

SETTLEMENT AGREEMENT AND STIPULATED RESOLUTION

This Settlement Agreement and Stipulated Resolution (“Agreement”) is entered into by and among Plaintiff Velia Aguirre, and Defendants State of Arizona, Arizona Department of Education, and Thomas Horne, in his official capacity as Superintendent of Public Instruction (collectively, the “Parties”), to resolve all claims in the action pending in the Superior Court of Arizona in and for Maricopa County, Case No. CV2024-026463 (the “Action”).

DEFINITIONS

“ESA holder” means a parent or guardian of a qualified Empowerment Scholarship Account (“ESA”) student who has signed an agreement with the Arizona Department of Education (“ADE” or “Department”) to establish an ESA for the current school year for the qualified student.

“2025–2026 ESA Handbook” is a Handbook prepared by ADE and adopted by the Arizona State Board of Education relating to policies and procedures for the ESA Program which became effective on July 1, 2025.

“Course of study” means any educational subject, topic area, program, or area of learning undertaken by a qualified student, including academic, vocational, technical, artistic, physical education, and enrichment instruction.

The “Effective Date” of this Agreement is July 1, 2026.

“Reasonable basis” in Section 2.1 means any good-faith justification, grounded in the Department’s experience administering the ESA program, for requesting additional information to ensure compliance with applicable statutes, rules, or program requirements; such a basis may arise from direct or indirect information, observed patterns or anomalies, risk-based review protocols, or other considerations relevant to program integrity, whether or not such information independently establishes a violation.

RECITALS

WHEREAS, Plaintiff challenges the legality of a policy Plaintiff alleges was implemented by ADE that requires curriculum documentation that specifically lists supplemental materials to obtain reimbursement for such expenses under the ESA program (the “Documentation Policy”);

WHEREAS, Plaintiff contends that the Documentation Policy conflicts with A.R.S. § 15-2402(B)(4)(e), State Board of Education rules, and the ESA Handbook;

WHEREAS, the State disputes that ADE enforced the alleged Documentation Policy;

WHEREAS, the State contends that all supplementary materials must supplement a specific curriculum pursuant to A.R.S. § 15-2402(B)(4)(e) and A.C.C. R7-2-1501(16);

WHEREAS, the State contends that ADE has the authority and obligation to confirm that all ESA expenditures are statutorily allowable and may fulfill this obligation by requiring ESA holders to provide information or documentation whenever appropriate;

WHEREAS, the State contends that statements in the ESA Handbook that conflict with statute or State Board of Education rules are not enforceable;

WHEREAS, the Parties have concluded that this Agreement is desirable in order to avoid the time, expense, and inherent uncertainties of future litigation;

NOW THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN the Parties, that this Action shall be settled pursuant to the following terms and conditions:

1. DOCUMENTATION FOR SUPPLEMENTAL MATERIALS

1.1. Standard for Supplementary Materials Curriculum Documentation

The Parties agree that items purchased as supplemental materials need not be listed as required or recommended on a curriculum document in order to be approved.

1.2. No Proactive Curriculum-Documentation Requirement

The Parties agree that ESA holders shall not be required to submit a specific curriculum document when purchasing items identified as “general educational supplemental materials” in the 2025–2026 ESA Handbook as a prerequisite for approval or processing of such expenses.

2. REVIEW AUTHORITY OF THE DEPARTMENT

2.1. ADE Will Solicit Information to Confirm Requests are Allowed.

To resolve the claims in this case, the Parties agree that as of the Effective Date of this Agreement the Department will require that each ESA holder attest to the following when submitting an order, transaction, or reimbursement request for items identified as “general educational supplemental materials” in the 2025-2026 ESA Handbook:

I attest that the materials or items purchased are intended to support a curriculum or course of study for the qualified student associated with this account and are not being purchased for any other purpose. I understand that curriculum documentation must still be provided for non-general educational supplemental materials included in this order.

Please note that committing fraudulent activity within the ESA Program, including providing false information or falsifying documents can lead to suspension or termination of an account.

In addition, ADE shall require each ESA holder, when submitting an order, transaction, or reimbursement request, to provide ADE with information on the specific curriculum or course of study that the supplemental material(s) support. To receive this information, ADE shall include the following mandatory question in the ESA program electronic platform for each order, transaction, or reimbursement request for items identified as “general educational supplemental materials” in the 2025-2026 ESA Handbook:

Please indicate the curriculum or course of study that the supplemental item(s) submitted in this request support(s) (Check all that apply):

- Reading or grammar
- Social studies
- Science
- Mathematics
- Physical Education
- Art
- Vocational Instruction
- Other

The Parties agree that as soon as it is technologically feasible as determined by the outside vendor, or no later than the second quarter of FY2027, ADE shall begin to prompt an ESA holder to enter name of the curriculum or course of study that the material(s) or item(s) support(s) in a text box when the holder selects “Other.” The Parties also agree that when “Other” is selected, ADE shall make the completion of the text box mandatory to submit the request for processing, reimbursement or approval.

The Parties agree that, ADE will not process, reimburse, or otherwise approve any supplemental material purchase unless the ESA holder has complied with the requirements outlined in this section as they become available based on technologically feasibility as determined by the outside vendor, or no later than the second quarter of FY2027.

Nothing in this Agreement limits the Department’s authority to review and request additional information regarding supplemental material expenditures in the ESA program, including situations in which ADE has a reasonable basis to believe that expenditures are improper or do not meet the particular circumstances or educational needs of the ESA recipient.

The Defendants agree that they will work together in good faith to confirm the implementation of the terms of this Agreement. The Parties acknowledge that Section 2.1 is an effort to require ESA holders to attest to the purchase of items for the qualified student associated with the ESA account and to ensure the requested supplemental item supports curriculum or course of study. The Parties acknowledge that the terms outlined in Section 2.1 may need to be amended to reflect the effort to resolve these issues in the future. Accordingly, ADE and the State may mutually agree in writing to adjust the parameters of this Section should there be a change in vendor, technical impracticability, or implementation concerns in applying the requirements of Section 2.1 due to any factor outside the control of ADE.

2.2. Scope of Requests

When requesting additional information, ADE shall endeavor to:

- (1) tailor the request to the specific expenditure(s) at issue; and
- (2) limit the request to information reasonably necessary to evaluate compliance with applicable law and program requirements.

Nothing in this Agreement, however, limits the Department's authority to review or audit individual expenditures or ESA holder accounts under ESA program. Nor does this Agreement limit ADE's ability to disallow expenses, seek repayment of disallowed expenses, or report an ESA holder to the Attorney General's Office to investigate fraud, misuse of funds, or unlawful expenditures of ESA funds.

3. ATTORNEY GENERAL'S AUTHORITY

Nothing in this Agreement precludes the Attorney General from:

- (1) Investigating or enforcing applicable law in cases involving fraud, misuse of funds, or unlawful expenditures;
- (2) requesting information in specific cases where there is a reasonable basis to believe a violation of law has occurred; or
- (3) requesting information from ADE regarding implementation of this Agreement.

4. DISMISSAL

Within 10 days of execution of this Agreement, the Parties shall file a stipulation to dismiss the Action with prejudice.

5. ENFORCEMENT AND JURISDICTION

The Parties agree that the terms of this Agreement may be enforced in the Maricopa County Superior Court of Arizona.

6. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties concerning the subject matter herein and supersedes all prior negotiations or agreements.

7. AMENDMENT

Except as set forth in Section 2.1 above, this Agreement may be amended only by a written agreement signed by all Parties.

8. PUBLIC DOCUMENT

The Parties agree that this Agreement is a public document and shall not seek to limit its disclosure.

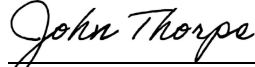
9. ATTORNEY FEES AND COSTS

Each Party shall bear their own attorneys' fees and costs.

10. AUTHORITY

Each signatory represents that he or she has full authority to execute this Agreement on behalf of the Party for whom they sign.

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