Columbia.

20 (g) TRANSITION.—The Chief Financial Officer and
21 the administering entity shall take steps to ensure a
22 smooth transition to the program under this Act, in order
23 to ensure that academic scholarships and education sav-
24 ings accounts under this section are available to eligible
25 children attending nonpublic schools through participating

1 providers beginning for the 2017–2018 school year. The
2 Chief Financial Officer shall allow nonpublic schools to be-
3 come participating providers beginning on September 1,
4 2016.

5 (h) CONFORMING AMENDMENT.—Section 3007(a)(2)
6 of the Scholarships for Opportunity and Results Act (D.C.
7 Code, sec. 38–1853.07(a)(2)) is amended by adding before
8 the period at the end the following: “, or deposited in an
9 education savings account established under section 4 of
10 the Educational Freedom Accounts Act to be used for edu-
11 cation expenses described in subsection (c) of such sec-
12 tion”.

○