

2023: The Year of Education Freedom

Jonathan Butcher and Jason Bedrick

KEY TAKEAWAYS

In 2023, more state lawmakers empowered parents and students with new K-12 education opportunities by creating education savings accounts and account-style options.

Legislators in several states have adopted new parent bills of rights that affirm mothers and fathers as their children's primary caregivers.

These reforms, including addressing the racial prejudice caused by DEI offices on college campuses, are crucial changes to give every student a chance to succeed.

In 2023, state lawmakers around the U.S. adopted significant reforms that provided more education choices for K-12 students, supported parents' authority over their children's education, and protected college faculty and students from racial discrimination caused by so-called diversity, equity, and inclusion (DEI) offices on university campuses.

Such changes are desperately needed. Student achievement has fallen to levels not seen since the early 1990s. Meanwhile, special interest groups, such as teachers' unions, vie for control over classrooms and promote radical race and "gender" ideology while advocating policies that withhold information about a child's well-being from the student's family.

In response, many states have created private learning options with broad eligibility, providing new opportunities for students from all walks of life. Legislators in

This paper, in its entirety, can be found at <https://report.heritage.org/bg3788>

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

some states also adopted new parent bills of rights that affirmed mothers and fathers as their children’s primary caregivers. Some policymakers also adopted proposals that prohibit school personnel from withholding crucial health-related information about a child from the child’s parents, specifically when it comes to “gender” confusion—including cases in which a student wants to be addressed in a manner inconsistent with his or her sex.

In higher education, state lawmakers in Florida and Texas adopted policies that will reinforce the U.S. Supreme Court decision rejecting racial discrimination in *Students for Fair Admission v. Harvard* and *Students for Fair Admission v. University of North Carolina*. These policies prohibit loyalty oaths as a condition of employment at a postsecondary institution and prohibit administrators from using taxpayer resources to operate DEI offices on campus.

This *Backgrounder* lists the new state policies and describes the features of these laws.

Parent Choice in Education

State legislative sessions in 2023 ushered in the year of education freedom, as policymakers adopted the most significant expansions of parental choice in education in U.S. history. As of this writing, seven states passed new education choice policies and eight states expanded existing choice policies. Four states enacted new universal choice policies (Arkansas, Iowa, Oklahoma, and Utah) and two states expanded existing policies to all students (Florida and Ohio), joining Arizona and West Virginia to bring the total number of states with universal choice to eight.

Most of the new choice policies establish education savings accounts (ESAs) or account-style options, which give families the freedom and flexibility to choose the learning environments that align with their values and work best for their children. With an ESA, the state deposits a portion of a child’s education spending from the state K–12 formula—the formula used to determine per-student spending in district schools—into a private account that parents use to buy education products and services for their children, including but not limited to tuition at private schools. Unused funds can be saved for future education expenses. Thirteen states now have ESAs or ESA-style policies.

A few states, such as Alabama and Nebraska, also expanded or adopted new tax-credit scholarship policies. These policies grant tax credits in return for contributions to nonprofit scholarship organizations that aid families in paying private school tuition. Twenty-two states now have tax-credit scholarship policies.

Alabama. Alabama Governor Kay Ivey (R) signed a bill to expand the state’s tax-credit scholarship program. The maximum household income of first-time scholarship recipients was raised from 185 percent of the federal poverty level (FPL) to 250 percent of the FPL (\$75,000 for a family of four).¹ Students with special needs will now also be eligible, as will students who are assigned to schools that receive D or F grades on the state report card. Students with special needs will also be able to use the scholarships for a wider variety of education expenses, similar to ESA policies in other states. Additionally, the maximum scholarship value was raised to \$10,000 for all students. Previously, elementary students could receive scholarships worth up to \$6,000, middle school students could receive up to \$8,000, and high school students could receive up to \$10,000. Finally, the bill increases the total amount of tax credits available annually for donations to scholarship organizations from \$30 million to \$40 million and will allow the total amount of tax credits to grow to up to \$60 million over time.

Arkansas. Arkansas lawmakers made their state one of eight in the U.S. where every child, regardless of ZIP code or family income level, can apply for private learning options and is not limited to an assigned school. The Arkansas LEARNS proposal signed by Governor Sarah Huckabee Sanders (R) created a savings account policy similar to the ESA policies in Arizona and Florida.² With an account, state officials deposit a portion of a child’s funds from the state K–12 education formula into a private account that the parents use to purchase education products and services for their child. Families can use their accounts to pay for private school tuition, curricular materials, a personal tutor, college entrance exam fees, and more, in any combination they choose.³ In the 2023–2024 school year, eligible students will include:

- Students with special needs,
- Homeless students,⁴
- Students who are or were in the state foster care system,
- Children of active-duty members of the U.S. military,
- Students enrolled in failing schools according to the state’s A–F school report card system, and
- Children entering kindergarten.

In the 2023–2024 school year, the total number of participants may not exceed 1.5 percent of the state’s public school enrollment.⁵

In the 2024–2025 school year, eligible students will also include students assigned to schools in the state’s two lowest-rated school districts, children of first responders, children of military veterans or members in the military reserves, and children of members of law enforcement. The total number of ESA participants may not exceed 3 percent of total public school enrollment.⁶

In the following school year, 2026–2027, the limits on student eligibility and total student participation in the accounts are removed, meaning that all K–12 students will be eligible to receive an ESA.

The Arkansas Literacy, Empowerment, Accountability, Readiness, Networking, and School Safety (LEARNs) Act also increased the total tax-credit cap for the Philanthropic Investment in the Arkansas Kids Scholarship Program from \$2 million to \$6 million and allows the cap to grow by 5 percent annually.

Florida. Florida lawmakers adopted H.B. 1, an extraordinary expansion of the state’s existing private school choice opportunities. The new law, signed by Governor Ron DeSantis (R), expands student eligibility for the state’s existing ESAs and private school scholarship program that is funded via tax credit–eligible donations to scholarship organizations to include all students in the state.⁷ The law also removes the cap that limited participation in the ESA program (the Family Empowerment Scholarship for Students with Unique Abilities).⁸

Students who currently participate in a scholarship program and are members of a household earning at or below 185 percent of the FPL will receive priority for admission to the new program. Preference is then given to students with incomes up to 400 percent of the FPL.⁹

Notably, H.B. 1 also changes the state’s traditional K–12 private school scholarship programs into ESAs, converting scholarship options that allowed families to choose a private school into accounts that now offer parents the opportunity to purchase textbooks, find a personal tutor and education therapist, pay for online classes and private school tuition, and more—simultaneously, if they choose.¹⁰

Indiana. As a part of the 2023–2025 state budget (a biennial budget), Indiana lawmakers significantly expanded the state’s three education choice policies.¹¹ The bill, signed by Governor Eric Holcomb (R), increased the income-eligibility threshold for the state’s school voucher and tax-credit scholarship policies from 300 percent of the free-and-reduced-price lunch program’s income limit to 400 percent (about \$220,000 for a family of

four¹²), and removed other eligibility requirements, which means that more than 95 percent of K–12 students in Indiana will now be eligible. Similarly, the income eligibility requirement for Indiana’s ESA policy for students with special needs was raised from 300 percent to 400 percent of the free-and-reduced-price lunch program’s income limit.

Iowa. In January 2023, Iowa was the first state this year to enact a new education choice policy when Governor Kim Reynolds (R) signed the Students First Act.¹³ The act creates an ESA-style policy that will be available to every child in the state.¹⁴ Similar to ESA policies in other states, Iowa families can now receive about \$7,600 per K–12 student that they can use for a variety of education expenses or to save for later expenses. Iowa students must be enrolled in a private school to participate in Students First, while in other states offering ESAs, such as Arizona, Florida, and West Virginia, students do not have to be enrolled in any specific K–12 institution and can use the accounts to pay for homeschool expenses.

In the first year of the program (2023–2024), students are eligible if they are switching out of a public school or from a family whose household income does not exceed 300 percent of the FPL (\$90,000 for a family of four).¹⁵ In the second year of the program (2024–2025), students will be eligible if they are switching out of a public school or from a family whose household income does not exceed 400 percent of the FPL (\$120,000 for a family of four). In the third year of the program (2025–2026), all K–12 students will be eligible.

Montana. Montana Governor Greg Gianforte (R) signed HB 393, which creates an ESA option for children with special needs.¹⁶ Similar to the accounts in Arizona, Florida, Indiana, and other states, parents receive a portion of their child’s funding from the state education formula in a private account that they can use to purchase a wide variety of education products and services, including private school tuition. Students are not required to use their accounts to pay tuition at private schools, though they may do so—this provision in the new law is an important distinction that separates ESAs from other account-style programs, such as Iowa’s new scholarships.

Governor Gianforte also signed a proposal that allows state residents to create public charter schools, making Montana the 46th state to adopt a charter school law.¹⁷ Charter schools are public schools that usually operate with an independent school board (as opposed to operating under a public school district board, as traditional public schools operate). Charter schools do not have to adhere to all the same laws and regulations as assigned traditional public schools, but officials can close a charter school for low academic performance or otherwise not meeting the goals set in a school’s

charter. Additionally, Montana lawmakers approved a proposal that allows students to choose public schools outside their assigned school district, an option known as “open enrollment.”¹⁸

Montana lawmakers also approved proposals that increased the size of the state’s tax-credit scholarship option and allowed private school students and homeschool students to enroll in public school classes.¹⁹

Nebraska. Nebraska Governor Jim Pillen (R) signed into law a tax-credit scholarship policy, the state’s first education choice law. Under the Opportunity Scholarships Act, families can apply for scholarships from qualified nonprofit scholarship organizations.²⁰ Families can use the scholarships to pay for private school tuition. The policy creates an incentive for donors to give to the scholarship organizations by offering dollar-for-dollar tax credits in return for contributions. In the first year of operation, up to \$25 million in tax credits will be available in total. The amount of available tax credits will grow annually based on demand up to \$100 million.²¹

The scholarships will be available to K–12 students who are switching out of a public school or entering kindergarten, or who are in ninth grade and whose family income does not exceed 300 percent of FPL (\$90,000 for a family of four), unless they are in one of the priority categories. The scholarships are prioritized, based on need, for children from low-income and middle-income families, students with special needs, children in foster care, children of active-duty military personnel or whose parent was killed in the line of duty, and children who have been bullied, harassed, or abused at school. The average scholarship cannot exceed 75 percent of the state’s average funding per student, making the average scholarship worth up to about \$5,000.²²

New Hampshire. New Hampshire Governor Chris Sununu (R) signed a bill to raise the income-eligibility threshold for the state’s Education Freedom Accounts from 300 percent of the FPL to 350 percent (\$105,000 for a family of four).²³ Granite State families can use the accounts for a wide variety of educational products and services, including private school tuition, similar to ESAs in other states.

Ohio. Ohio lawmakers expanded eligibility for the state’s school voucher program to all students.²⁴ With Governor Mike DeWine’s (R) signature, Ohio became the eighth state to enact universal school choice. Previously, only students assigned to low-performing schools or who were from families with income no more than 250 percent of the FPL (\$75,000 for a family of four) were eligible for private school scholarships. Under the expanded voucher policy, the value of the vouchers increased from \$5,500 to about \$6,200 for elementary school students and from \$7,500 to about \$8,400 for

high school students. Students from families earning up to 450 percent of the FPL (\$135,000 for a family of four) will be eligible for full scholarships.²⁵ Families earning more than that are eligible for partial vouchers. As income rises above 450 percent of the FPL, the value of vouchers phases down to a minimum of 10 percent of the full voucher value.

Oklahoma. Oklahoma became the seventh state in the nation to adopt a universal education choice policy when Governor Kevin Stitt (R) signed into law the Parental Choice Tax Credit Act.²⁶ The act creates a refundable personal-use tax credit worth between \$5,000 and \$7,500 per private school student, depending on household income, and \$1,000 for homeschooled students.²⁷ All families are eligible to receive the credits, with priority given to students from families with a household income up to \$150,000. The total amount of available tax credits will be \$150 million in 2024, \$200 million in 2025, and \$250 million in 2026 and beyond.

South Carolina. South Carolina lawmakers adopted the Education Scholarship Trust Fund Program, which is similar to ESAs in other states.²⁸ Signed by Governor Henry McMaster (R), the law creates ESAs funded with about \$6,000 that low-income and middle-income families can use to pay for a wide variety of education products and services, including private school tuition.

Participation will be limited to 5,000 students from families with household incomes of up to 200 percent of the FPL (\$60,000 for a family of four) in the first year of the program (2024–2025), 10,000 students from families with household incomes of up to 300 percent of the FPL (currently \$90,000 for a family of four) in the second year of the program (2025–2026), and 15,000 students from families with household incomes of up to 400 percent of the FPL (currently \$120,000 for a family of four) in the third year (2026–2027) and beyond.²⁹

Tennessee. Tennessee lawmakers approved a modest expansion to the state’s ESA-style program created in 2019. State officials adopted an ESA policy for students with special needs in 2015 and an ESA-style program for students in certain school districts in 2019.³⁰ The latter program, called the Education Savings Account Pilot Program, is a K–12 private school scholarship program that allows parents to use their child’s scholarship to purchase certain other education products and services. Unlike other ESA policies, participating families must use account funds to enroll their child in a private school, at which point families can then choose to use any account funds that remain to pay for additional educational products and services.

Initially, the pilot program was only available to children from low-income families attending school in Nashville and Memphis. Implementation

TABLE 1

Education Savings Accounts and Account-Style Policies in the U.S. as of 2023

State	Year Enacted	Eligibility	Estimated Average Value
Arizona	2011 (made universal in 2022)	All K-12 children	90% of per-student spending in district schools; \$7,000 (mainstream); \$11,332 (all students, including children with special needs)
Arkansas	2023	K-12 children with disabilities or who are homeless, in foster care, children of active-duty military personnel, or who live within the boundaries of F-rated schools; all K-12 children beginning in 2025-2026	\$6,614
Florida	2014 (made universal in 2023)	All K-12 children	100% of per-student spending in district schools; \$7,612 (mainstream); \$9,839 (special needs)
Indiana	2021	Children from low- and middle-income families who have special needs	90% of per-student spending in district schools (varies by district); \$17,355
Iowa*	2023	All K-12 public school children, children entering kindergarten, and children from low- and middle-income families; all K-12 children beginning in 2025-2026	100% of per-student spending in district schools; \$7,413
Mississippi	2015	Children with special needs	\$6,779
Missouri	2021	Children in large cities who are (1) are from low-income families or (2) have special needs	Up to \$6,375
New Hampshire	2021	Children from low- and middle-income families	100% of per-student spending in district schools; \$4,684
North Carolina	2017	Children with certain special needs diagnoses	\$9,000 (up to \$17,000 for children with certain diagnoses)
Oklahoma*	2023	All K-12 children	\$5,000 to \$7,500 (based on income)
Tennessee*	2015; 2019	Children with special needs; children in Nashville, Memphis, and Hamilton County	100% of per-student spending in district schools; \$7,678
Utah*	2023	All K-12 children	\$8,000
West Virginia	2021	All K-12 public school children and children entering kindergarten	100% of per-student spending in district schools; \$4,300

* Iowa, Oklahoma, Tennessee, and Utah have ESA-style policies. Oklahoma has a refundable, personal-use tax credit that works like an ESA in that families can use the funds for multiple purposes and save for later expenses, although there are no actual savings accounts into which the funds are deposited. In Iowa, the account funds must first be spent on private school tuition, and families can then spend remaining funds on other education expenses. Tennessee's ESA-style policy enacted in 2019 has similar restrictions. In Utah, account funds cannot be saved for future expenses. Any remaining funds in the account at the end of the fiscal year revert to the state.

SOURCE: Heritage Foundation research. See the appendix for more information.

of the program had stalled since the original bill's passage, but, absent an appeal to a federal court, the favorable state supreme court ruling issued in May 2022 upholding the scholarships should now allow state officials to award accounts to eligible students.³¹ Following this ruling, in the 2023 legislative session, lawmakers expanded student eligibility in the pilot program to include students attending schools in Hamilton County.³²

Utah. Utah lawmakers passed the Utah Fits All Act, which makes all K–12 students eligible for multi-use scholarships worth about \$8,000 annually.³³ The scholarships work similarly to an ESA, allowing families to purchase a wide variety of educational products and services, including private school tuition, although unlike ESAs in other states, Utah families cannot save unused funds for future expenses.³⁴

Lawmakers appropriated \$42.5 million for the program for the 2024–2025 academic year, which limits participation to about 5,300 students. If the applications exceed the number of available scholarships, students who received a scholarship in the previous year will have priority status for receiving scholarships that year, followed by students from low-income families, siblings of scholarship students, and then students from middle-income families.

Protecting Parents' Rights

Legislators in more than a dozen states had adopted parent bills of rights before the 2023 legislative session. In general, these proposals state that a parent is a child's primary caregiver and prohibit state officials from interfering with a parent's role without a compelling government interest, and which is furthered with the least invasive methods possible. This year, state lawmakers also considered The Heritage Foundation's proposed Given Name Act, which would prevent school personnel from socially "affirming" children who are confused about their sex.³⁵ The model says that educators must receive consent from parents before addressing a child with a name or pronoun that does not align with the child's sex as stated on the child's original birth certificate.

Alabama. In the 2023 session, Alabama Governor Kay Ivey (R) signed HB 6, which created a parent bill of rights. Under the new provisions, lawmakers recognize that the "liberty protected by the due process clause includes the fundamental right of parents to direct the education, upbringing, care, and control of their children," and that the "government may not burden the fundamental right of parents to direct the education, upbringing, care, and control of their child unless the government demonstrates that the

application of the burden is narrowly tailored to a compelling state interest and the government uses the least restrictive means possible to further that interest.”³⁶

Arkansas. Arkansas Governor Sarah Huckabee Sanders (R) signed a version of the Given Name Act, which protects parents and children from school policies that interfere with parents’ roles as their child’s primary caregiver.³⁷ The legislation also says that educators “will not be subject to adverse employment action” if they refuse to address an individual—whether student or colleague—in their school by a name or corresponding pronoun inconsistent with the person’s birth certificate.

Iowa. Iowa lawmakers adopted Senate Study Bill 1145, creating a parent bill of rights.³⁸ The new law says, “A parent or guardian bears the ultimate responsibility, and has the constitutionally protected right, to make decisions affecting the parent’s or guardian’s minor child, including decisions related to the minor child’s medical care, moral upbringing, religious upbringing, residence, education, and extracurricular activities.” The proposal also states that the provisions do not “prohibit a minor child from receiving medical attention in an emergent care situation.”³⁹

Kentucky. Kentucky legislators overrode a governor’s veto and approved SB 150, which not only includes Given Name Act provisions described above but also says that state education officials “shall not require or recommend that a local school district keep any student information confidential from a student’s parents.”⁴⁰ The proposal contains other provisions that require school officials to provide information to parents concerning local school instruction on sex education.

North Carolina. North Carolina legislators overrode Governor Roy Cooper’s (R) veto of Senate Bill 49 and adopted a parent bill of rights that gives families more education choices and provides more academic transparency.⁴¹ The new law says: “A parent has the right to...direct the education and care of his or her child” and “to direct the upbringing and moral or religious training of his or her child.” Parents can also review school textbooks and “supplementary instructional materials.”⁴² The new law also has a provision that allows state officials to continue to investigate parental abuse.

North Dakota. In 2023, Governor Doug Burgum (R) signed a law that creates a parent bill of rights. The brief law states, “A parent retains the right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent’s child.”⁴³ Like North Carolina’s new law, the new bill of rights in North Dakota has a provision that allows state officials to continue to address parental neglect.

Utah. Utah lawmakers approved a proposal that states that school officials cannot interfere with a parent’s role as a child’s primary caregiver.⁴⁴ Critically, the provisions call parents’ rights “fundamental,” using the same language from U.S. Supreme Court opinions that support parents’ rights with respect to raising their children.⁴⁵ Utah’s proposal states that school officials cannot prevent families from accessing information held by the school about their child.

Protecting the Diversity of Ideas, Equality under the Law, and Opportunities for All Students in Higher Education

Despite the presence of DEI offices on college campuses and the offices’ commitments to making campuses more “inclusive,” DEI programs, in fact, promote racial discrimination in university operations, do not improve individual attitudes or make people more tolerant, and have limited the diversity of ideas discussed at postsecondary institutions.⁴⁶ In fact, campus surveys demonstrate that students are fearful of speaking their minds.

In *Students for Fair Admissions v. Harvard* and *Students for Fair Admissions v. University of North Carolina*, the U.S. Supreme Court struck down racial preferences in higher education admissions, thereby⁴⁷ supporting state lawmakers’ efforts to curtail or prohibit the activities of DEI offices on public college campuses.

Florida. In Florida, Governor Ron DeSantis (R) signed a proposal prohibiting DEI offices on public college campuses from using state or federal taxpayer resources to “advocate for diversity, equity, and inclusion, or promote or engage in political or social activism.”⁴⁸ DeSantis also appointed six members to the New College of Florida board of trustees (an honors college associated with the University of Florida system), stating that the former board had “overemphasized” DEI.⁴⁹

Texas. Texas lawmakers approved SB 17, which says that a public college or university may not “establish or maintain” a DEI office and prohibited “promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.”⁵⁰ This proposal also said that school officials may not “compel, require, induce, or solicit” a job applicant for a university position to write a DEI statement as a condition of employment.

Policy Recommendations

State lawmakers considering private learning options should consider the following provisions in their proposals:

Universal Eligibility. Lawmakers should give every child in their state the option to use an ESA—and Members of Congress should do the same for K–12 students in Washington, DC, students living within federal jurisdictions, such as tribal lands and attending Bureau of Indian Education (BIE) schools, and children in active-duty military families. Limiting account access creates a multi-tiered education system where certain families have more and better learning opportunities for their children than others. Furthermore, research on student achievement after the pandemic lockdowns demonstrates that millions of children are not performing at age-appropriate or grade-appropriate levels and need help gaining essential life and academic skills.⁵¹ Lawmakers should act with a sense of urgency to help students catch up.

Flexible Spending and Saving. Education can take many forms beyond the traditional classroom environment. Recognizing this, policymakers have begun adopting ESAs and ESA-style policies that allow families to choose from among a wide variety of learning environments and education products and services. Whereas traditional vouchers could only be spent on private school tuition, families use ESAs for tutoring, textbooks, homeschool curricula, online courses, special needs therapy, and more—in addition to or instead of private schooling. Moreover, while traditional vouchers create a price floor, ESAs do not. That is, since parents can spend an ESA on more than just tuition, families have the incentive to find services that offer the best value so that they can provide the highest-quality and greatest number of education products and services for their children. And since ESAs allow families to save unused funds for future expenses, they have an even stronger incentive to economize, which reduces the potential that schools would inflate tuition to match the value of an ESA.

Formula Funding. State officials should transfer a child’s portion of the state education spending formula into a private account that parents use to purchase education products and services. This method is preferable to plans that fund the accounts through annual appropriations, which are subject to legislative spending constraints each year and can require additional taxpayer spending. Policymakers can follow the models in Arizona and Florida, to name just two, that allow taxpayer spending to follow a child to their public or private learning choices.

Multiple Testing Options. State officials should allow participating private schools to choose the national norm referenced test—such as the Stanford series, the Iowa Test of Basic Skills, or the Classical Learning Test (CLT)—that best matches the institution’s curriculum and

report aggregate results after a period of three years. The agency administering the accounts should hire a survey company to measure parent satisfaction. These two indicators—aggregate student results over time and parent satisfaction—should serve as the measures of success for account holders. Test results, though, should not determine student or school eligibility for participation in an account program. Lawmakers should not require account holders to take state tests administered to public school students because such assessments affect instructional choices, thus affecting school officials’ curricular decisions and limiting parental options. Requiring account holders, homeschool students, or private school students to take state tests would produce uniformity, not an account option that allows customization according to a child’s unique needs.

Lawmakers who consider protecting parent rights through state legislation should consider:

- **Adopting parent bills of rights that state that parents or guardians are a child’s primary caregiver and that the state may not interfere without a compelling government interest.** These bills of rights should also prohibit any school official from compelling a teacher or student to affirm or believe any idea that violates civil rights laws prohibiting discrimination on sex, race, and nation of origin.
- **Requiring that school personnel receive express permission from parents before conducting any health-related service on a child, including counseling.** Parents or caregivers must give permission for public school employees to administer medication, therapy, or provide counseling to students under age 18.
- **Prohibiting school officials from addressing a child by a name or pronoun that does not align with the child’s biological sex without parent consent.** Teachers and administrators may not withhold information from parents about a student’s attempts to assume a different gender, nor may educators administer any medication or therapy to students without the approval of a child’s parent or guardian.

Lawmakers considering defunding or abolishing the racially discriminatory DEI offices on public college campuses should:

- **Prohibit public college officials from expending taxpayer resources to operate DEI offices or employ individuals to work in such departments.** Lawmakers should prohibit the use of public funding for DEI activities or payment for staff salaries. Policymakers should also prohibit school officials from requiring existing employees or students from participating in so-called DEI training programs as a condition of enrollment or employment.

State legislators should prohibit other speech codes, such as bias response teams, which the U.S. Department of Justice said is restrictive and “chills” speech.⁵² Under bias response policies, a member of a college community (student, faculty, or staff) can file a report—often anonymously—claiming offense at something he heard or saw, and then university officials can begin an investigation of the incident. The University of Michigan abandoned its bias response policy after a lawsuit filed by an advocacy organization known as Speech First.⁵³

- **Prohibit DEI offices from influencing public university hiring decisions or employment practices.** Job applicants should not be granted advantages based on race, ethnicity, sex, or country of origin. Instead, lawmakers should require that public universities institute free speech training programs for freshman students and include the school’s commitment to free speech in student and faculty handbooks.
- **Prohibit public college officials from requiring job applicants to complete personal DEI oaths as a condition of applying.** Colleges in states such as California require job applicants at public colleges and universities to complete a DEI statement as a part of their application. Such requirements are a form of compelled speech and may also compel individuals to proclaim ideas that violate state and federal civil rights laws. State officials should prevent personnel at public postsecondary institutions from creating and enforcing such requirements.
- **Prohibit public university personnel from using racial discrimination, including racial preferences in college admissions, grading, class assignments, and activities.** State lawmakers should reinforce the U.S. Supreme Court decision that banned college officials from using racial preferences in college admissions and develop policies that prevent discrimination in other school operations.

Conclusion

Surveys have demonstrated that Americans are dissatisfied with the public school system, while national comparisons of student academic outcomes find scores have fallen to historic lows.⁵⁴ Parents are also concerned that some public schools are pushing an ideological agenda that undermines the values they seek to inculcate at home. Increasingly, state lawmakers are responding by giving parents more options for their child's education. And all students in states such as Iowa and Utah are eligible to apply for these new opportunities.

Policymakers have also been appropriately concerned with parents' abilities to direct their child's education. Officials in several states adopted new parent bills of rights or prohibited attempts by school personnel to withhold information from families about their children. All these reforms, including efforts to eliminate the racial prejudice caused by DEI offices on college campuses, are crucial changes that will give every student a greater chance to succeed in school and in life.

Jonathan Butcher is the Will Skillman Senior Research Fellow in Education Policy in the Center for Education Policy at The Heritage Foundation. **Jason Bedrick** is a Research Fellow in the Center for Education Policy.

Appendix

Sources for Table 1: Education Savings Accounts and Account-Style Policies in the U.S., 2023

- Arizona Department of Education, “Empowerment Scholarship Account,” <https://www.azed.gov/esa/> (accessed June 1, 2023).
- EdChoice, “Arizona: Empowerment Scholarship Accounts,” <https://www.edchoice.org/school-choice/programs/arizona-empowerment-scholarship-accounts/> (accessed June 1, 2023).
- EdChoice, “Arkansas Children’s Educational Freedom Account Program,” <https://www.edchoice.org/school-choice/programs/arkansas-childrens-educational-freedom-account-program/> (accessed June 1, 2023).
- Step Up for Students, “Family Empowerment Scholarship for Children with Unique Abilities,” August 2022, <https://www.stepupforstudents.org/wp-content/uploads/2022.8.10-FES-UA-ESA.pdf> (accessed June 1, 2023).
- EdChoice, “Florida: Family Empowerment Scholarship for Educational Options Program,” <https://www.edchoice.org/school-choice/programs/florida-family-empowerment-scholarship-program/> (accessed June 1, 2023).
- EdChoice, “Florida: Family Empowerment Scholarship for Students with Unique Abilities,” <https://www.edchoice.org/school-choice/programs/gardiner-scholarship-program/> (accessed June 1, 2023).
- Indiana Treasurer, “Indiana Education Scholarship Program: Parent/Guardian Handbook, 2022–2023 School Year,” <https://www.in.gov/tos/inesa/files/Parent-Handbook-08.31.2022.pdf> (accessed June 1, 2023).
- EdChoice, “Indiana, Education Scholarship Account Program,” <https://www.edchoice.org/school-choice/programs/education-scholarship-account-program/> (accessed June 1, 2023).
- EdChoice, “Iowa, Education Savings Account Program,” <https://www.edchoice.org/school-choice/programs/education-savings-account-program/> (accessed June 1, 2023).

- Mississippi Department of Education, “Education Scholarship Account (ESA) Duties of the Mississippi Department of Education,” https://www.mdek12.org/sites/default/files/esa-mississippi-department-of-education-duties_v1.pdf (accessed June 1, 2023).
- Show Me School Options, “What Are MO Scholars Empowerment Scholarship Accounts?” <https://www.showmeschooloptions.org/what-are-esas> (accessed June 1, 2023).
- Children’s Scholarship Fund New Hampshire, “NH Education Freedom Accounts,” <https://nh.scholarshipfund.org/apply/nh-education-freedom-accounts/> (accessed June 1, 2023).
- EdChoice, “New Hampshire: Education Freedom Accounts,” <https://www.edchoice.org/school-choice/programs/education-freedom-account-program/> (accessed June 1, 2023).
- North Carolina Education Assistance Authority, “Education Student Accounts Program (ESA+),” <https://www.ncseaa.edu/k12/esa/> (accessed June 1, 2023).
- Oklahoma, Office of the Governor, “Governor Still Celebrates Final Passage of Transformative School Choice Bill,” <https://oklahoma.gov/governor/newsroom/newsroom/2023/may2023/governor-stitt-celebrates-final-passage-of-transformative-school.html> (accessed June 1, 2023).
- EdChoice, “Tennessee: Education Savings Account Pilot Program,” <https://www.edchoice.org/school-choice/programs/tennessee-education-savings-account-pilot-program/> (accessed June 1, 2023).
- Utah Fits All, “FAQs,” <https://www.utaheducationfitsall.org/faqs/> (accessed June 1, 2023).
- Cardinal Institute, “Questions from Parents,” <https://www.cardinalinstitute.com/questions-from-parents/> (accessed June 1, 2023).
- EdChoice, “West Virginia: Hope Scholarship Program,” <https://www.edchoice.org/school-choice/programs/hope-scholarship-program/> (accessed June 1, 2023).

Endnotes

1. Alabama Legislature 2023 Regular Session, SB 263, <https://www.legislature.state.al.us/pdf/SearchableInstruments/2023RS/SB263-eng.pdf> (accessed June 1, 2023).
2. State of Arkansas, 94th General Assembly, Regular Session 2023, Senate Bill 294, <https://www.arkleg.state.ar.us/Home/FTPDocument?path=percent2FACTSpercent2F2023Rpercent2FPublicpercent2FACT237.pdf> (accessed August 30, 2023).
3. Ibid.
4. Arkansas Department of Education, "Arkansas Education Freedom Accounts," June 2023, p. 4, https://dese.ade.arkansas.gov/Files/EFA_Family_Handbook_20230620072349.pdf (accessed August 31, 2023).
5. EdChoice, "Arkansas Children's Educational Freedom Account Program: Student Eligibility," <https://www.edchoice.org/school-choice/programs/arkansas-childrens-educational-freedom-account-program/> (accessed August 30, 2023).
6. Ibid.
7. Florida Senate, 2023 Bill Summaries, H.B. 1, <https://www.flsenate.gov/Committees/BillSummaries/2023/html/3194> (accessed August 30, 2023).
8. Lisa Buie, "Florida Gov. Ron DeSantis Signs Historical Education Choice Bill into Law," reimagined, March 27, 2023, <https://www.reimaginedonline.org/2023/03/florida-gov-ron-desantis-signs-historical-education-choice-bill-into-law/> (accessed August 30, 2023).
9. Ibid.
10. Ibid.
11. Indiana Legislature, Conference Committee Report Digest for EHB 1001, <https://cdn.zephyrcms.com/85ec377e-dfc0-45e8-ab14-2241d8174430/-/inline/yes/hb-1001-ccr-final-2024-25-indiana-state-budget-proposal.pdf> (accessed August 30, 2023).
12. Casey Smith, "Indiana Nears Universal 'School Choice' in New Budget," *Indiana Capital Chronicle*, April 27, 2023, <https://indianacapitalchronicle.com/2023/04/27/indiana-nears-universal-school-choice-in-new-budget/> (accessed August 30, 2023).
13. News release, "Gov. Reynolds Signs Students First Act into Law," Iowa Governor Kim Reynolds, January 24, 2023, <https://governor.iowa.gov/press-release/2023-01-24/gov-reynolds-signs-students-first-act-law> (accessed August 30, 2023).
14. 2023 Iowa Legislature, House File 68, <https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=HF+68> (accessed August 30, 2023).
15. News release, "Gov. Reynolds Signs Students First Act into Law."
16. 68th Montana Legislature, HB 393, <https://leg.mt.gov/bills/2023/billpdf/HB0393.pdf> (accessed August 30, 2023).
17. 68th Montana Legislature, HB 562, <https://legiscan.com/MT/text/HB562/id/2797289/Montana-2023-HB562-Enrolled.pdf> (accessed August 30, 2023).
18. 68th Montana Legislature, HB 203, <https://legiscan.com/MT/text/HB203/id/2785262/Montana-2023-HB203-Enrolled.pdf> (accessed August 30, 2023).
19. News release, "Governor Gianforte Increases Students' Opportunities in Education," State of Montana, May 19, 2023, https://news.mt.gov/Governors-Office/Governor_Gianforte_Increases_Students_Opportunities_in_Education (accessed August 30, 2023).
20. Nebraska State Legislature, Regular Session (2023), Legislative Bill 753, <https://nebraskalegislature.gov/FloorDocs/108/PDF/Final/LB753.pdf> (accessed August 30, 2023).
21. Ibid.
22. Nebraska Revised Statute 77-7104, <https://nebraskalegislature.gov/laws/statutes.php?statute=77-7104> (accessed August 30, 2023).
23. General Court of New Hampshire, HB 367, https://gencourt.state.nh.us/bill_status/legacy/bs2016/bill_status.aspx?sr=200&sy=2023&sortoption=&txtsessionyear=2023&txtbillnumber=HB367 (accessed August 30, 2023).
24. Susan Tebben, "Final Ohio Education Budget Expands Vouchers, Limits Board of Ed Powers," *Ohio Capital Journal*, July 4, 2023, <https://ohiocapitaljournal.com/2023/07/04/final-ohio-education-budget-expands-vouchers-limits-board-of-ed-powers/> (accessed August 30, 2023).
25. Ibid.
26. News release, "Governor Stitt Celebrates Final Passage of Transformative School Choice Bill," Oklahoma Governor J. Kevin Stitt, May 2, 2023, <https://oklahoma.gov/governor/newsroom/newsroom/2023/may2023/governor-stitt-celebrates-final-passage-of-transformative-school.html> (accessed August 30, 2023).
27. Oklahoma State Legislature, Regular Session (2023), House Bill 1934, <http://www.oklegislature.gov/BillInfo.aspx?Bill=hb1934&Session=2300> (accessed August 30, 2023).
28. South Carolina General Assembly, 125th Session, 2023-2024, S. 39, https://www.scstatehouse.gov/sess125_2023-2024/bills/39.htm (accessed August 30, 2023).
29. Ibid.

30. See State of Tennessee Public Chapter 56 (House Bill No. 939), <https://publications.tnsosfiles.com/acts/111/pub/pc0506.pdf> (accessed August 30, 2023), and Tenn. Code Ann. 49-6-2601, https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=5e508921-ca45-40d9-a2f0-b69e88d8eb20&config=025054JABIOTJjNmlyNi0wYjIOLTRjZGETYWE5ZCOzNGFhOWNhMjFINDgKAFBvZENhdGFsb2cDFQ14bX2GfyBTal9WcPX5&pdDocFullpath=percent2fsharedpercent2fdocumentpercent2fstates-legislationpercent2furnpercent3acontentltempercent3a5W90-H2F0-R03M-K13G-00008-00&pdcontentcomponentid=234179&pdteaserkey=sr0&pditab=allpods&ecomp=c5w_kkk&earg=sr0&prid=1f02f5a7-6a79-43f2-80e8-d066758193ed (accessed August 30, 2023).
31. Tennessee State Courts, “Tennessee Supreme Court Holds that Education Savings Account Pilot Program Does Not Violate Home Rule Amendment of Tennessee Constitution,” May 18, 2022, <https://www.tncourts.gov/press/2022/05/18/tennessee-supreme-court-holds-education-savings-account-pilot-program-does-not> (accessed August 30, 2023).
32. Justin Owen, “A Recap of the 2023 Tennessee Legislative Session,” Beacon Center of Tennessee, April 26, 2023, <https://www.beacontn.org/2023-session-recap/> (accessed August 30, 2023), and State of Tennessee, Public Chapter No. 171, Senate Bill No. 638, <https://legiscan.com/TN/text/SB0638/id/2790169/Tennessee-2023-SB0638-Chaptered.pdf> (accessed August 30, 2023).
33. Utah Education Fits All, <https://www.utaheducationfitsall.org/> (accessed August 30, 2023).
34. Utah State Legislature, 2023 General Session, H.B. 215, <https://le.utah.gov/-/2023/bills/static/HB0215.html> (accessed August 30, 2023).
35. The Heritage Foundation, “Given Name Act,” <https://www.heritage.org/the-given-name-act> (accessed August 30, 2023).
36. Alabama Legislature, 2023 Session, HB 6, <https://www.legislature.state.al.us/pdf/SearchableInstruments/2023RS/HB6-enr.pdf> (accessed August 30, 2023).
37. State of Arkansas, 94th General Assembly, 2023 Regular Session, House Bill 1468, <https://www.arkleg.state.ar.us/Home/FTPDocument?path=percent2FBillspercent2F2023Rpercent2FPublicpercent2FHBI468.pdf> (accessed August 30, 2023).
38. Iowa Legislature, Senate Study Bill 1145, <https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=ssb1145> (accessed August 30, 2023).
39. Ibid.
40. Kentucky Legislature, 2023 Regular Session, SB 150, <https://apps.legislature.ky.gov/law/acts/23RS/documents/0132.pdf> (accessed August 30, 2023).
41. North Carolina General Assembly, 2023–2024 Session, Senate Bill 49, <https://ncleg.gov/BillLookup/2023/S49> (accessed August 31, 2023).
42. Ibid.
43. 68th Legislative Assembly of North Dakota, House Bill No. 1362, <https://www.ndlegis.gov/prod/assembly/68-2023/regular/documents/23-0345-06000.pdf> (accessed August 30, 2023).
44. Utah State Legislature, 2023 General Session, S.B. 100, <https://le.utah.gov/-/2023/bills/static/SB0100.html> (accessed August 30, 2023).
45. See, for example, *Meyer v. State of Nebraska*, 262 U.S. 390 (1923).
46. Knight Foundation, “College Student Views on Free Expression and Campus Speech 2022,” January 25, 2022, <https://knightfoundation.org/reports/college-student-views-on-free-expression-and-campus-speech-2022/> (accessed August 30, 2023); Brian Flood, “U of New Mexico Investigating ‘Who Violated the Law’ After Violent Protestors Interrupted Tomi Lahren Speech,” FoxNews.com, September 16, 2022, <https://www.foxnews.com/media/u-of-new-mexico-investigating-violated-law-violent-protestors-tomi-lahren-speech> (accessed August 30, 2023); Frank Dobbin and Alexandra Kalev, “Why Doesn’t Diversity Training Work?” *Anthropology Now*, Vol. 10, No. 2 (September 2018), <https://scholar.harvard.edu/files/dobbin/files/an2018.pdf> (accessed August 30, 2023); Elizabeth Levy Paluck and Donald P. Green, “Prejudice Reduction: What Works? A Review and Assessment of Research and Practice,” *Annual Review of Psychology*, Vol. 60 (January 10, 2009), pp. 339–367, <https://www.annualreviews.org/doi/full/10.1146/annurev.psych.60.110707.163607> (accessed August 30, 2023); Patrick S. Forscher et al., “A Meta-Analysis of Procedures to Change Implicit Measures,” *PsyArXiv*, August 9, 2019, <https://psyarxiv.com/dv8tu/> (accessed August 30, 2023); Carol T. Kulik and Loriann Roberson, “Common Goals and Golden Opportunities: Evaluations of Diversity Education in Academic and Organizational Settings,” *Academy of Management Learning and Education*, Vol. 7 (2008); C. K. Lai et al., “Reducing Implicit Racial Preferences: II. Intervention Effectiveness Across Time,” *Journal of Experimental Psychology: General*, Vol. 145, No. 8 (2016); and Michelle M. Duguid and Melissa C. Thomas-Hunt, “Condoning Stereotyping? How Awareness of Stereotyping Prevalence Impacts Expression of Stereotypes,” *Journal of Applied Psychology*, Vol. 100, No. 2 (2015), pp. 343–359, <https://doi.org/10.1037/a0037908> (accessed August 30, 2023).
47. *Students for Fair Admissions v. President and Fellows of Harvard College*, 600 US ___ (2023).
48. Florida Senate, 2023 Bill Summaries, SB 266, <https://www.flsenate.gov/Committees/BillSummaries/2023/html/3201> (accessed August 30, 2023).
49. Jaclyn Diaz, “Florida Gov. Ron DeSantis Signs a Bill Banning DEI Initiatives in Public Colleges,” NPR, May 15, 2023, <https://www.npr.org/2023/05/15/1176210007/florida-ron-desantis-dei-ban-diversity> (accessed August 30, 2023).
50. Texas Legislature, 2023 Session, SB 17, <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=88R&Bill=SB17> (accessed August 30, 2023).
51. See, for example, Nation’s Report Card, “Reading and Mathematics Scores Decline During COVID-19 Pandemic,” 2022, <https://www.nationsreportcard.gov/highlights/ltr/2022/> (accessed June 1, 2023).
52. U.S. Department of Justice, “Justice Department Files Statement of Interest in Michigan Free Speech Case,” June 11, 2018, <https://www.justice.gov/opa/pr/justice-department-files-statement-interest-michigan-free-speech-case> (accessed August 30, 2023).

53. Speech First, "University of Michigan: Status: Settled," <https://speechfirst.org/case/university-of-michigan/> (accessed August 30, 2023).
54. Lydia Saad, "Americans' Satisfaction with K-12 Education on Low Side," Gallup, September 1, 2022, <https://news.gallup.com/poll/399731/americans-satisfaction-education-low-side.aspx#:~:text=Gallup%20asks%20respondents%20for%20their,just%209%25%20are%20completely%20satisfied> (accessed August 30, 2023), and National Center for Education Statistics, "NAEP Long-Term Trend Assessment Results: Reading and Mathematics: Scores Decline Again for 13-Year-Old Students in Reading and Mathematics," 2023, <https://www.nationsreportcard.gov/highlights/ltr/2023/> (accessed August 30, 2023).