



# Parent Handbook

## Empowerment Scholarship Account Program School Year 2023-2024

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July 1, 2023

Dear Parents and Students,

Welcome! We are happy to have you as a part of the Empowerment Scholarship Account (ESA) program.

Arizona's ESA program was passed by the state legislature and signed into law in 2011. The Arizona Department of Education ("ADE" or "Department") is responsible for administering the program according to state law and rules. Specific state statutes enacted by the state legislature and administrative rules enacted by the Arizona State Board of Education ("SBE") govern the program. These governing statutes and rules, which the Department is required by law to adhere to, can be found in Appendix A and Appendix B. This ESA Parent Handbook, which contains information related to policies and processes of the ESA program, shall comply with the statutes and the rules. If there is a conflict between statute and rule, statute supersedes, however, SBE and ADE will seek legal advice from their respective attorneys.

While ADE administers the program and its day-to-day operations, the State Board of Education is charged with the appeals process for ESA administrative decisions. Learn more about the appeals process at <https://azsbe.az.gov/empowerment-scholarship-account-esa-program>.

Please know that we are here to help! The mission of our office is to be a service organization that empowers parents in the education of their children. The goal of this parent handbook is to provide guidance to help navigate this innovative program. In addition to this handbook, we have other resources on our website ([azed.gov/esa](http://azed.gov/esa)) that might be helpful. We also try to send out a weekly email blast with the latest news and program tips.

Sincerely,

Christine Accurso  
ESA Executive Director

# Chapter 1: Introduction

The importance of providing a high-quality education to all Arizona children cannot be overstated or hold more emphasis in our state today. In 2011 and under the direction of the Arizona State Legislature, the ESA Program was developed to continue along the state's path of innovative education reform.

## What is an Empowerment Scholarship Account?

An ESA is an account administered by ADE and funded by state tax dollars to provide options for the education of qualified students in Arizona. ESA funds do not constitute taxable income to the parent of the qualified student.

The ESA program allows parents of qualified students to utilize tax dollars to purchase educational services from qualified schools, education providers, and / or vendors. Eligible students receive 90% of the State aid<sup>1</sup> that would have gone to the student's school district or charter school, had the student been enrolled in the public school system. ESA contracts are offered and signed annually, but funds are dispersed quarterly.

Pursuant to A.R.S.§15-2402(B)(1), an ESA Account Holder must use at least a portion of the funds to provide an education in at least the following subjects: reading, grammar, mathematics, social studies, and science.

## Accepting an Empowerment Scholarship Account

By accepting an ESA, the Account Holder enters into a contract with ADE pursuant to A.R.S.§15-2402(B). In exchange for the Account Holder's commitment to the obligations set forth in the ESA contract, ADE creates an ESA for the current school year and agrees to transfer ESA funds on a quarterly basis once the contract is executed by all parties.

Funding varies based on annual legislative state budget allocation and the specific ESA eligibility category. Learn more at <https://www.azed.gov/esa/frequently-asked-questions>, under ESA Funding.

Funding Dates are as follows:

Quarter	Dates	Funding Dates
Quarter 1	July 1 – September 30	July 15 – July 31
Quarter 2	October 1 – December 31	October 15 – October 31
Quarter 3	January 1 – March 31	January 15 – January 31
Quarter 4	April 1 – June 30	April 15 – April 30

<sup>1</sup>This does not include any federal or local funding

The Department reserves the right to terminate an ESA for violations of the contract (please refer to your contract for all terms and conditions), applicable policies, rules, or laws. Examples of violations that are likely to result in termination include:

- Enrolling the student in a public district school, charter school, and / or public online schools (including summer public school), without paying the public school
- Accepting any School Tuition Organization (STO) scholarship or tax credit scholarship while on an ESA contract
- Failing to provide debit card transaction receipts by the quarterly deadlines
- Failing to spend a portion of your student's ESA funds annually in at least the following subjects: reading, grammar, mathematics, social studies, and science.
- Misspending funds or committing fraud



## Handbook Purpose

The purpose of the ESA handbook is to provide information concerning the policies, procedures, and implementation of the ESA program.

## Handbook Updates

Pursuant to A.A.C. R7-2-1503(1), this handbook is reviewed by ADE under the guidance of the SBE. On or before March 1 of each year, ADE provides SBE with a handbook, developed in consultation with parents of children on the ESA program, that which includes information relating to policies and processes of ESA. SBE adopts the handbook on or before May 1st of each year. SBE limits substantive changes to the handbook to once every three years, but policies can and will be added and / or redacted in response to newly enacted legislation, court decisions, rule changes, and / or suggestions for best practices, which may occur more frequently, in which case ESA staff will notify Account Holders of these types of necessary change(s) to the handbook and their effective date(s) via the ESA website and / or through other types of communication.

## How to Stay Updated

We encourage ESA Account Holders to visit ADE's ESA website, for the most up-to-date information. ADE will communicate with ESA Account Holders by sending regular emails.

## How to Get Assistance

- The ESA Service Team is available by phone at (602) 364-1969, Monday through Friday 8am – 8pm & Saturdays 8am – 12pm
- Email: [ESACallcenter@azed.gov](mailto:ESACallcenter@azed.gov)
- HelpDesk Tickets: In the ESA portal
- Mail: 1535 W. Jefferson Street, BIN #41 Phoenix, Arizona 85007
- To escalate a concern, reach out to the department's Constituent Services at (602) 542-5393. Your concern will be forwarded to the appropriate ADE leadership team member.

### NOTE:

ESA staff are trained to provide support and offer technical assistance regarding applications, program questions, purchases, and expenses, but staff cannot provide guidance or recommendations to families about schools, vendors, or providers.

## Changes Related to Emails, Addresses and Phone Numbers

ESA Account Holders can update an email address, mailing address, and / or phone number, by contacting our office. Account Holders must update contact information with the Department within 30 days of the change.<sup>2</sup>

## Arizona Residency Verification

In accordance with A.R.S.§15-2401(5), “parent means a resident of this state who is the parent, stepparent or legal guardian of a qualified student.” A.R.S.§15-2401(7) defines a qualified student as a resident of this state. Therefore, a parent, stepparent or legal guardian may be asked to provide proof of Arizona residency at the time of application and at any time they are enrolled in the ESA program.

## Secure Information

### *Confidentiality*

Under state law, including A.R.S.§15-1045, which incorporates the protections of the Family Educational Rights and Privacy Acts (FERPA), the Department has the obligation to ensure all student “education records” are kept confidential and secure. While certain records collected or maintained by ADE or SBE through the ESA program may not fall within FERPA’s definition of “education records,” it is likely that other records that come into possession of ADE or SBE through the ESA program are “education records” for FERPA purposes.<sup>3</sup> The Department and ESA staff will not release personally identifiable information regarding your child, including financial information or personal details (this includes your contract information) to private schools, providers, vendors, or stakeholders. All third party vendors will respect the confidential nature of an Account Holder’s personal information and collect only the data required to provide services. They will not share or distribute an Account Holder’s personal information except as provided in the applicable Terms of Service and the third party vendor’s privacy policy or as may be required by law.

### *Parent Advisory Committee*

The Arizona Department of Education (ADE) developed the Parent Advisory Committee (PAC) as just one of the structured means of getting parent feedback on specific ESA program processes and procedures. The PAC is a group of parents who meet at least three times per academic year with ESA staff to share challenges, give feedback and to discuss ways to improve the program for all ESA families. Information about the committee is available on our website at <https://www.azed.gov/esa/esa-parent-advisory-committee>.

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<sup>2</sup> Arizona Administration Code (A.A.C) R2-7-1502(D)

<sup>3</sup> Information Collected Under A.R.S., Title 15, Chapter 19 and Public Records Requests, Ariz. Attorney General Op. No. I20-010 (Aug. 3, 2020), <https://www.azag.gov/sites/default/files/2020-08/I20-010.pdf>

## *Advocates*

ESA staff also protects ESA students' personally identifiable information by only communicating with ESA Account Holders and Applicants directly. Account Holders and Applicants may have advocates, friends or family members assist in the ESA process /conversations / correspondence regarding the ESA account and / or application, but ADE's expectations are that the Account Holder and / or Applicant takes full responsibility for the ESA, use of funds, and accountability tied to the ESA. While Applicants may use advocates for assistance throughout the ESA application process, ADE's expectation is that an Applicant or Account Holder is always on the call or email when communicating with ADE regarding his / her ESA.

If an Applicant or Account Holder wants to include an advocate in their communications with ADE, then the Applicant or Account Holder must submit a written request to ADE. The Applicant / Account Holder must maintain involvement throughout the ESA process, including asking questions, addressing issues of concern, or otherwise. Consistent involvement in all communication regarding a student's ESA empowers Account Holders and Applicants to get the most from the ESA program.

Advocates may not submit documents to ADE on behalf of the Account Holder / Applicant. The Account Holder / Applicant must submit his / her own documents, but may copy the advocate on an email, or invite them to be on a call.

## *Securing Your Information*

Account Holders should secure their prepaid debit cards and / or ClassWallet account just as they would secure their personal debit cards / bank account. The Department encourages Account Holders to use caution when providing personal information to third parties. This includes, but is not limited to, social security numbers, dates of birth, ClassWallet debit card information, ClassWallet login and password, Application IDs, usernames, and passwords. To further protect against the possibility of fraud or unauthorized release of personally identifiable information, the Department recommends Account Holders refrain from sharing details of contract or award to third parties.

## **Homeschool Affidavits**

A.R.S.§15-2402(B)(5) requires that the parent of a qualified student not file an affidavit of intent to homeschool. This means that an ESA contract serves as the "affidavit" or proof that the student is receiving an education as required by Arizona law. If there is already a homeschool affidavit on file, please contact the county superintendent's office for withdrawal instructions. ESA recipients may use funds for home education, but the state classification for "homeschool" is a separate designation / classification.

# Chapter 2: Spending and Program Requirements

The ESA program is intended to allow Account Holders to make the educational choices that best serve their student's needs. Tasked with administering the ESA program by the Arizona State Legislature, the Department is required by law to follow all ESA statutes and rules. These statutes and rules can be found in Appendix A and Appendix B.

Important things to keep in mind:

1. The ESA program does not have a list of approved schools, vendors, or providers.<sup>4</sup>
2. It is at the Account Holder's discretion to choose the provider and ensure that he / she has the proper accreditation / credentials prior to receiving a service.
3. It is the Account Holder's responsibility to follow the law and ESA contract and use ESA funds for items allowed under A.R.S.§15-2402(B)(4). Although ADE cannot provide legal advice, this handbook will provide technical assistance to help determine what items are allowed.
4. ESA Account Holders (parent, stepparent or legal guardian) and their qualified students cannot receive any ESA funding from their ESA account.
5. A qualified school or a provider of services may not share, refund or rebate any ESA funds to the account holder (parent, stepparent or legal guardian) or qualified student, in any manner.
6. A.R.S.§15-2402(B)(1) requires that a portion of ESA must be used in at least the subjects of reading, grammar, mathematics, social studies, and science.
7. Account Holders cannot use one student's ESA account to cover another student's educational expenses.
8. Services must be paid for and provided within the same contract year (July 1-June 30). An exception can be granted for renewals that pre-pay enrollment fees.
9. Pre-payment of services are allowed only within the same contract year (July 1-June 30). An exception can be granted for renewals that pre-pay enrollment fees.
10. Account Holders cannot use ESA funds retroactively (to pay for quarters in which the student was not yet eligible for the program).

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<sup>4</sup> ClassWallet has vendors listed in their platform



# **Approved Spending Categories for ALL Students**

## Approved Spending Categories for ALL Students<sup>5</sup>

Approved Spending Categories listed in A.R.S.§15-2402(B)(4)	Description
Tuition or fees at a qualified school and required textbooks at a qualified school	A qualified school is defined as a nongovernmental primary or secondary school or a preschool for pupils with disabilities located in Arizona <sup>6</sup> serving PK- 12th grades. The school must not discriminate on the basis of race, color, or national origin
Tutoring or teaching services	All services must be provided by an individual or facility accredited by a state, regional or accrediting organization. Credentials cannot be expired <sup>7</sup>
Curricula and supplementary material	A course of study for content areas or grade levels, including any supplemental education materials required or recommended by the curriculum, approved by the Department <sup>8</sup>
Fees	Fees to manage the Empowerment Scholarship Account
Tuition or fees for a nonpublic online learning program	Online learning programs or courses
Fees for nationally standardized norm-referenced achievement tests and grade level testing	Advanced Placement exams and / or other exams related to college or university admissions—such as ACT or SAT—prep exams and grade level standardized achievement testing
Tuition or fees at an eligible postsecondary institution and the purchase of required textbooks	Community college, as defined in A.R.S.§15-1401, a university under the AZ Board of Regents, or an accredited private postsecondary institution

<sup>5</sup> While there are many services and items that can be purchased with ESA funds, there may be cases where reimbursement is the only purchase option. Account Holders may also request an MCC code no longer be restricted. Please review this process on page 46.

<sup>6</sup> A qualified student who resides within the boundaries of an Indian reservation in this state may attend a qualified school in an adjacent state that is within 2 miles of the border of the state in which the student resides.

<sup>7</sup> For tutoring and teaching services, an individual billing with an invoice solely under their name will need to provide their high school diploma (or higher degree) from a state, regional or national accrediting organization. A facility that is billing with an invoice under their facility / business name will need to provide an accreditation by a state, regional or national accrediting organization OR the facility can seek accreditation by the Department of Education. (See page 16) Per A.R.S. § 1-701 the Arizona Department of Education recognizes and accepts homeschool diplomas for this purpose. Credentials of any kind, cannot be expired.

<sup>8</sup> Pursuant to A.R.S.§15-2401(2), supplemental materials must be required or recommended by the curriculum. Supplemental material means relevant materials directly related to the course of study for which they are being used to introduce content and instructional strategies or that enhance, compliment, enrich, extend, or support the curriculum. A.A.C. R7-2-1501(14). Note: Although an Account Holder may have an item that qualifies as a supplemental material, the item must still be required or recommended by a curriculum pursuant to statute.

Account fees	Lost or stolen card fee and expediting service fees only
Services provided by a public school	Includes individual classes and extracurricular programs at a public school
Uniforms	Uniforms must be purchased from or through a qualified school or vendor that the school recommends or requires
Insurance or surety bond payments	Insurance or surety bonds related to an individual Empowerment Scholarship Account, by the account holder and for the signed contract only
Public transportation services	Includes a commuter pass for a qualified student, or transportation network services as defined in section 28-9551 between the qualified student's residence and a qualified school in which the qualified student is enrolled.
Computer hardware and technological devices	Computer hardware and technological devices. Includes calculators, personal computers, laptops, tablet devices, microscopes, telescopes and printers, but does not include entertainment and other primarily noneducational devices, including televisions, telephones, video game consoles and accessories, and home theatre and audio equipment.

## Documenting ESA Purchases

### Invoice Requirements

Invoices are required when paying a qualified school, vendor, facility or therapist (therapist is only for qualified student with disabilities).

Invoices must include:

- Student's name
- Name of provider of services
- Description of services
- Transaction date
- Itemized list of tuition or fee amounts
- Total amount charged
- Proof of method of payment (only for reimbursements)

### Receipt Requirements

A receipt must include:

- Vendor
- Date
- Total charged
- Itemized list and full description of items / services
- Proof of method of payment (only for reimbursements)

### Documentation Deadlines

Documentation (receipts, invoices, accreditation / credential) needs to be uploaded into ClassWallet, by the end of the month after the end of each quarter.

Quarter	Dates	Documentation Deadline
Quarter 1	July 1 – September 30	October 31
Quarter 2	October 1 – December 31	January 31
Quarter 3	January 1 – March 31	April 30
Quarter 4	April 1 – June 30	July 31



## **Tuition or Fees and Required Textbooks at a Qualified School**

As an approved expense, tuition may be paid for the ESA student named on the ESA contract.

Account Holders must submit a complete (detailed) invoice from the school, which they will submit with their order / payment request. See A.A.C. R7-2-1508(C) and Chapters 3 and 4 for more information.

The invoice for qualified schools must include ALL of the following:

- Student's name
- Name of the qualified or private school
- Transaction date
- Tuition or type of fees charged
- Total amount paid
- Proof of method of payment (only for Reimbursement)

Failure to submit a complete paid invoice will result in the expense being rejected. For all invoices, any amount requested for payment that is over the amount on the invoice may be rejected.

### **Approved Qualified School Fees**

The following is a list of approved fees that may be charged by a qualified school:

- Application fees
- Computer lab fees
- Enrollment fees
- Facility Fees
- Lab fees (Science labs, Math labs, etc.)
- Musical instrument fees
- Payment processing fees
- Registration fees
- Required book or textbook fees
- Supply fee
- Tutoring fees
- Uniform fees

## Tutoring or Teaching Services

Tutoring or teaching services must be provided by an individual or through a facility / business, with one of the approved accreditations listed on pages 13-14. For facilities / businesses that need a path to accreditation you can direct them to call the ESA office for guidance.

Before paying for tutoring services from a provider, please note:

- ESA Account Holders (parents, stepparent or legal guardian) and their qualified students cannot receive any ESA funding from their ESA account.
- Account Holders must submit the tutor's credentials<sup>9</sup> when submitting an expense through the ESA portal.
- ESA will only accept a copy of the actual valid credential. Copies of the accreditation or credential can be in the form of a photograph, scan, print to PDF, etc., but must be the actual valid accreditation or credential, and cannot simply be a screenshot<sup>10</sup> from a website.

## Approved Tutoring / Teaching Services for Core Subjects<sup>11</sup>

### NOTE:

Core subjects are grammar, mathematics, science, social studies, and reading.

Tutoring or Teaching Services	Approved Credentials & Accreditations
<b>Individual</b> Tutoring / Teaching Services	High school diploma or higher degree
<b>Facility</b> Tutoring / Teaching Services	Accreditation in the area of instruction by a state, regional, or national accrediting organization <sup>12</sup>

<sup>9</sup> ESA reserves the right to ask Account Holders to resubmit accreditation. Altering or manipulating any accreditation may result in termination and / or referral to the SBE, who can refer cases of fraud or misuse of funds to the Attorney General's Office.

<sup>10</sup> A screenshot, screen capture, or screen grab, is a digital image that shows the contents of a computer display.

<sup>11</sup> Core subjects are those required by A.R.S.§15-2402(B)(1), and include grammar, mathematics, science, social studies, and reading.

<sup>12</sup> Facilities / businesses can submit an attestation form to seek accreditation from the AZ Department of Education. (Page 16 of the Handbook)

## Approved Tutoring / Teaching Services for Non-Core Subjects<sup>13</sup>

The following is a list of specific subjects each of which require a specific credential.<sup>14</sup>

Subjects	Approved Credentials & Accreditations
Art	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Dance	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Drama	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Driver's Education	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Foreign Language	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Gymnastics	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>

<sup>13</sup> This is not an exhaustive list of approved services for non-core subjects

<sup>14</sup> Facilities / businesses can submit an attestation form to seek accreditation from the AZ Department of Education. (Page 16 of the Handbook)

Subjects	Approved Credentials & Accreditations
Gymnastics	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Martial Arts	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Music	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Physical Education	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Swimming	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>
Yoga	<p><b>Individual:</b> High school diploma (or higher degree) OR a credential in the area of instruction.</p> <p><b>Facility / Business:</b> Accreditation in the area of instruction<sup>14</sup></p>

<sup>14</sup> Facilities / businesses can submit an attestation form to seek accreditation from the AZ Department of Education. (Page 16 of the Handbook)

## NOTES:

- Degrees or transcripts issued by a foreign educational institution must be evaluated for U.S degree equivalence by a vendor qualified to make such evaluations. Degrees and / or transcripts must be translated into the English language.
- Make sure to obtain a complete invoice from the school, tutor, facility, or league to avoid a payment delay.
- If you are paying for tutoring / teaching services through Marketplace or Direct Pay, you do not need to provide an accreditation / attestation because the necessary documentation is already on file with the Department. However, if you are paying for tutoring / teaching services with the ClassWallet pre-paid debit card or through the reimbursement option, you will need to upload the accreditation with each of those orders.

## Extracurricular Activities, Physical Education & Educational Camps

**Extracurricular activities** such as chess, horseback riding lessons, home economics, cooking classes, sewing, personal finance, and woodworking classes may be approved if credentials are provided for the individual or facility providing the service.

Other types of approved activities include those that are physical education related, including access to facilities that offer exercise related activities, gyms (including memberships), and sports (i.e., baseball, football, soccer, basketball, track) that are offered through a local league. Other physical education related activities may be approved by the Department if credentials are provided for the league, organization, or individual or facility providing the service.

- **Sports and educational camps** provided by a credentialed individual or an accredited facility are approved. This should be categorized as *Supplementary (No documentation needed)*.
- **All classes provided by a government agency** are approved because they are an accredited body. No accreditation needs to be supplied. This should be categorized as *Tutoring / Teaching Services - Accredited Facility / Business*.
- **Single Tickets** for educational events (zoos, science or art centers, museums, plays, ballet, orchestra, musicals, etc.) are allowed for the individual ESA student; family memberships or tickets for others are not allowed. This should be categorized as *Supplementary (no documentation needed)*.
- **Gym or physical education facility memberships** are allowed for the individual ESA student; family memberships are not allowed. This should be categorized as *Supplementary (no documentation needed)*.
- **Uniforms** for extracurricular activities, physical education & educational camps not related to a qualified school are not allowable.



**Arizona Department of Education Empowerment Scholarship Account (ESA)  
Tutoring / Teaching Services Facility Accreditation Attestation Form**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

Tutor Name(s):

- |           |           |
|-----------|-----------|
| 1. _____  | 11. _____ |
| 2. _____  | 12. _____ |
| 3. _____  | 13. _____ |
| 4. _____  | 14. _____ |
| 5. _____  | 15. _____ |
| 6. _____  | 16. _____ |
| 7. _____  | 17. _____ |
| 8. _____  | 18. _____ |
| 9. _____  | 19. _____ |
| 10. _____ | 20. _____ |

**By signing this form, I attest to the following:**

**For facilities / businesses that offer academic tutoring / teaching services:**

- The tutors named above have a high school diploma (or higher degree) from an accredited state, regional or national accrediting organization per A.R.S. §15-2402(B)(4)(d). In accordance with A.R.S. §1-701 homeschooled diplomas will be accepted.

**For facilities / businesses that offer non-academic tutoring / teaching services:**

- The tutors named above have a high school diploma (or higher degree) or a certification in the area of instruction, from an accredited state, regional or national accrediting organization per A.R.S. §15-2402(B)(4)(d). In accordance with A.R.S. §1-701 homeschooled diplomas will be accepted.

Company Representative Printed Name: \_\_\_\_\_

Company Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Supplemental Materials (no documentation needed)

This list of approved supplemental materials is a brief example of items that do not require curriculum. This list is not exhaustive and you can see more information on allowable items, on our website at [www.azed.gov/esa](http://www.azed.gov/esa).

- Books (including audio, digital, players) / Coloring books / Magazines
- Educational workbooks / Planners / Calendars
- Dictionaries / Thesaurus
- Educational flash cards / Prompt cue cards
- Periodic tables
- Writing utensils (pens, markers, pencils, highlighters, crayons, chalk)
- Art supplies / kits – Education based
- School supplies (index cards, poster boards, paper, folders, binders, notebooks, staplers, scissors, tape, glue, eraser, white out, sharpener, educational poster, small desk / reading lamps, pencil grips, bookmarks, envelopes, rubber bands, dividers, hole punch)
- Backpack / Lunch bags
- Atlases / Maps / Globes
- STEM Kits / Items (Science, technology, engineering, and mathematics)
- STEAM Kits / Items (Science, technology, engineering, the arts, and mathematics)
- Educational kits
- Manipulatives: items that help with counting, time, measurement, shapes, addition, etc. (math cubes, Legos, dominoes, blocks, shapes, etc.)
- Calculators (standard, graphing, scientific, etc.)
- Compass / Navigation / Protractors / Rulers
- Educational DVDs and CDs
- Audio / Visual players
- Physical Education – Sporting items / Gym memberships
- Microscopes / Telescopes
- Board games / Strategy games / Puzzles
- Timers / Clocks / Watches
- Dry erase boards / Easels
- Bulletin board and accessories

- Single tickets for educational events (zoos, science or art centers, museums, plays, ballet, orchestra, musicals, etc.)
- Educational subscriptions
- Educational software & apps
- School Desk (Reasonable and proportionate to qualified student's size)
- School Chair (Reasonable and proportionate to qualified student's size)
- Small bookshelf
- Desk organizer / Small file drawer
- School Mat / Rug
- Printing and binding services (for educational items for qualified student)
- Personal-sized laminators and supplies
- Computer Accessory Items (warranty, protective cases, chargers, mouse, stylus, keyboard, small speakers, etc.)

**Questions about making a purchase? Reach out to our ESA staff at any time!**



## Supplemental Materials (Documentation needed)

Arizona Revised Statute (A.R.S.) § 15-2401(2) and Arizona Administrative Code (A.A.C.) R7-2-1501(3) both define curriculum as a “course of study for content areas or grade levels, including any supplemental material required or recommended by the curriculum, approved by the department.” Curriculum prepared by a parent is acceptable. See example on page 20.

In 2020, the State Board of Education, working in collaboration with the Arizona Department of Education and stakeholders, defined Supplemental Materials as “relevant materials directly related to the course of study for which they are being used that introduce content and instructional strategies or that enhance, complement, enrich, extend or support the curriculum.” See A.A.C. R7-2-1501(16).

Supplemental materials that are not generally known to be educational items require:

**Parent example:** I am teaching my child the life cycle of a plant, at home. The formal curriculum that I submit has the following items listed on the materials list: soil, seeds, water, container, gloves, hand shovel.

**ADE response:** After reviewing the curriculum, the ESA office approves all of the items on the materials list (soil, seeds, water, container, gloves and hand shovel) that was contained in the curriculum.

To receive approval for supplemental materials, documentation must be provided that clearly demonstrates that the **item is recommended or required by a curriculum or course of study, though the specific words “recommended” or “required” need not be present.**

This **documentation** can include, but is not limited to:

- Activity and Study Guides
- Class or Course of Study (please provide enrollment information)
- Class Learning Objectives
- Learning Guides
- Lesson Plans
- Teacher Guides/Manuals

When providing documentation, *please highlight, or otherwise indicate with page numbers, screenshots, or any other method that specifies exactly where the item is:*

- *required or recommended, or*
- *other language that indicates or conveys that the item is needed or necessary to complete the curriculum.*

**NOTE:**

Keep in mind, how-to guides, research articles, product instructions and manuals provided by a product manufacturer, etc., may not always be considered curriculum.

**Example of Parent Prepared Curriculum**

<b>Student Name:</b> XXX	<b>Student Application ID #:</b> 00000
<b>Subject:</b> Learning to Cook	
<b>Scope / Overview of Class:</b> Cultivating culinary skills for my child to build healthy habits and for him to know how to prepare well-balanced meals on his own.	
<b>Sequence / Method of Teaching / Lessons:</b> <ul style="list-style-type: none"><li>• Explain examples of boxes and recipes</li><li>• Gathering and sorting ingredients</li><li>• Teach mixing with spatula &amp; handheld mixer</li><li>• Prepping Food</li></ul>	
<b>Materials Needed:</b> Measuring cups, mixing bowl, spatula, handheld mixer	

**Other Items**

- Subscriptions for educational kits, boxes, programs, etc. may be purchased for up to one (1) year from the date of purchase only.
  - o Kits offering lifetime access are not necessarily prohibited, so long as the lifetime membership grants access to the content purchased within the contract year and does not provide new content beyond the term of the contract year within which the subscription/ lifetime access was purchased.
- Science, Technology, Engineering, and Mathematics (STEM) and Science, Technology, Engineering, Art and Mathematics (STEAM) curriculum are approved, this includes items related to coding and robotics.
- Extracurricular activities, provided by an individual or facility (tutoring / teaching service), such as chess, horseback riding lessons, home economics, cooking classes, sewing, personal finance, and woodworking are approved. This can be categorized as *Tutoring and teaching Services – Accredited Facility / Business*.

- Fees for sports and educational camps are approved when curriculum or proof of the course of study is provided. Registration or proof of enrollment is acceptable as the proof for the course of study. This should be categorized as *Curriculum*.
- In-person classes are approved when curriculum or proof of the course of study is provided. Registration or proof of enrollment is acceptable as the proof for the course of study. This should be categorized as *Curriculum*.
- Any educational class provided by a government entity is approved. This can be categorized as *Tutoring and Teaching Services – Accredited Facility / Business*. However, you do not need to provide accreditation for a government agency.
- Single tickets for zoos, science or art centers, museums, plays, ballet, orchestra, musicals, etc., are allowed for the individual ESA student; family memberships or tickets for others are not allowed. This should be categorized as *Supplementary (No documentation needed)*.
- Gym or physical education facility memberships are allowed for the individual ESA student; family memberships are not allowed. This service should be categorized as *Supplementary (No documentation needed)*.

**NOTE:**

All fees for educational camps are an approved expense, but travel, overnight accommodations and food are not an allowable expense.

### **Tuition or Fees for a Non-Public Online Learning Program**

Some students learn better in the comfort of their home and at their own pace. ESA approves tuition, fees and required textbooks for non-public online schools or online learning programs courses.

- ESA funds cannot be used to pay for family memberships or for multiple students, only for an individual student membership for the qualified ESA recipient.
- ESA funds can be used for online programs or online subscriptions for the contract year.

**Helpful Hint:** When paying for an online program, the Account Holder can make the ESA recipient student the Account Holder and set the billing to either the parent’s name OR the parent and student’s names.

- Name: Billy Doe (student) / Billing name: John Doe (parent)
- Billing name: John Doe - for Billy Doe

If there are multiple students on the ESA program in the same household, each student’s account must be used to purchase their own individual access to online learning program(s).

## Services Provided by a Public School

ESA funds may be used to pay for individual classes and / or extracurricular programs provided by a public school, such as drama club, band, cheerleading, sports, art classes, music classes, speech and debate, CTEDs, etc. Uniforms for these activities cannot be purchased with ESA funds unless specifically required by the class or program. If they are required, they would be categorized as *Supplemental Material (Documentation needed)*.

Please keep in mind that public schools have discretion on whether to accept ESA recipients for such activities, even if ESA funds are being used to pay for the classes or extracurricular activities.

If a public school accepts an ESA student, please make sure that the following is done to avoid account suspension:

- Make sure the student is not enrolled in the school as “tuition payer code 1” (public schools understand this terminology). Enrolling in a public school violates the ESA statute and contract. Improper enrollment may result in termination from the ESA program and require a repayment of ESA funds.
- Make sure that the public school provides an itemized and complete paid invoice for all activities and / or classes.

For any questions about paying for services at the public school, please contact the school or district office.

## Fees for Achievement Tests, Placement Tests, and College Entry Exams

Pursuant to A.R.S. §15-2402(4)(g), Account Holders can utilize ESA funds to pay for their student to participate in nationally standardized norm-referenced achievement tests. These tests can help determine the student’s ability to show mastery of appropriate grade level material. Funds can also be used for advanced placement exams, or any exams related to college or university admission. Prep courses for these exams are also allowed.

## Tuition or Fees and Required Textbooks at an Eligible Postsecondary School

In accordance with A.R.S. §15-2401(4), ESA funds can also be used for an eligible post-secondary institution such as:

- a. An Arizona community college, as defined in A.R.S. §15-1401
- b. A state university that is under the jurisdiction of the AZ Board of Regents
- c. An accredited private postsecondary institution

Restricting the use of ESA funds for private post-secondary tuition to in-state educational institutions has been upheld by the State Board of Education and an Administrative Law Judge.

ESA funds may be used for textbooks required by the university or college classes, but cannot be used for room and board, meals, meal plans, food, transportation, etc.

## *Dual Enrollment*

ESA funds may also be used to pay for dual enrollment at a university or college.

The term dual enrollment refers to students being enrolled in two distinct academic programs or educational institutions at the same time.

The term is most prevalently used in reference to high school students taking college courses while they are still enrolled in a secondary school (i.e., a dual enrollment student), or for programs that allow high school students to take college-level courses (i.e., a dual enrollment program). For this reason, the term early college is a common synonym for dual enrollment.

As a reminder, if a student has not graduated high school or obtained a GED, funds must still be spent on K-12 expenses, even if participating in dual enrollment courses.

## **Public Transportation Services**

In accordance with A.R.S.§15-2402(4), ESA funds can be used for public transportation within the state of Arizona for your ESA student between the student's residence and a qualified school where the student is enrolled.

Public transportation services include:

- Commuter pass
- Transportation network company, such as taxis and ride sharing
- Public bus
- Taxi
- Vanpool service

## **Computer Hardware and Technological Devices**

In accordance with A.R.S.§15-2402(4), ESA funds can be used for computer hardware and technological devices such as:

- Calculators
- Personal computers
- Laptops
- Tablet devices
- Microscopes
- Telescopes
- Printers

You cannot use ESA funds for devices that are primarily for entertainment and other devices whose primary use is noneducational, such as:

- Televisions
- Telephones
- Video game consoles and accessories
- Home theater and audio equipment

**NOTE:**

Audio equipment primarily used for education, such as headphones or earbuds, are an allowable expense.



# **Approved Spending Categories for Students with a Disability**

## Eligible Students

For students who qualify as a child with a disability through a special education evaluation from an Arizona public school district or charter school resulting in a determination of eligibility under the Individuals with Disabilities Education Act (IDEA) (A.A.C. R7-2-401(E)), or who have received an, individualized education program (IEP / MET) or 504 Plan from an previous public school enrollment or who qualify through an independent education evaluation obtained for ESA purposes, as per A.R.S. §15-2403, the qualified student is eligible for additional services, therapies, paraprofessional services, associated goods, assistive technology, and tuition for vocational and life skills as approved by the Department.

Learn more about disability categories under "ESA funding" at [www.azed.gov/esa/frequently-asked-questions](http://www.azed.gov/esa/frequently-asked-questions). Account Holders with a student who qualified for the ESA program under a section other than "child with a disability," but who believe their student may have a disability, should seek a special education evaluation to determine eligibility for special education under the IDEA from their home district or an independent education evaluation obtained for ESA purposes, as per A.R.S. §15-2403.

- If a new evaluation from an Arizona public school district is obtained, the Account Holder should submit a HelpDesk ticket with the new evaluation documentation to update their student's category.
- If an independent education evaluation is obtained, the Account Holder should submit a HelpDesk ticket with the following information:
  - A full copy of the private independent education evaluation from a Qualified Examiner
  - AND a copy of the Qualified Examiner's license showing that it was current at the time of the evaluation. This can be a copy from the board of examiner's website showing the Qualified Examiner's license number and expiration date.

## Associated Goods and Assistive Technology

In accordance with A.R.S. §15-2402(B)(4)(c)(iv), a qualified student with a disability who has a MET evaluation resulting in a determination of eligibility for special education, IEP, or 504 plan from an Arizona public school or an independent education evaluation obtained for ESA purposes on file may be able to use ESA funds to purchase associated goods and services, including sensory items, when applicable, along with educational and psychological evaluations, assistive technology rentals, and braille translated goods and services approved by the Department.

A.A.C. R2-7-1505(B) states that associated goods may include computer hardware or technological devices that assist in accessing educational materials or services that are associated with the qualified student's needs.

Account Holders who are seeking to use ESA funds for an associated good, assistive technology or service must provide the Department with ONE of the following:



- Documentation of the student being enrolled in a course of study that supports the child's disability, service, or other educational need with which the good or service is associated, OR
- Provide the most current IEP / MET evaluation / 504 plan or independent education evaluation obtained for ESA purposes which indicates the need for the good or service, OR
- Provide a letter from a qualified examiner or qualified service provider indicating the need for the good or service.

If the purchase of an “associated good or service” has been disallowed due to the insufficient provision of documentation under A.A.C. R7-2-1505(B)(4), an Account Holder may resubmit the purchase with sufficient documentation to have it approved.

When submitting any documentation, please highlight, mark the area(s), or use any other method that indicates that the requested items are associated with or needed for the educational need(s) of the student.

You may request a pre-approval for sensory items, associated goods or assistive technology using a HelpDesk ticket inside your ESA portal, but it is not required. Due to the large volume of requests, please allow the team at least 3-5 business days to review, research, and respond to inquiries.

## **Educational Therapies and Services**

In accordance with A.R.S. §15-2402(B)(4)(c)(i), both in person and virtual educational therapies from a licensed or accredited practitioner or provider are approved ESA expenses.

However, to receive approval, the individual providing the therapy or therapeutic service must provide the Account Holder with a copy of their valid license or accreditation.

No screenshots from the accrediting organization will be accepted.

The copy must be:

- Legible
- Not expired
- Issued by an accredited board (must be provided by the therapist / provider, screenshots will not be accepted)

## List of Approved Therapies

### NOTE:

This is not an exhaustive list, for questions about therapies that are not listed, please contact the ESA office.

Therapy	Accreditation
Applied Behavior Analysis (ABA) and Verbal Behavior Analysis  Cognitive Behavioral Therapy and Play Therapy	BCBA (Board Certified Behavioral Analyst) BCBA-D (Board Certified Behavioral Analyst – Doctorate) BCaBA (Board Certified Assistant Behavioral Analyst) Licensed Psychologist or Counselor
Aquatic Therapy	Aquatic Physical Therapy license  Occupational Therapy license Physical Therapy license
Art Therapy	American Art Therapy Association (AATA)  Occupational Therapy license Physical Therapy license
Equine Therapy; Hippotherapy; Therapeutic Riding	Equine Assisted Growth and Learning Association (Eagala) National Association of Certified Professionals of Equine (NACPET)  North American Handicap Riding Association (NAHRA) Occupational Therapy license or OT assistant license Physical Therapy license or PT assistant license Professional Association of Therapeutic Horsemanship International (PATH) Recreational Therapy Certificate

<b>Therapy</b>	<b>Accreditation</b>
Hand Therapy	Occupational Therapy license or related therapy credential Physical Therapy license; PT assistant; OT assistant
Music Therapy	American Music Therapy Association (AMTA) Certification Board for Music Therapists (CBMT)
Occupational Therapy (OT)	Occupational Therapy license (OT assistants are approved)
Orientation and Mobility Specialist (COMS)	ACVREP Certified Orientation and Mobility Specialist
Physical Therapy (PT)	Physical Therapy license (PT assistants are approved)
Recreational Therapy	American Therapeutic Recreation Association (ATRA) National Council for Therapeutic Recreation Certification (NCTRC) Recreational Therapy License
Relationship Development Intervention (RDI) Therapy	BCBA (Board Certified Behavioral Analyst or Doctorate) BCaBA (Board Certified Assistant Behavioral Analyst) Licensed Psychologist and counselor RDI certificate Registered Behavior Technician (RBT)
Social Group Therapy	Certification in Cognitive-Behavioral Therapy (CBT) Licensed counselor  Psychologist license School counselor or special education teacher (certified) Social Work Counselor Certificate Speech therapy or Occupational therapy license
Speech Therapy	Speech Language Pathologist Therapy license (SLP Assistants are approved)
Vision Therapy	Optometrist (pediatric, behavioral, or developmental)

- Fees for late, cancelled, or missed appointments are disallowed
- Pursuant to A.R.S.§15-2402(B)(4)(c) students who are not identified as a student with a disability are not authorized to use ESA funds for therapies. A student must have an MET evaluation, IEP, or 504 plan issued by an Arizona public school or an independent education evaluation obtained for ESA purposes by a Qualified Examiner pursuant to A.R.S.§15-2403(J) on file with ESA prior to paying for these services with ESA funds.
- Account Holders may request approval to use a provider whose credential is not listed, through a HelpDesk ticket.
- Due to the large volume of requests, please allow the team at least 3-5 business days to review, research, and respond to inquiries.

## Medical Insurance

Pursuant to A.R.S.§15-2402(B)(4)(c)(i), ESA funding can be utilized along with private medical insurance to pay for educational therapies for qualified students with a disability. Documentation must include a statement or invoice indicating the amount not covered by insurance.

## Paraprofessionals or Educational Aides

Paraprofessionals and aides are an approved expense for students with disabilities. Paraprofessionals are not the same as tutors or teachers; these individuals are there to assist the tutor, teacher, or parent with the education of the student. Credential requirements are below:

### Approved Paraprofessional or Educational Aide Credentials

Credential	
Associate degree or higher	Copy of degree or complete and full transcripts must be submitted
60 or more college credit hours from an accredited school	Copy of complete and full transcripts must be submitted
Pass 1 of the 3 paraprofessional tests  Official scores must be submitted; ESA will not accept proof of passing or unofficial scores	ACT Workkeys ParaEducator Praxis ParaPro

## **Educational and Psychological Evaluations**

When a student is struggling in their educational setting, parents are motivated to understand what underlying factors are contributing to the difficulty that may be limiting their child's progress. A psycho-educational evaluation or assessment is the process through which a psychologist or similar licensed professional observes and evaluates students.

In accordance with A.R.S. §15-2402(B)(4)(c)(iv), students with a disability identified by the public school through a special education evaluation obtained for the purposes of determining eligibility under the IDEA or IEP may use ESA funds to obtain a private psycho-educational evaluation. Documentation must be on file with ESA.

The Department accepts independent education evaluations obtained for ESA purposes for the purpose of updating a child's disability category or funding. See "Change in Disability Category" in Chapter 2 to learn how to update a student's disability category.

## **Vocational and Life Skills Education for ESA Students with a Disability**

Vocational education programs prepare students to work in numerous trade jobs or crafts. Vocational education can also be referred to as "career education" or "technical education" provided by a vocational / trade school or program.

A life skills education program is the building block that allows students to apply knowledge they acquire to real problems and situations. It is a form of education that encourages students to effectively transition into adulthood by helping students to develop sound judgment and good habits for long-term stability, wellness, and success.

Combined, both vocational and life skills education programs are designed to help a student develop skills or interest in technical, trade, or craft-like careers while learning necessary skills such as self-reflection, critical thinking, problem solving, and interpersonal skills. This allows a student to live and work independently.

Pursuant to A.R.S. §15-2402(B)(4)(c)(iii), qualified students with a disability are able to utilize ESA funds for vocational and life skills education, approved by the Department.

ESA funds can be spent on tuition at vocational, trade schools or programs such as, but not limited to:

- Career and Technical Education Districts (CTEDs)
- Community colleges Joint Technical Education Districts
- Joint Technical Education Districts (JTEDs)
- Trade schools
- Vocational schools

## Additional Information for Parent of a Student with a Disability

It is important to understand that a child with a disability who participates in the ESA program does not have an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school (34 C.F.R. 300.137(a)). Nevertheless, children with disabilities who participate in the ESA program may still receive certain special education services from their district of residence, as described below.

### Child Find

In Arizona, public districts are responsible for identifying all children with disabilities within their geographic boundaries,<sup>15</sup> including children with disabilities who are attending private schools and those who are homeschooled. A.A.C. R7-2-401(D)(1). This is known as “Child Find.” 20 U.S.C. §1412(a)(3); 34 C.F.R. §300.111(a).

When an Account Holder enters into an ESA contract with ADE, they agree to release the public school district or public charter school from most obligations to educate and provide services for the ESA student. However, under the IDEA a public district retains its responsibility to either evaluate a student for special education or provide prior written notice refusing to conduct the requested evaluation upon receiving a written request from the student’s parent or guardian. (A.A.C. R7-2-401(E)(4))

ESA does not require a new special education evaluation if one is already on file. If the parent or guardian of an ESA student believes their child needs to be evaluated, they may refer to the table below to determine which public school district is responsible for conducting the evaluation to determine if the child is eligible for special education under the IDEA. ESA students without a disability cannot use ESA funds to pay for an independent third party (ARS 15-2401(7)(a)(ii)) to determine ESA eligibility as a child with a disability under “qualified student.” ESA students who qualified for the ESA program as a student with a disability under A.R.S. §15-2401(7)(a)(i)-(iii), may use ESA funds to pay for a private independent evaluation for ESA purposes as a child with a disability. See A.R.S. §15-2402(B)(4)(c)(iv).

Child’s Current Placement	Responsible Public School
Homeschooled Student(s)	The school district in which the parent resides. A.A.C. R7-2-401(D)(4)(b); A.R.S. §15-763(C).
Non-Profit Private School	The school district in which the private school is located. A.A.C. R7-2-401(D)(4)(b).
For-Profit Private School	The school district in which the parent resides. Letter to Chapman, 49 IDELR 163 (OSEP 2007).

<sup>15</sup> Charter schools are responsible for child identification activities for students enrolled in the charter school. A.A.C. 47-2-401(D)(4)(a). Charter schools are not, however, responsible for outreach under the Child Find regulations because they have no specific geographic boundaries

## *Equitable Services*

Children with disabilities who attend private schools (with or without an ESA), are considered parentally placed private school children with disabilities, and home-schooled children with disabilities do not have an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.<sup>16</sup> However, they might still receive some special education services provided by the school district under the IDEA's equitable services provisions.

Note that ESA students with disabilities who attend for-profit private schools are not eligible for equitable services per federal regulations.<sup>17</sup>

For information on IDEA equitable services, please visit the ESS website. Parents may choose to decline offers of equitable services offered from a local LEA but should be aware that these services may be an option. Accepting or rejecting these services has no bearing on your ESA contract or eligibility.

## *Change in Disability Category*

A student's ESA contract is renewed on an annual basis, notwithstanding any changes to their evaluation. Therefore, if the student has an evaluation resulting in eligibility for the ESA program as a child with a disability currently on file with the ESA program, ADE will not require a new special education evaluation under the IDEA (through Child Find) to remain in the program.

If an Account Holder wishes to have their student re-evaluated to review their child's current special education eligibility due to new information that would lead to a suspected disability not previously identified they must make a written request to the appropriate public district or they can seek an independent education evaluation for ESA purposes.

Some important things to keep in mind:

- a. If a student attends a non-profit private school, the public-school district in which the private school is located is responsible for the evaluation process.
- b. If a student attends a for-profit private school or is home schooled, the public school district in which the parent resides is responsible for the evaluation.
- c. For any questions about which public district may be responsible for the evaluation of a student, please contact Exceptional Student Services (ESS) at 602-542-4013.

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<sup>16</sup> 34 C.F.R. § 300.137(a)

<sup>17</sup> Federal law does not allow public school districts and charter schools to consider parentally placed private school children with disabilities who attend private schools through a state-funded voucher or scholarship program (such as Arizona's ESA program) differently from other parentally placed private school children with disabilities for the purpose of providing equitable services. 34 C.F.R. § 300.132(a).

Other ways you can obtain an evaluation to determine your student's eligibility, or change your child's funding category are:

1. Contact the Arizona Department of Education's ESA Department for their contracted third-party vendor.
2. If ADE's ESA Department has no contracted third-party evaluators, then you can contact your county's school superintendent for their list of approved independent third parties to evaluate ESA students.
3. If your county superintendent does not have a list of approved independent third-party evaluators, then you can hire a Qualified Examiner to conduct an independent education evaluation. Qualified Examiners are licensed physicians, licensed psychiatrists and licensed psychologists.

Once an updated evaluation has been obtained for an ESA student:

- Please submit a HelpDesk ticket inside your ESA portal, along with the new evaluation, requesting an update of the account or application.
- When the request is processed, a new contract is issued. Please be aware, not all reevaluations will increase the award amount. In some cases, based on the new eligibility category, the amount may be reduced.
- Please sign the new contract immediately, notifying ESA staff after signing to avoid funding delays.

As a reminder, only children who are identified as a child with a disability by a public school through an evaluation (or IEP) or who qualify through an independent education evaluation obtained for ESA purposes, as per A.R.S. §15-2403, are entitled to spend ESA funds on educational therapies, paraprofessional services, tuition for vocational and life skills education, educational and psychological evaluations, assistive technology rentals, braille translation, or associated goods. See the "Associated Goods & Assistive Technology" section for more information.



### *Preschool Severe Delay Funding*

Students with a disability in the ESA program under the specific disability category of Preschool Severe Delay need to have a re-evaluation done by an Arizona public school or district when they enter their Kindergarten year (5 years of age on January 1 of current school year), or their account will be set to 'base level funding'.

A re-evaluation is not a requirement to continue with ESA, but is needed for any changes in funding, as the preschool severe delay category cannot move with a student into kindergarten. Please watch for any correspondence regarding this situation. Account Holders can also contact the ESA Support Line at 602-364-1969 or with a HelpDesk ticket to learn if a specific account will be affected.

### *Developmental Delay Funding*

Students with a disability in the ESA program under the specific disability category Developmental Delay need to have a re-evaluation done by an Arizona public school or district prior to turning age 10, or their account will be set to 'base-level funding'. Pursuant to A.R.S.§15-2401(7)(a)(ii) and A.R.S.§15-761(3), this category is only for students between the ages of 3-9.

A re-evaluation is not a requirement to continue with ESA, but is needed for any changes in funding, as the preschool severe delay category cannot move with a student into kindergarten. Please watch for any correspondence regarding this situation. Account Holders can also contact the ESA Support Line at 602-364-1969 or the HelpDesk inside the ESA portal to learn if a specific account will be affected.

### *Students with a Disability (After 12<sup>th</sup> grade)*

Pursuant to A.R.S.§15-2402(4)(n), a student with a disability may be entitled to an education until the age of 22 if the student is not ready to graduate high school or obtain their GED.

When a student is identified as being a student with a disability with ESA, and in the spring of their 12th grade cohort year, ESA will notify the Account Holder that action is required.

Upon receipt of this notification, an Account Holder will be prompted to log into the ESA Portal, select the eligible student, and make the following selection:

- **NO:** By selecting this option, I attest that my child is not scheduled to graduate high school or obtain a GED by the end of this school year. I understand that a renewal contract will still need to be signed to continue to receive any additional support.
- **YES:** By selecting this option, I attest that my child is expected to graduate high school or obtain a GED by the end of this school year. I understand that an exited contract will still need to be signed to continue to access any remaining funds for allowable expenses.

By making this selection, you will verify that you have read and understand the following:

- *You understand that providing false information is considered failure to comply with the terms of the contract or applicable laws and that your account is subject to suspension / termination. See A.R.S. §15-2403(C)*
- *You understand that when your child does graduate from high school or obtains a GED, you must notify ESA immediately.*
- *If changes need to be made, you will need to contact ESA immediately for assistance or submit a HelpDesk ticket.*

An Account Holder can attest that their student is not yet ready to graduate or obtain their GED until the year the student turns 22, as that will be their final funded year with ESA.

**NOTE:**

An Account Holder who attests that their student continues to need a K-12 education, must provide their student a K-12 education. An Account Holder found to be providing only a post-secondary education may have their student's account suspended and repayment may be required.

# Disallowed Spending Categories

## Disallowed Spending Categories

In accordance with A.R.S. §15-2402, the following categories are prohibited, however, please note that some of the items below may be approved for qualified students with a disability.

This list is not exhaustive. The Department reserves the right under statute to not approve items.

### ESA Disallowed Expenses

- Entertainment
- Primarily noneducational devices
- Televisions
- Telephones
- Video game consoles and accessories
- Home theater and audio equipment

### **The Department of Education has made the decision to disallow the following items:**

- Amusement Park tickets
- Baby grand pianos
- BBQ Grills, Smokers & Fixed fire pits
- Bounce houses & Water slides
- Commercial grade items
- Day care fees
- Fuel
- Garden sheds
- Gift cards of any kind
- Go-carts, Motorized scooters, Large kayaks
- Home furnishings & Fixtures
- Hotel, Lodging, Groceries
- Inappropriate explicit material
- Jewelry & Precious metals
- Land / Real property
- Large appliances
- Large chicken coops & Runs

- Large green houses
- Large outdoor shade structures
- Large trampolines
- Live animals
- Medical services & Supplies
- Medications, Vitamins & Supplements
- Pizza ovens
- Planes, Automobiles, Motorcycles & Boats
- Playground & Lawn equipment
- Restaurants
- Solar panels or Systems
- Swimming pools, Saunas & Ponds
- Trailers (of any kind)
- Weapons & Ammunition

## **Non-Approved Therapies and Services**

- Acupuncture
- Blood work (labs)
- Chiropractors
- Craniosacral Therapy
- Dental exams or Services
- Eye exams
- Health exams
- Hyperbaric Oxygen Therapy
- Massage Therapy
- Medical Equipment / Services
- Nutritionists
- Physical exams

# **ClassWallet Virtual Accounts**

# Chapter 3: ClassWallet Virtual Accounts

## About ClassWallet

ClassWallet is a third-party vendor that administers ESA funds in a virtual account. Once a student is accepted into the ESA program, funds awarded are entrusted to the Account Holder in a virtual account administered by ClassWallet.

ClassWallet's platform is designed to streamline and automate the spending and tracking of ESA funds and allows ESA Account Holders to manage payments to schools, providers, and vendors.

## Establishing a ClassWallet Account

Once a student's ESA contract is signed, it takes approximately 3 weeks to set up and fund the ClassWallet account.<sup>18</sup> Once the account is set up, ESA will request quarterly funds from the Treasurer's Office.

Upon approval by the Treasurer's Office, the treasury will release the funds to ClassWallet for disbursement.

ClassWallet will send an email to ESA families letting them know funds are available.

## Accessing a ClassWallet Account

Account Holders can access their student's ClassWallet account via the ESA Portal. Once logged in, click the blue button Go To ClassWallet Account. The link will take users directly to ClassWallet.

If an Account Holder has multiple students within the ClassWallet platform, they can log in once and toggle between children's ClassWallet accounts using the drop-down menu on the top right of the homepage.

Information on navigating the platform and helpful tutorials are available from ClassWallet at <https://classwallet.my.site.com/classwallet/s/>.

## Contacting ClassWallet

ClassWallet can be reached by phone at 1-877-969-5536 Monday through Friday from 8am to 8pm EST and Saturday from 10am to 4pm EST or via email anytime at [help@classwallet.com](mailto:help@classwallet.com).

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<sup>18</sup> Accounts may take a bit longer during a holiday or unforeseen circumstance such as a pandemic, natural disaster, etc.



## Four Ways to Use Your ESA Funds in ClassWallet

ClassWallet offers four different ways to make purchases or payments on their platform: Marketplace, Pay Vendor, Debit Cards, and Reimbursement.

Please visit ClassWallet at <https://classwallet.my.site.com/classwallet/s/> for more information on each purchase option.

ClassWallet vendors are listed in the Marketplace and Pay Vendor at <https://app.classwallet.com/r/#/shop> and [https://app.classwallet.com/#/direct\\_pay/pay](https://app.classwallet.com/#/direct_pay/pay).

**Marketplace:** Account Holders can place orders with various online vendors within the ClassWallet Marketplace. Upon approval, all orders are shipped directly to the address on record.

**Pay Vendor:** If a student's private school and / or providers are registered in ClassWallet, they are in the Pay Vendor section on the ClassWallet homepage. Using Pay Vendor, payments can be made directly to private schools, providers, and vendors.

A complete invoice must be uploaded (*see page 49*) for Pay Vendor transactions. An Account Holder is not required to provide any credentials for the providers in Pay Vendor as they are already registered in ClassWallet.

**Debit Card:** ClassWallet offers a prepaid debit card to provide additional flexibility.

For each transaction, accreditation / credentials (if paying a provider) and a complete invoice will need to be uploaded in the ClassWallet platform. Invoices / receipts and any accreditations / credentials can be uploaded after each purchase, **and all transactions must have a corresponding invoice / receipt uploaded by the deadline set forth in A.A.C. R7-2-1508(D) (*see page 45 for deadline dates*)**.

Account Holders must upload a corresponding receipt after every 20 transactions to avoid ClassWallet debit card deactivation and to continue making purchases with the debit card.

**Remember, an accreditation / credential must be submitted for debit card transactions, even if the provider is a vendor in the ClassWallet platform.** When paying through the Marketplace or Pay Vendor, credentials are not required, as the provider or vendor submitted the required accreditation / credential upon registration.

**Reimbursement:** If an Account Holder cannot make a purchase or pay for an educational service using one of the ways listed above, they may be eligible for the reimbursement option.

To receive reimbursement, a bank account must be linked and verified with ClassWallet.

If an Account Holder has multiple children in the program, the bank account only needs to be linked once.

More information on reimbursement is available from ClassWallet

<https://classwallet.my.site.com/classwallet/s/article/Submitting-receipts-for-reimbursement>

#### **NOTES:**

- Reimbursements can only be submitted for transactions made after the date that the ESA contract was signed
- Reimbursements can only be submitted during the contract term and cannot be submitted after the student has left the program
- For each reimbursement order, accreditation / credentials (if applicable) and a complete or itemized invoice must be uploaded into the ClassWallet platform.

### **Payments to Schools and Providers**

Once payment is submitted and approved by ESA staff, payment to the providers and schools will be released by ClassWallet. Schools and providers typically receive payment within 2-5 business days. Schools and providers receive a list of their students showing payment date and amount.

### **Registration in ClassWallet (Vendors, Providers, Schools)**

A student's private school or provider(s) must be registered in ClassWallet in order to use the platform to make a payment to them. We recommend checking with the school or provider to see if they are registered.

A school, provider and / or vendor can register in ClassWallet at Service Provider Pre-Registration. If a provider or school has not registered in ClassWallet and they would like more information on how they can register, please ask them to contact ClassWallet at [help@classwallet.com](mailto:help@classwallet.com) or 1-877-969-5536.

ClassWallet charges a 2.5% processing fee to vendors, providers, and schools, and not directly to the ESA Account Holder. However, the vendor has discretion to charge Account Holders a processing fee to offset this expense.

## ClassWallet Prepaid Debit Cards

Account Holders must request a debit card directly from ClassWallet. Cards are shipped directly to the address on record within 10-14 business days.

The card will include the first and last names of the Account Holder and the student that the account is associated with. Private schools and / or vendors are not allowed to keep debit cards. The ClassWallet debit card must always be in an Account Holder's possession.

The card debits against the Account Holder's virtual wallet balance. Inside the ClassWallet portal, an Account Holder can view debit card transactions, upload receipts in the platform and associate receipts with specific debit card charges.

If at any time the debit card feature is suspended, an Account Holder can continue to make purchases using the Marketplace and Pay Vendor features. Keep in mind that Account Holders must agree to the ClassWallet debit card Terms and Conditions to access the feature. Failure to comply may result in suspension of debit card privileges.

## Deadline for Debit Card Transactions

Quarter	Purchasing Dates	Deadline for Receipts
1	July 1-September 30	October 31
2	October 1-December 31	January 31
3	January 1-March 31	April 30
4	April 1-June 30	July 31

### IMPORTANT:

- Debit card holders must upload receipts after every 20 transactions to avoid deactivation and to continue making purchases with the debit card.
- All debit card transactions must have a receipt uploaded by the deadlines listed above.
- Receipts must be submitted in the ClassWallet platform at <https://www.azed.gov/esa/portal/>.
- Account Holders will be notified by email if there are any outstanding receipts each quarter. If an Account Holder fails to submit the outstanding debit card receipts following the quarterly deadline, the Department is required to notify the Account Holder. The Account Holder will then have a grace-period of 15 days to submit any outstanding receipts. If the Account Holder fails to submit the receipt, the Department will suspend the debit card and may close the account.

## **Allowable Forms of Payment for ClassWallet Debit Card**

ESA cards can be used in the following ways:

- Point of Sale (swiping the card or manually inputting card number)
- PayPal
- Square / VENMO

### **NOTES:**

- As part of the contract between ClassWallet and the Arizona State Treasurer, the debit card does have limitations and certain MCC codes are restricted due to the potential risk to parents of mispending unintentionally.
- Code restrictions include code 8211 (Schools, Elementary and Secondary), as payments to private schools should be made through Pay Vendor in the ClassWallet portal.
- If the debit card doesn't work at a specific business or vendor because of a restricted MCC code, the item will need to be purchased another way.

For MCC code requests, questions, or concerns, please submit a HelpDesk ticket at <http://helpdesk.azed.gov/>. Please include the organization or business name and the MCC code they are registered under so that we can fully research the request.

All MCC code exceptions and allowed requests will be extended to all Account Holders. The Department will notify all account holders of the inclusion of these new MCC codes via an email blast within 5 business days. A complete list of approved MCC codes is available on the ADE website and will be updated if a new approved code is added.

## **Prohibited Use**

Debit cards will be suspended for:

- Failure to upload receipts after 20 consecutive transactions
- Failure to submit receipts for debit card transactions by the quarterly deadline
- Attempted cash withdrawal
- Non-compliance with the ClassWallet Terms and Conditions

**NOTE:**

Cash withdrawals, cash advances, or cashier checks are prohibited with your ClassWallet debit card. Any Account Holder attempting to make a cash withdrawal will have their debit card automatically suspended and the account holder will need to notify ClassWallet directly for reactivation. The Department will issue a 15-day suspension letter via email to the Account Holder stating the reason for the suspension. The Account Holder will then have 15 days in which to respond and / or take action. Failure to contact the Department by the date stated on the letter may result in termination of the ESA.

# Chapter 4: Expense Submissions

When an Account Holder enters into an ESA contract with the Department, the Account Holder is required to report all expenses made with ESA funds.

To maintain ESA program eligibility the following must be completed:

- Failure to submit receipts for debit card transactions by the quarterly deadline
- Complete invoices or receipts must be included when submitting expenses or making payments in the ClassWallet platform
- All required credentials must be included when submitting debit card receipts or reimbursements (even if the provider or vendor is registered in the ClassWallet platform)
- If no spending occurs in a particular quarter, Account Holders are required to attest in the ESA portal that no funds were spent<sup>19</sup>

Pursuant to A.R.S.§15-2403(B) and A.A.C. R7-2-1508(A), the Department may perform audits to ensure compliance with ESA spending. Such audits may conform to the record retention requirements that were in place at the time the expense was made. The Department may only audit account activity from the last two fiscal years, including the current fiscal year.

Pursuant to A.A.C. R7-2-1508(B), the Department must provide an annual notice to each parent of when and how the Department will conduct reviews of expenses and audits. If the Department chooses to adopt risk-based auditing, the Department must provide formal notice to the Board at a Board Meeting.

In 2020, the State Board of Education, working in collaboration with the Arizona Department of Education and stakeholders, established the rule A.A.C. R7-2-1507(C): The Department shall not request repayment for an expense it has approved for a specific ESA. The Department shall treat similar expenditures by similarly situated account holders in the same manner so long as the account holder provides sufficient documentation to support the expense. This section does not create authorization for an account holder to expend funds in a manner not permitted by statute.

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<sup>19</sup> A.A.C. R7-2-1508(J) does not waive the Account Holder's obligation to submit an attestation for "no expense" quarters to the Department, attesting no ESA funds were spent during the quarter

### *Required Documents for all Expenses in the ClassWallet Platform*

As stated above, all expenses must be accounted for. This includes providing required credentials and complete (detailed) invoices for online programs, curriculum, and supplemental items required or recommended by the curriculum.

Pursuant to A.C.C. R7-2-1508(C-D), private school invoices **MUST** have the following:

1. Student's name
2. Name of the private school
3. Transaction Date
4. What ESA funds are paying for (tuition or fees)
5. Total amount charged to debit card must be reflected on the invoice
6. For reimbursements, proof of method of payment is required (e.g., an invoice showing "paid", a confirmation email showing payment was made / received, PayPal confirmation, etc.)

Invoices for tutors, paraprofessionals, or therapists **MUST** have the following:

1. Student's name
2. Name of provider or facility
3. Transaction Date
4. Rate amounts / type of service(s)
5. Processing fees
6. Total amount charged to debit card must be reflected on the invoice
7. For reimbursements, proof of method of payment is required (e.g., an invoice showing "paid", a confirmation email showing payment was made / received, PayPal confirmation, etc.)

#### **NOTE:**

**Handwritten receipts, screenshots of carts, credit card slips, or summary statements from vendors and / or providers will NOT be accepted.** It is important to look at the invoice to make sure all the required information is provided before submission.

### *Expense Categories in the ClassWallet Platform*

All ESA expenses must be categorized in the ClassWallet platform. Category selections are listed below:

- Assistive Technology (Qualified Student with Disability Only)
- Associated Good (Qualified Student with Disability Only)
- Computer hardware and technological devices
- Curriculum
- Educational Therapies and Services (Qualified Student with Disability Only)
- Educational / Psychological Evaluations (Qualified Student with Disability Only)
- Fees for nationally standardized tests or college admission
- Fees to manage the Arizona empowerment scholarship account
- Insurance or surety bond payments
- Life Skills / Vocational (Qualified Student with Disability Only)
- Paraprofessional (Qualified Student with Disability Only)
- Public transportation services to a qualified school
- Services, classes and extracurricular programs provided by a public school
- Supplemental Materials (documentation needed)
- Supplemental Materials (no documentation needed)
- Tuition or fees online learning program (non-public)
- Tuition, textbooks or fees at a qualified school
- Tuition, textbooks or fees at an eligible postsecondary institution
- Tutoring and teaching services – Accredited Facility / Business
- Tutoring and teaching services – Accredited Individual
- Uniforms purchased from or through a qualified school



## Misspending or Disallowed Expenses

- To protect the ESA program and taxpayer dollars, the Department pursues all misspending and disallowed expenditures. Additionally, the Department has a zero-tolerance policy on substantial misuse of funds with the intent to defraud. These cases are automatically referred to the State Board to approve a referral to the Attorney General's Fraud Unit.
- Spending any ESA funds disallowed under the ESA contract, state law, administrative rule, program policies, or ESA Parent Handbook may result in account suspension and require repayment.

## Suspension of a Debit Card

- For purchases made with the debit card, the Account Holder must upload documentation, before the deadline (*See page 45*). If documentation is not uploaded by the deadline, the Department will notify the Account Holder via email. The notification will specify the details of the expense that needs documentation and allow the Account Holder 15 business days to provide ESA with documentation. After 15 business days, if documentation has not been uploaded, the debit card will be suspended.

## Suspension of ESA Accounts

- Pursuant to A.A.C. R7-2-1509, when an account is suspended, the Department will notify the Account Holder via email. The notification will specify the reason and details of the disallowed expense for the suspension and allow the Account Holder 15 business days to provide ESA with documentation that shows an error was made or to submit repayment of the disallowed / misspent ESA funds.

## Termination of ESA Accounts

- If, within the 15 business days of notification, the Account Holder has not contacted ESA, a termination letter with the right to appeal will be emailed. Additional information on the ESA Appeals Process, as well as how to file an appeal is available at <https://azsbe.az.gov/empowerment-scholarship-account-esa-program>.
- The termination letter allows the Account Holder 30 calendar days to appeal the Department's decision. If no appeal is made in writing to SBE the ESA account is closed, and unused funds will be deposited back into the State's general fund. Any disallowed, misspent, or unsubmitted expenses will be sent to the Attorney General's Office for collection, fraud investigation, or both.
- If documentation is provided showing that an error was made or that suffices the purchase or payment, the account will be reactivated.

## Repayment Plans

- Pursuant to A.A.C. R7-2-1509(C), if the Department determines the documentation fails to demonstrate that the expense is allowable or that the Account Holder was a victim to identity theft or fraud, the Department shall provide notification to the Account Holder that the amount must be repaid.
- Pursuant to A.A.C. R7-2-1509, if ESA funds need to be repaid on an active account, the Department will offer plans of up to six months. (NOTE: Closed or terminated ESA accounts can coordinate payments with the Attorney General's Collections Office if / when applicable.)
- Once a parent agrees to a gradual repayment plan or repays an amount pursuant to A.A.C. R7- 2- 1509(A)(2)(b) or A.A.C. R7-2-1509(C), the Department shall lift the temporary suspension, reinstate the account, and make any disbursements that were withheld during the suspension.
- Except in cases which the Attorney General determines that an Account Holder has committed fraud, any expenditure from an Arizona Empowerment Scholarship Account for a purchase that is deemed ineligible pursuant to A.R.S.§15-2402 and that is subsequently repaid by the parent or account holder shall be credited back to the Arizona Empowerment Scholarship Account.
- In 2020, the State Board of Education, working in collaboration with the Arizona Department of Education and stakeholders, established the rule A.A.C. R7-2-1507(C): The Department shall not request repayment for an expense it has approved for a specific ESA. The Department shall treat similar expenditures by similarly situated account holders in the same manner so long as the account holder provides sufficient documentation to support the expense. This section does not create authorization for an account holder to expend funds in a manner not permitted by statute.

# Chapter 5: Renewing ESA Contracts

## Eligibility for Renewal

To remain eligible to renew an ESA contract, the Account Holder must have:

1. Submitted quarterly ClassWallet debit card receipts (if using the debit card).
2. Spent a portion of the ESA funds in at least the subjects of reading, grammar, mathematics, social studies, and science during the contract year (July 1-June 30)
3. Kept the account in Active Status, meaning it must not be suspended or terminated for contract violations such as:
  - Using ESA funds on disallowed expenses or misuse of ESA funds
  - Enrollment in public school at the same time as under ESA contract
  - Receiving an STO or tax credit scholarship in the same fiscal year as an ESA contract. (Fiscal year is July 1 through June 30)

## Renewal

Existing ESA students are considered “renewing students” and do not need to reapply. Any funds remaining at the end of the school year will roll over, provided the renewal contract is signed.

Contracts will be sent via email through an electronic signing option.

Once the ESA program receives the renewal contract and any required documents, an email confirmation will be sent.

As of the 2021-2022 School Year, any funds that remain in accounts that have been closed for non-renewal, will be held for three academic years. If there is no renewal after three academic years, a notice will be sent. If there is no response within 60-days of this final notice, any remaining monies will be returned to the State.<sup>20</sup>

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<sup>20</sup> See A.R.S. §1515-2402(H)

## Exited Contracts

Exited Contracts are for Account Holders who have a student who no longer qualifies for a K-12 education, because they have graduated high school or earned a GED, but they still have remaining funds that can be spent towards the student's post-secondary education. Exited students do not receive any additional funding but are eligible to continue to spend funds per their contract and handbook agreement.<sup>21</sup>

If remaining funds are spent using a ClassWallet prepaid debit card, the Account Holder is still contractually obligated to upload the receipts for these expenses on a quarterly basis. Failure to do so can result in suspension and subsequent termination of the ESA account. If the student graduates high school or earns their GED, please notify the ESA team as soon as possible so that an exited contract can be sent.

### **NOTE:**

See "Students with a Disability (after 12th grade)" on page 35 if the student is a qualified student with a disability and will not graduate high school or earn their GED at the completion of 12th grade.

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<sup>21</sup> See A.R.S. §15-2402

# Chapter 6: Termination or Closure

Below are some reasons termination or removal from the ESA program may occur.<sup>22</sup>

- Enrolling and attending a public-school district, charter, or public online school (this includes summer school)
- Receiving School Tuition Organization (STO) scholarships OR tax credit scholarships in the same fiscal year as an ESA (Fiscal year is July 1 through June 30)
- Misspending ESA funds
- Failure to submit receipts for debit card transactions by the quarterly deadline
- Fraudulent activity
- Loss of custody
- Providing false information or falsifying documents
- Not spending a portion of ESA funds during the contract year (July 1 through June 30)

## **Attending a Public School, Charter School, or Public Online School**

While a student is on an ESA contract and pursuant to A.R.S. §15-2402(H), the Account Holder agrees not to enroll the student in a public school district, charter school, or public online school; this includes summer school, any services such as speech services, or extra-curricular activities.

## **Receiving an STO or Tax Credit Scholarship**

Pursuant to A.R.S. §15-2402(B)(3), the Account Holder agrees not to receive any STOs or tax credit scholarships in the same contract year as an ESA.

If your student's ESA funds do not cover the full cost of the qualified school and you are unsure how the remainder is being paid, please contact your qualified school to make sure you are not receiving an STO or tax credit scholarship. If you believe you may have received an STO or tax credit scholarship, please contact ESA staff immediately.

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<sup>22</sup> This not an exhaustive list, just examples of reasons that accounts have been closed or terminated

# Chapter 7: Leaving the ESA Program

A student leaves the ESA program one of four ways:

1. **Withdrawal:** Account Holder requests that the student's ESA contract be closed.
2. **Non-renewal:** Account Holder chooses not to sign the student's renewal contract.
3. **Completing the ESA program:** Student exits the program upon completion of their 12th grade cohort year or receives a GED. Qualifying students with a disability may be eligible to continue, see page 35, Students with a Disability (After 12th grade).
4. **Removal / Termination:** ESA terminates the contract for failure to abide by program rules, program policies, ESA Parent Handbook and / or state law.

## Withdrawal

An Account Holder can withdraw their student from the ESA program at any time. To close a student's account, the account holder can do so within the ESA Portal. Account Holders can also submit a HelpDesk ticket requesting account closure.

The student's account will be reviewed, and any outstanding debit card receipts or invoices will need to be submitted. The Account Holder will receive email confirmation when the account has been closed. Once closed, any remaining funds will be returned to the State's general fund.

Pursuant to A.A.C. R7-2-1509, if an account is not closed in good standing, the Department will refer to the SBE. The Board may refer the case to the Attorney General's office for collections.

## Non-Renewal

Renewal contracts are sent to current Account Holders near the end of each school year. Pursuant to A.R.S.§15-2402(H), if an Account Holder chooses not to renew or does not sign a renewal contract, ESA will automatically close the account and any remaining funds will be held for a period of 3 academic years.

## Completing the ESA Program

When a student enters the ESA program, they continue to progress one grade level each year. This means that if the student enters the ESA program in 3rd grade, the following year the student will move to 4th grade, even if the qualified school or the parent decides to retain the student.

At the completion of 12th grade, ESA students who have graduated high school or received a GED will receive an Exited Contract. Once exited from the ESA program, the student will have four years to use any remaining funds in the account.<sup>23</sup> All policies and laws regarding the ESA program must still be followed.

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<sup>23</sup> See A.R.S.§15-2402(4K)

## **Removal**

The Department may remove a parent and / or student from the ESA program for a variety of reasons as discussed in Chapter 6. Upon removal, the parent may appeal the Department's decision. However, if a parent is removed due to committing fraud, the parent and the student may not reapply for the ESA program in the future.

# Chapter 8: Quick Reference

## ESA Department Contact Information:

The ESA Service Team is available:

- By phone at (602) 364-1969  
Monday through Friday 8am-8pm & Saturdays 8am-12pm
- By Email: [ESAcallcenter@azed.gov](mailto:ESAcallcenter@azed.gov)
- By a HelpDesk Tickets: In the ESA portal
- By Mail: 1535 W. Jefferson Street, BIN #41 Phoenix, Arizona 85007

## ClassWallet Information:

- By Phone at 1-877-969-5536
- By Email at [help@classwallet.com](mailto:help@classwallet.com)
- Contact ClassWallet directly for all debit card related issues and for questions related to order returns and refunds

## Other Notes:

- For preapprovals or questions about purchasing specific items, submit a HelpDesk ticket. Preapprovals are not required.
- A vendor stating that they accept ESA funds does not mean they are approved or that the service is allowed for all students. Account holders are responsible for verifying that a purchase is permissible
- It is the Account Holder's responsibility to follow the law and ESA contract and use ESA funds only for items allowed under A.R.S. §15-2402(B)(4). ADE can only provide technical assistance and not legal advice
- The Department does not regulate private schools or vendors, even if they are in the ClassWallet portal. Our team cannot recommend schools or providers. Please research and exercise caution when contracting with a school or vendor
- All purchases and / or payments require a corresponding detailed receipt or detailed invoice
- Valid accreditation / credentials are required for all teachers, instructors, tutors, providers and / or facilities
- Services offered in private or public schools by tutors, teachers or therapists do not require credentials, if paid through the school
- Account holders must spend a portion of the ESA funds annually, in at least the following subjects: reading, grammar, math, social studies, and science



# Chapter 9: HelpDesk Guidance

## Need to Submit a HelpDesk Ticket for ESA?

Request approval, submit documents, ask questions and more! This is the best, most efficient way to communicate with any member of the ESA team.

### NOTE:

HelpDesk can be accessed in the ESA Portal. There is a one-time set up for first time HelpDesk users.

- An email invitation is sent within a couple of minutes of clicking on [Submit a Help Desk Request](#) for the very first time. *Please check Spam / Junk folders if email is not received within a few minutes.*
- The email invitation to join the Arizona Department of Education (ADE) Organization is sent from the Zoho platform. This invitation will be sent to the same email address that was used when logging into the ESA Applicant Portal.
- The email invitation must be accepted within 30 days or the link to “Join Organization” will expire. Attempting to click on the “Submit a HelpDesk Request” feature when the email invitation to join the ADE organization was not accepted will result in a “User Does Not Exist” error message.
- If the link expires, reach out to the ESA Support Team at 602-364-1969 to receive a new link.

### How to submit a HelpDesk ticket:

- After logging into the ESA Portal, create a Help Desk request by clicking on the link located on the right-hand upper corner [Submit a Help Desk Request](#).
- Click on [Request a Service](#) link shown at the top right. To go back to the previous screen (landing page), click on the “X” icon at the top of the window. Please DO NOT click the browser back button.
- There are multiple program areas and departments in the system. However, to contact ESA directly, select either ESA Expenses or ESA Operations
  - Select ESA Expenses if the request is about an approval or preapproval or purchase request
  - Select ESA Operations if the request is about an application, ESA contract, program withdrawal, personal information update or a general program question
- To change the template, click on the [Change Template](#) link at the top
- All the required fields with an asterisk “\*” next to the field name must be completed
- Select the appropriate “Subcategory” value which will give multiple options in the item drop down (*Please note that there are different item lists for different subcategory selections*)

- Documents can be attached within the HelpDesk ticket
- Click on the *Requests* menu to view all tickets and the status

### Updating an Existing HelpDesk Ticket:

1. Click on the *Conversations* tab to view all the email conversations or notes. Add comments or notes by clicking the “Reply” button.
2. The ticket cannot be edited once it has been submitted, but you will be able to add to the conversation.
3. Once the initial request is satisfied, the team will close the ticket. **If there is an additional request, please submit a new HelpDesk ticket.**

### Getting an Error Message trying to access HelpDesk

Common error messages:

- *User doesn't exist, User not found*
- *Account is already associated with another ZOHO account*

If you receive one of these error messages or experience any other issue when using HelpDesk, please contact our ESA Support Team at 602-364-1969. We are happy to help!

## Acronyms

Acronym	Meaning
504	Section 504 of the Rehabilitation Act
A.A.C.	Arizona Administrative Code or Rules
ABA	Applied Behavioral Analysis
ADE	Arizona Department of Education
A.R.S.	Arizona Revised Statutes
ESA	Empowerment Scholarship Account
ESS	Exceptional Student Services
FERPA	Family Educational Rights and Privacy Act
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Educational Program
LEA	Local Education Agency
MET	Multidisciplinary Evaluation Team
OT	Occupational Therapy
PAC	Parent Advisory Committee
PT	Physical Therapy or Physical Therapist
SBE	Arizona State Board of Education
STEAM	Science, Technology, Engineering, Arts, and Math
STEM	Science, Technology, Engineering and Math
STO	School Tuition Organization

# Appendix A: ESA Statutes

LINK to Statute: <https://www.azleg.gov/arsDetail/?title=15>

## 15-2401. Definitions

(L22, Ch. 388, sec. 1)

In this chapter, unless the context otherwise requires:

1. “Annual education plan” means an initial individualized evaluation and subsequent annual reviews that are developed for a qualified student who meets the criteria specified in paragraph 7, subdivision (a), item (i), (ii) or (iii) of this section to determine ongoing annual eligibility through the school year in which the qualified student reaches twenty-two years of age and whether the student may be eligible pursuant to section 36-2981 and should be referred for eligibility determination.
2. “Curriculum” means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum, approved by the department.
3. “Department” means the department of education.
4. “Eligible postsecondary institution” means a community college as defined in section 15-1401, a university under the jurisdiction of the Arizona board of regents or an accredited private postsecondary institution.
5. “Parent” means a resident of this state who is the parent, stepparent or legal guardian of a qualified student.
6. “Qualified school” means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state or, for qualified students who reside within the boundaries of an Indian reservation in this state, that is located in an adjacent state and that is within two miles of the border of the state in which the qualified student resides, and that does not discriminate on the basis of race, color or national origin.
7. “Qualified student” means a resident of this state who:
  - (a) Is any of the following:
    - (i) Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 United States Code section 794).
    - (ii) Identified by a school district or by an independent third party pursuant to section 15-2403, subsection J as a child with a disability as defined in section 15-731 or 15-761.
    - (iii) A child with a disability who is eligible to receive services from a school district under section 15-763.
    - (iv) Attending a school or school district that was assigned a letter grade of D or F pursuant to section 15-241 for the most recent year in which letter grades were assigned or is currently eligible to attend kindergarten and resides within the attendance boundary of a school that was assigned a letter grade of D or F pursuant to section 15-241 for the most recent year in which letter grades were assigned. A child who meets the requirements of this item and who meets the income eligibility requirements for free and reduced-price lunches under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1793) is not subject to subdivision (b) of this paragraph.
    - (v) A previous recipient of a scholarship issued pursuant to section 15-891 or this section, unless the qualified student’s parent has been removed from eligibility in the program for failure to comply pursuant to section 15-2403, subsection C.

- (vi) A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.
  - (vii) A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to section 8-862 and the case plan is adoption or permanent guardianship.
  - (viii) A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship.
  - (ix) A child who is the sibling of a current or previous Arizona empowerment scholarship account recipient or of an eligible qualified student who accepts the terms of and enrolls in an Arizona empowerment scholarship account.
  - (x) A child who resides within the boundaries of an Indian reservation in this state as determined by the department of education or a tribal government.
  - (xi) A child of a parent who is legally blind or deaf or hard of hearing as defined in section 36-1941.
- (b) And, except as provided in subdivision (a), items (iv) and (vi) of this paragraph, who meets any of the following requirements:
- (i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least forty-five days of the current or prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an Arizona empowerment scholarship account. Kindergarten students who are enrolled in Arizona online instruction must receive one hundred hours of logged instruction to be eligible pursuant to this item. First, second and third grade students who are enrolled in Arizona online instruction must receive two hundred hours of logged instruction to be eligible pursuant to this item. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive two hundred fifty hours of logged instruction to be eligible pursuant to this item. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive two hundred seventy-five hours of logged instruction to be eligible pursuant to this item. High school students who are enrolled in Arizona online instruction must receive two hundred fifty hours of logged instruction to be eligible pursuant to this item.
  - (ii) Previously participated in an Arizona empowerment scholarship account.
  - (iii) Received a scholarship under section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester before attending a qualified school.
  - (iv) Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to section 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester before attending a qualified school.
  - (v) Attended a nonpublic school for pupils with disabilities in the prior year if placement at the school was approved by the department of education and contracted for by a public school district.
  - (vi) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state

or attended a program for preschool children with disabilities. For the purposes of this item, a child is eligible to enroll in a kindergarten program if the child is at least five years of age on January 1 of the current school year, is under seven years of age, has not already completed a kindergarten program and is not enrolled in grade one of a private or governmental school in the current year.

(vii) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.

8. "Treasurer" means the office of the state treasurer.

## 15-2401. Definitions

(L22, Ch. 44, sec. 9)

In this chapter, unless the context otherwise requires:

1. “Annual education plan” means an initial individualized evaluation and subsequent annual reviews that are developed for a qualified student who meets the criteria specified in paragraph 7, subdivision (a), item (i), (ii) or (iii) of this section to determine ongoing annual eligibility through the school year in which the qualified student reaches twenty-two years of age and whether the student may be eligible pursuant to section 36-2981 and should be referred for eligibility determination.
2. “Curriculum” means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum, approved by the department.
3. “Department” means the department of education.
4. “Eligible postsecondary institution” means a community college as defined in section 15-1401, a university under the jurisdiction of the Arizona board of regents or an accredited private postsecondary institution.
5. “Parent” means a resident of this state who is the parent, stepparent or legal guardian of a qualified student.
6. “Qualified school” means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state or, for qualified students who reside within the boundaries of an Indian reservation in this state, that is located in an adjacent state and that is within two miles of the border of the state in which the qualified student resides, and that does not discriminate on the basis of race, color or national origin.
7. “Qualified student” means a resident of this state who:
  - (a) Is any of the following:
    - (i) Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 United States Code section 794).
    - (ii) Identified by a school district or by an independent third party pursuant to section 15-2403, subsection I as a child with a disability as defined in section 15-731 or 15-761.
    - (iii) A child with a disability who is eligible to receive services from a school district under section 15-763.
    - (iv) Attending a school or school district that was assigned a letter grade of D or F pursuant to section 15-241 for the most recent year in which letter grades were assigned or is currently eligible to attend kindergarten and resides within the attendance boundary of a school that was assigned a letter grade of D or F pursuant to section 15-241 for the most recent year in which letter grades were assigned. A child who meets the requirements of this item and who meets the income eligibility requirements for free and reduced-price lunches under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1793) is not subject to subdivision (b) of this paragraph.
    - (v) A previous recipient of a scholarship issued pursuant to this section, unless the qualified student’s parent has been removed from eligibility in the program for failure to comply pursuant to section 15-2403, subsection C.
    - (vi) A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.

- (vii) A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to section 8-862 and the case plan is adoption or permanent guardianship.
  - (viii) A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship.
  - (ix) A child who is the sibling of a current or previous Arizona empowerment scholarship account recipient or of an eligible qualified student who accepts the terms of and enrolls in an Arizona empowerment scholarship account.
  - (x) A child who resides within the boundaries of an Indian reservation in this state as determined by the department of education or a tribal government.
  - (xi) A child of a parent who is legally blind or deaf or hard of hearing as defined in section 36-1941.
- (b) And, except as provided in subdivision (a), items (iv) and (vi) of this paragraph, who meets any of the following requirements:
- (i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least forty-five days of the current or prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an Arizona empowerment scholarship account. Kindergarten students who are enrolled in Arizona online instruction must receive two hundred hours of logged instruction to be eligible pursuant to this item. First, second and third grade students who are enrolled in Arizona online instruction must receive four hundred hours of logged instruction to be eligible pursuant to this item. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive five hundred fifty hours of logged instruction to be eligible pursuant to this item. High school students who are enrolled in Arizona online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item.
  - (ii) Previously participated in an Arizona empowerment scholarship account.
  - (iii) Received a scholarship under section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester before attending a qualified school.
  - (iv) Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to section 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester before attending a qualified school.
  - (v) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities.
  - (vi) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.

8. "Treasurer" means the office of the state treasurer.



### **15-2401.01. Definition of qualified student for Arizona empowerment scholarship accounts; expansion**

Notwithstanding section 15-2401, beginning in the 2022-2023 school year, in this chapter, unless the context otherwise requires, «qualified student» includes a resident of this state who both:

1. Is eligible to enroll in a public school in this state in any of the following:
  - (a) A preschool program for children with disabilities.
  - (b) A kindergarten program.
  - (c) Any of grades one through twelve.
2. Does not otherwise qualify for an Arizona empowerment scholarship account pursuant to this chapter.

## 15-2402. Arizona empowerment scholarship accounts; funds

- A. Arizona empowerment scholarship accounts are established to provide options for the education of students in this state.
- B. To enroll a qualified student for an Arizona empowerment scholarship account, the parent of the qualified student must sign an agreement to do all of the following:
  1. Use a portion of the Arizona empowerment scholarship account monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the Arizona empowerment scholarship account is allocated monies according to a transfer schedule other than quarterly transfers pursuant to section 15-2403, subsection G.
  2. Not enroll the qualified student in a school district or charter school and release the school district from all obligations to educate the qualified student. This paragraph does not:
    - (a) Relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to section 15-766.
    - (b) Require a qualified student to withdraw from a school district or charter school before enrolling for an Arizona empowerment scholarship account if the qualified student withdraws from the school district or charter school before receiving any monies in the qualified student's Arizona empowerment scholarship account.
    - (c) Prevent a qualified student from applying in advance for an Arizona empowerment scholarship account to be funded beginning the following school year.
  3. Not accept a scholarship from a school tuition organization pursuant to title 43 concurrently with an Arizona empowerment scholarship account for the qualified student in the same year a parent signs the agreement pursuant to this section.
  4. Use monies deposited in the qualified student's Arizona empowerment scholarship account only for the following expenses of the qualified student:
    - (a) Tuition or fees at a qualified school.
    - (b) Textbooks required by a qualified school.
    - (c) If the qualified student meets any of the criteria specified in section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as determined by a school district or by an independent third party pursuant to section 15-2403, subsection J, the qualified student may use the following additional services:
      - (i) Educational therapies from a licensed or accredited practitioner or provider, including and up to any amount not covered by insurance if the expense is partially paid by a health insurance policy for the qualified student.
      - (ii) A licensed or accredited paraprofessional or educational aide.
      - (iii) Tuition for vocational and life skills education approved by the department.
      - (iv) Associated goods and services that include educational and psychological evaluations, assistive technology rentals and braille translation goods and services approved by the department.
    - (d) Tutoring or teaching services provided by an individual or facility accredited by a state, regional or national accrediting organization.
    - (e) Curricula and supplementary materials.

- (f) Tuition or fees for a nonpublic online learning program.
- (g) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination or any exams related to college or university admission.
- (h) Tuition or fees at an eligible postsecondary institution.
- (i) Textbooks required by an eligible postsecondary institution.
- (j) Fees to manage the Arizona empowerment scholarship account.
- (k) Services provided by a public school, including individual classes and extracurricular programs.
- (l) Insurance or surety bond payments.
- (m) Uniforms purchased from or through a qualified school.
- (n) If the qualified student meets the criteria specified in section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and if the qualified student is in the second year prior to the final year of a contract executed pursuant to this article, costs associated with an annual education plan conducted by an independent evaluation team. The department shall prescribe minimum qualifications for independent evaluation teams pursuant to this subdivision and factors that teams must use to determine whether the qualified student shall be eligible to continue to receive monies pursuant to this article through the school year in which the qualified student reaches twenty-two years of age. An independent evaluation team that provides an annual education plan pursuant to this subdivision shall submit a written report that summarizes the results of the evaluation to the parent of the qualified student and to the department on or before July 31. The written report submitted by the independent evaluation team is valid for one year. If the department determines that the qualified student meets the eligibility criteria prescribed in the annual education plan, the qualified student is eligible to continue to receive monies pursuant to this article until the qualified student reaches twenty-two years of age, subject to annual review. A parent may appeal the department's decision pursuant to title 41, chapter 6, article 10. As an addendum to a qualified student's final-year contract, the department shall provide the following written information to the parent of the qualified student:
  - (i) That the qualified student will not be eligible to continue to receive monies pursuant to this article unless the results of an annual education plan conducted pursuant to this subdivision demonstrate that the qualified student meets the eligibility criteria prescribed in the annual education plan.
  - (ii) That the parent is entitled to obtain an annual education plan pursuant to this subdivision to determine whether the qualified student meets the eligibility criteria prescribed in the annual education plan.
  - (iii) A list of independent evaluation teams that meet the minimum qualifications prescribed by the department pursuant to this subdivision.
- (o) Public transportation services in this state, including a commuter pass for the qualified student, or transportation network services as defined in section 28-9551 between the qualified student's residence and a qualified school in which the qualified student is enrolled.
- (p) Computer hardware and technological devices primarily used for an educational purpose. For the purposes of this subdivision, «computer hardware and technological devices»:
  - (i) Includes calculators, personal computers, laptops, tablet devices, microscopes, telescopes and printers.
  - (ii) Does not include entertainment and other primarily noneducational devices, including

televisions, telephones, video game consoles and accessories, and home theatre and audio equipment.

5. Not file an affidavit of intent to homeschool pursuant to section 15-802, subsection B, paragraph 2 or 3.
6. Not use monies deposited in the qualified student's account for any of the following:
  - (a) Computer hardware or other technological devices, except as otherwise allowed under paragraph 4, subdivision (c) or (p) of this subsection.
  - (b) Transportation of the pupil, except for transportation services described in paragraph 4, subdivision (o) of this subsection.
- C. In exchange for the parent's agreement pursuant to subsection B of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district, or if the child is currently eligible to attend a preschool program for children with disabilities, a kindergarten program or any of grades one through twelve, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an Arizona empowerment scholarship account an amount that is equivalent to ninety percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for that particular student if that student were attending a charter school.
- D. The department of education empowerment scholarship account fund is established consisting of monies appropriated by the legislature. The department shall administer the fund. Monies in the fund are subject to legislative appropriation. Monies in the fund shall be used for the department's costs in administering Arizona empowerment scholarship accounts under this chapter. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. If the number of Arizona empowerment scholarship accounts significantly increases after fiscal year 2020-2021, the department may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113. The department shall list monies in the fund as a separate line item in its budget estimate.
- E. The state treasurer empowerment scholarship account fund is established consisting of monies appropriated by the legislature. The state treasurer shall administer the fund. Monies in the fund shall be used for the state treasurer's costs in administering the Arizona empowerment scholarship accounts under this chapter. If the number of Arizona empowerment scholarship accounts significantly increases after fiscal year 2020-2021, the state treasurer may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113. Monies in the fund are subject to legislative appropriation. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. The state treasurer shall list monies in the fund as a separate line item in its budget estimate.
- F. A parent must renew the qualified student's Arizona empowerment scholarship account on an annual basis.
- G. Notwithstanding any changes to the student's multidisciplinary evaluation team plan, a student who has previously qualified for an Arizona empowerment scholarship account remains eligible to apply for renewal until the student finishes high school.
- H. If a parent does not renew the qualified student's Arizona empowerment scholarship account for a period of three academic years, the department shall notify the parent that the qualified student's account will be closed in sixty calendar days. The notification must be sent through certified mail, email and telephone, if applicable. The parent has sixty calendar days to renew the qualified student's Arizona empowerment scholarship account. If the parent chooses not to renew or does not respond

in sixty calendar days, the department shall close the account and any remaining monies shall be returned to the state.

- I. A signed agreement under this section constitutes school attendance required by section 15-802.
- J. A qualified school or a provider of services purchased pursuant to subsection B, paragraph 4 of this section may not share, refund or rebate any Arizona empowerment scholarship account monies with the parent or qualified student in any manner.
- K. Notwithstanding subsection H of this section, on the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, but not before this time as long as the account holder continues using a portion of account monies for eligible expenses each year and is in good standing, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining monies shall be returned to the state.
- L. Monies received pursuant to this article do not constitute taxable income to the parent of the qualified student.

### **15-2403. Arizona empowerment scholarship accounts; administration; appeals; audit; rules; policy handbook**

- A. The treasurer may contract with private financial management firms to manage Arizona empowerment scholarship accounts.
- B. The department shall conduct or contract for annual audits of Arizona empowerment scholarship accounts to ensure compliance with section 15-2402, subsection B, paragraph 4. The department shall also conduct or contract for random, quarterly and annual audits of Arizona empowerment scholarship accounts as needed to ensure compliance with section 15-2402, subsection B, paragraph 4.
- C. The department may remove any parent or qualified student from eligibility for an Arizona empowerment scholarship account if the parent or qualified student fails to comply with the terms of the contract or applicable laws, rules or orders or knowingly misuses monies or knowingly fails to comply with the terms of the contract with intent to defraud and shall notify the treasurer. The department shall notify the treasurer to suspend the account of a parent or qualified student and shall notify the parent or qualified student in writing that the account has been suspended and that no further transactions will be allowed or disbursements made. The notification shall specify the reason for the suspension and state that the parent or qualified student has fifteen days, not including weekends, to respond and take corrective action. If the parent or qualified student refuses or fails to contact the department, furnish any information or make any report that may be required for reinstatement within the fifteen-day period, the department may remove the parent or qualified student pursuant to this subsection.
- D. A parent may appeal to the state board of education any administrative decision the department makes pursuant to this article, including determinations of allowable expenses, removal from the program or enrollment eligibility. The department shall notify the parent in writing that the parent may appeal any administrative decision under this article and the process by which the parent may appeal at the same time the department notifies the parent of an administrative decision under this article. The state board of education shall establish an appeals process, and the department shall post this information on the department's website in the same location as the policy handbook developed pursuant to subsection K of this section.
- E. A parent may represent himself or herself or designate a representative, not necessarily an attorney, before any appeals hearing held pursuant to this section. Any such designated representative who is not an attorney admitted to practice may not charge for any services rendered in connection with such a hearing. The fact that a representative participated in the hearing or assisted the account holder is not grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
- F. The state board of education may refer cases of substantial misuse of monies to the attorney general for the purpose of collection or for the purpose of a criminal investigation if the state board of education obtains evidence of fraudulent use of an account.
- G. The department shall make quarterly transfers of the amount calculated pursuant to section 15-2402, subsection C to the treasurer for deposit in the Arizona empowerment scholarship account of each qualified student, except the department may make transfers according to another transfer schedule if the department determines a transfer schedule other than quarterly transfers is necessary to operate the Arizona empowerment scholarship account.
- H. The department shall accept applications between July 1 and June 30 of each year. The department shall enroll and issue an award letter to eligible applicants within thirty days after receipt of a completed application and all required documentation. On or before May 30 of each year, the department shall furnish to the joint legislative budget committee an estimate of the amount required to fund Arizona empowerment scholarship accounts for the following fiscal year. The department shall include in

its budget request for the following fiscal year the amount estimated pursuant to section 15-2402, subsection C for each qualified student.

- I. The state board of education may adopt rules and policies necessary to administer Arizona empowerment scholarship accounts, including rules and policies:
  1. For establishing an appeals process pursuant to subsection D of this section.
  2. For conducting or contracting for examinations of the use of account monies.
  3. For conducting or contracting for random, quarterly and annual reviews of accounts.
  4. For establishing or contracting for the establishment of an online anonymous fraud reporting service.
  5. For establishing an anonymous telephone hotline for fraud reporting.
  6. That require a surety bond or insurance for account holders.
- J. The department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c). If during any period on or after January 1, 2023 the department fails to ensure that a contract with an independent third party is in effect, during that period:
  1. The county school superintendent of each county may approve a list of independent third parties within the county whose evaluation may be used to determine whether a student who resides within the county is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c).
  2. If the county school superintendent of a county does not provide a list of approved independent third parties within ninety days after the beginning of any period during which the department does not have a contract with an independent third party in effect as described in this subsection, the parent of a student who resides within the county has the right to obtain an independent educational evaluation from a qualified examiner to determine whether the student is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c). The expense for an educational evaluation undertaken pursuant to this paragraph shall be provided by the school district within which the student resides and that serves the grade level of the student. For the purposes of this paragraph, «qualified examiner» means a licensed physician, psychiatrist or psychologist.
- K. On or before July 1 of each year, the department shall develop an applicant and participant handbook that includes information relating to policies and processes of Arizona empowerment scholarship accounts. The policy handbook shall comply with the rules adopted by the state board of education pursuant to this section. The department shall post the handbook on its website.
- L. Except for cases in which the attorney general determines that a parent or account holder has committed fraud, any expenditure from an Arizona empowerment scholarship account for a purchase that is deemed ineligible pursuant to section 15-2402 and that is subsequently repaid by the parent or account holder shall be credited back to the Arizona empowerment scholarship account balance within thirty days after the receipt of payment.
- M. If, in response to an appeal of an administrative decision made by the department, the state board of education issues a stay of an Arizona empowerment scholarship account suspension pursuant to rules adopted by the board, the department may not withhold funding or contract renewal for the account holder on account of the appealed administrative decision during the stay unless directed by the board to do so.

#### **15-2404. State control over nonpublic schools; prohibition; application**

- A. This chapter does not permit any government agency to exercise control or supervision over any nonpublic school or homeschool.
- B. A qualified school that accepts a payment from a parent pursuant to this chapter is not an agent of the state or federal government.
- C. A qualified school shall not be required to alter its creed, practices, admissions policy or curriculum in order to accept students whose parents pay tuition or fees from an empowerment scholarship account pursuant to this chapter in order to participate as a qualified school.
- D. In any legal proceeding challenging the application of this chapter to a qualified school, the state bears the burden of establishing that the law is necessary and does not impose any undue burden on qualified schools.



### **15-2405. Arizona empowerment scholarship accounts parent oversight committee; membership; duties**

- A. The Arizona empowerment scholarship accounts parent oversight committee is established consisting of six members who are parents of qualified students who receive Arizona empowerment scholarship account monies under this chapter. The members shall be appointed as follows:
  - 1. One member who is appointed by the president of the senate.
  - 2. One member who is appointed by the speaker of the house of representatives.
  - 3. One member who is appointed by the minority leader of the senate.
  - 4. One member who is appointed by the minority leader of the house of representatives.
  - 5. Two members who are appointed by the governor.
- B. At a minimum, the members appointed pursuant to subsection A, paragraphs 1, 2, 3 and 4 of this section shall be parents of qualified students who both:
  - 1. Meet any of the criteria specified in section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as determined by an independent third party pursuant to section 15-2403, subsection I.
  - 2. Use monies deposited in the qualified student's Arizona empowerment scholarship account for expenses as prescribed in section 15-2402, subsection B, paragraph 4, subdivision (c).
- C. The members of the committee shall annually elect a chairperson from among its members.
- D. The committee shall meet at least once each calendar quarter. A majority of the membership constitutes a quorum for the transaction of business.
- E. The committee shall collaborate and interact with the department, the state board of education, the attorney general and, as appropriate, the auditor general to review all of the following:
  - 1. The implementation of policies and procedures relating to the Arizona empowerment scholarship account program under this chapter and the program's effectiveness.
  - 2. The concerns of parents of qualified students who receive Arizona empowerment scholarship account monies under this chapter.
  - 3. The work of the ombudsman-citizens aide on complaints associated with administering the Arizona empowerment scholarship account program.
- F. A parent may not serve on the committee if any of the following applies:
  - 1. The parent is an employee or the relative of an employee of the department.
  - 2. The parent receives monies or compensation from or is otherwise associated in any manner with a lobbyist organization, a school choice advocacy group or a private financial management firm that manages Arizona empowerment scholarship accounts pursuant to section 15-2403, subsection A.
  - 3. The parent provides goods or services to qualified students that are purchased pursuant to section 15-2402, subsection B, paragraph 4.

## Appendix B: ESA Rules

LINK: [https://azsbe.az.gov/sites/default/files/media/01-23-2023%20ESA%20RULES\\_1.pdf](https://azsbe.az.gov/sites/default/files/media/01-23-2023%20ESA%20RULES_1.pdf)

*Opened September 26, 2022*

*Changes Approved - January 23, 2023*

### **R7-2-1501. Definitions**

In this Article, unless the context otherwise specifies:

1. “Administratively complete” means an ESA application that contains all components required by statute or this Article.
2. “Board” means the State Board of Education.
3. “Curriculum” means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum, approved by the Department.
4. “Department” means the Arizona Department of Education.
5. “Eligible postsecondary institution” means a community college as defined in A.R.S. § 15- 1401, a university under the jurisdiction of the Arizona Board of Regents, or an accredited private postsecondary institution.
6. “Empowerment scholarship account” or “ESA” means an account administered by the Department and funded by the state to provide options for the education of qualified students pursuant to A.R.S. § 15-2401 et seq.
7. “Hearing Officer” means a non-partial representative with either at least three years of verified experience in the practice of law or at least one year of verified experience in conducting hearings, who oversees hearings pursuant to this Article.
8. “Informal Settlement Conference” means a meeting between the Department and the Parent in an attempt to settle the appeal prior to an appeal hearing. The Board and the Hearing Officer do not attend.
9. “Misuse of funds” means the use of ESA funds on goods or services not permitted by A.R.S. § 15-2402, this Article or the Department pursuant to R7-2-1507.
10. “Parent” means a resident of this state who is the parent, stepparent, legal guardian, or account holder of a qualified student.
11. “Program” means the Empowerment Scholarship Account Program.
12. “Qualified school” means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state or, for qualified students who reside within the boundaries of an Indian reservation in this state, and that is located in an adjacent state and that is within two miles of the border of the state in which the qualified student resides, and that does not discriminate on the basis of race, color or national origin.
13. “Qualified student” means a resident of this state who:
  - a. Is any of the following:
    - i. Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 U.S.C. 794);
    - ii. Identified by a school district or by an independent third party pursuant to A.R.S. § 15-2403(J)

- as a child with a disability as defined in A.R.S. § 15-731 or § 15-761;
- iii. A child with a disability who is eligible to receive services from a school district under A.R.S. § 15-763;
  - iv. Attending a school or school district that was assigned a letter grade of D or F pursuant to A.R.S. § 15-241 for the most recent year in which letter grades were assigned or is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that was assigned a letter grade of D or F pursuant to A.R.S. § 15-241 for the most recent year in which letter grades were assigned. A child who meets the requirements of this item and who meets the income eligibility requirements for free and reduced-price lunches under the National School Lunch and Child Nutrition Acts (42 U.S.C. 1751 through 1793) is not subject to R7-2- 1501(12)(b);
  - v. A previous recipient of a scholarship issued pursuant to A.R.S. § 15-891 or this Section, unless the qualified student's parent has been removed from eligibility in the Program for failure to comply pursuant to A.R.S. § 15-2403(C);
  - vi. A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this subsection is not subject to R7-2-1501(12)(b);
  - vii. A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to A.R.S. § 8-862 and the case plan is adoption or permanent guardianship;
  - viii. A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship;
  - ix. A child who is the sibling of a current or previous ESA recipient or of an eligible qualified student who accepts the terms of and enrolls in an ESA;
  - x. A child who resides within the boundaries of an Indian reservation in this state as determined by the Department or a tribal government; or
  - xi. A child of a parent who is legally blind or deaf or hard of hearing as defined in A.R.S. § 36-1941.
- b. And, except as provided in R7-2-1501(12)(a)(iv) and R7-2-1501(12)(a)(vi), who meets any of the following requirements:
- i. Attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 45 days of the current or prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an ESA. Kindergarten students who are enrolled in Arizona online instruction must receive 100 hours of logged instruction to be eligible pursuant to this subsection. First, second and third grade students who are enrolled in Arizona online instruction must receive 200 hours of logged instruction to be eligible pursuant to this subsection. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive 250 hours of logged instruction to be eligible pursuant to this subsection. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive 275 hours of logged instruction to be eligible pursuant to this subsection. High school students who are enrolled in Arizona online instruction must receive 250 hours of logged instruction to be eligible pursuant to this subsection. For the purposes of this subsection, students may accumulate days of enrollment and hours of instruction in the current or prior fiscal year, or a combination thereof;
  - ii. Previously participated in an ESA;

- iii. Received a scholarship under A.R.S. § 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 90 days of the prior fiscal year or one full semester before attending a qualified school;
  - iv. Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to A.R.S. § 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to A.R.S. § 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 90 days of the prior fiscal year or one full semester prior to attending a qualified school;
  - v. Attended a nonpublic school for pupils with disabilities in the prior year if placement at the school was approved by the Department and contracted for by a public school district.
  - vi. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities. For the purposes of this item, a child is eligible to enroll in a kindergarten program if the child is at least five years of age on January 1 of the current school year, is under seven years of age, and has not already completed a kindergarten program and is not enrolled in grade one of a private or governmental school in the current year; or
  - vii. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.
14. "Stay" means a Parent may have access to a terminated ESA account pending the resolution of their appeal.
15. "Substantively complete" means an ESA application that meets all substantive criteria required by statute or this Article.
16. "Supplemental materials" referenced in A.R.S. § 15-2401(2), means relevant materials directly related to the course of study for which they are being used that introduce content and instructional strategies or that enhance, complement, enrich, extend or support the curriculum.
17. "Treasurer" means the Office of the State Treasurer.
18. Unless otherwise specifically defined herein, all defined terms shall have the same meaning as those ascribed to them in the A.R.S., Title 41.

### **R7-2-1501.01. Expanded Qualified Student Definition**

Notwithstanding A.R.S. § 15-2401 and R7-2-1501, beginning in the 2022-2023 school year, unless the context otherwise requires, “Qualified Student” includes a resident of this state who both:

1. Is eligible to enroll in a public school in this state in any of the following:
  - a. A preschool program for children with disabilities,
  - b. A kindergarten program, or
  - c. Any of grades 1 through 12.
2. Does not otherwise qualify for an Arizona Empowerment Scholarship Account pursuant to this Article.

## **R7-2-1502. General Provisions**

- A. This Section is adopted pursuant to A.R.S. § 15-2403.
- B. The Department and the Treasurer shall administer and provide general supervision and oversight of the Program pursuant to A.R.S. § 15-2401 et seq and this Article.
- C. The Department and the Board shall include intermediate Saturday, Sundays, and legal holidays when computing days under this Article. If the final day of a deadline established pursuant to this Article falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline.
- D. Unless otherwise specified, the Department shall serve a notice or decision that removes a parent from the Program, through personal delivery, first class mail, or certified mail to the parent's last address with the Department, and also by any other method or methods that are reasonably determined to give actual notice to the parent, including electronic mail, text message, phone call, or through an online portal. Each parent shall provide the Department with the parent's mailing address, home address, phone number and email and shall inform the Department of any change of mailing address, home address, phone number or email within 30 days of the change. For all other communications that do not contain notice of removal from the Program, the Board and the Department may communicate through any method or methods, including first class mail, certified mail, electronic mail, text message, phone call or through an online portal.
- E. A document is filed with the Board or the Department on the date it is received by the Board or the Department, as established by the Board's or the Department's date stamp on the face of the document. A notice or decision containing an appealable action issued by the Board or the Department pursuant to this Article is served on a party as follows:
  - 1. On the date it is personally served,
  - 2. Five days after it is mailed by first class mail, or
  - 3. On the date of the return receipt if it is mailed by certified mail.

## **R7-2-1503. Department Responsibilities**

The Department shall:

1. On or before March 1 of each year, provide the Board with a handbook, developed in consultation with parents of children on the Program, that includes information relating to policies and processes of ESAs and complies with A.R.S. § 15-2401 et seq and this Article. The Board shall adopt the handbook on or before May 1 of each year. The Board shall limit substantive changes to the handbook to once every three years. The Board may approve changes to the handbook more frequently than every three years to conform and comply with changes to statute or this Article or at the Board's discretion. The handbook shall be posted on the Department's website and distributed to parents and shall clearly identify changes from the prior version, and include the date and time the new handbook was changed;
  - a. the yearly handbook, when adopted, shall become effective July 1st of each fiscal year.
  - b. If the yearly handbook is adopted after July 1st, the newly adopted handbook would become effective immediately following adoption.
2. Establish a dedicated call center for exclusive use for the ESA Program that works in conjunction with the Exceptional Student Services division of the Department or its successor division. Subject to review and approval by the Board, the Department may contract with a third party to operate the call center;
3. Implement customer service performance management policies, procedures, and metrics;
4. Provide training to parents who use the private financial management firm contracted to assist with financial management of the program;
5. Provide a quarterly report to the Board on the ESA Program, including:
  - a. The number of students in the program disaggregated by eligibility, grade level and the school district or charter school associated with each student;
    - i. The total number of special needs students by grade level,
    - ii. The number of special needs students by disability category, and
  - b. The annual award amount associated with each student;
  - c. The number of ESA applications received, approved and denied in the preceding quarter, including the justification for the denied applications;
  - d. The number of applications processed within 30 days of receipt and the number of administratively incomplete applications. Provide the reasons the administratively incomplete applications were not approved;
  - e. A summary of any parent input or feedback collected pursuant to R7-2-1503(6) and how the Department is responding to concerns submitted as part of the process;
  - f. Information on the private financial management firm contracted to assist with financial management of the Program, including:
    - i. The number and eligibility type of accounts utilizing the firm,
    - ii. The number of providers and vendors on the firm's platform,
    - iii. Communications and training provided to parents,
    - iv. Concerns from parents submitted to the Department, the Treasurer and the private financial management firm and how the Department, Treasurer and private financial management firm are addressing the concerns, and

- g. Information regarding appeals filed with the Board that were resolved prior to a hearing;
- h. Information related to the audits completed, including:
  - i. scope of the audit(s),
  - ii. data and narratives on audit findings from the Quarter,
  - iii. data and narratives of finding outcomes from the Quarter, and
- i. Summary of all outages within the Department, private financial management firm, Department of Treasury, GAO, ADOA, etc. that cause a delay of the ESA programs
- j. Information related to MCC Codes, including:
  - i. Cumulative list of all MCC code expansions requested and specific reason for each denial,
  - ii. Cumulative list of all MCC code expansions and exceptions granted by the Department, and
- k. Data related reimbursement submissions, including:
  - i. The average number of days it takes a reimbursement submission to be assigned to a Department staffer,
  - ii. The average number of days it takes a reimbursement submission to be reviewed by a Department staffer,
  - iii. The average number of days it takes a reimbursements submission to be approved by a Department staffer, and
- l. Provide data related to Help Desk Tickets, including:
  - i. The quantity of help desk tickets not responded to within three business days,
  - ii. The quantity of help desk tickets prematurely closed and reopened, and
- m. Provide data related to the escalation of Help Desk Tickets, including:
  - i. The quantity of escalated helpdesk tickets by category type,
  - ii. The average number of days to resolution,
  - iii. A summary of resolutions, and
- n. Provide updates on the bidding process for all eligible Department contracts, including:
  - i. A.R.S. §15-2403(A): The treasurer may contract with private financial management firms to manage Arizona empowerment scholarship accounts,
  - ii. A.R.S. §15-2403(B): The Department shall conduct or contract for annual audits of Arizona empowerment scholarship accounts to ensure compliance with section § 15-2402, subsection B, paragraph 4,
  - iii. A.R.S. §15-2403(B): The Department shall also conduct or contract for random, quarterly and annual audits of Arizona empowerment scholarship accounts as needed to ensure compliance with section § 15-2402, subsection B, paragraph 4,
  - iv. A.R.S. §15-2403(J): The Department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to section § 15-2402, subsection B, paragraph 4, subdivision (c),
  - v. R7-2-1503(2): Subject to review and approval by the Board, the Department may contract with a third party to operate the call center,
  - vi. Any other eligible Department contracts, and
- o. The date of the most recent update to the online database of approved expenses and disallowed expenses. A summarization of the changes made;



- p. An approximation of the most common award amount. Provide the method(s) and formula(s) utilized to calculate award amounts; and
  - q. Any other information the Board requests.
6. Establish and provide to the Board a process to collect parent input and feedback regarding the Program.

#### **R7-2-1504. Application and Account Activation**

- A. The Department shall accept applications to participate in the Program between July 1 and June 30 of each year.
- B. The Department shall provide information for prospective applicants on eligibility.
- C. The Department shall enroll and issue an award letter to eligible applicants within 30 days after receipt of a completed application and all required documentation. The award letter shall include information on how to activate the account and the amount of ESA funding the student will receive.
- D. Within 30 days of issuing the award letter, the Department shall issue the contract to eligible applicants.
- E. Prior to issuing a notice of a denied application, the Department shall provide notice describing the administrative or substantive incompleteness of the application and provide the applicant 30 days to provide the missing documentation or information. The Department shall include the justification for the denial and, if the application was substantively incomplete, the Department shall include the applicant's right to appeal.
- F. Pursuant to R7-2-1511, a person who has had an application denied due to being substantively incomplete may file a written request for a hearing within 30 days after being served the notice of denial. Administratively incomplete applications are not appealable.
- G. If the Board finds in favor of a parent who appealed a denied application, the Department shall expedite the contract and funding to the parent to the extent possible.

## **R7-2-1505. Contract Between Parent and Department**

- A. To enroll a qualified student in an ESA, a parent of the qualified student shall sign a contract with the Department. The parent:
1. Shall use a portion of the ESA monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the ESA is allocated monies according to a transfer schedule other than quarterly transfers pursuant to A.R.S. § 15-2403(F). This subsection does not require a parent to spend a portion of ESA monies on each subject every quarter;
  2. Shall not enroll the qualified student in a school district or charter school, and shall release the school district from all obligations to educate the qualified student. This subsection does not:
    - a. Relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to A.R.S. § 15-766, or
    - b. Require a qualified student to withdraw from a school district or charter school before enrolling for an ESA if the qualified student withdraws from the school district or charter school before receiving any monies in the qualified student's ESA.
    - c. Prevent a qualified student from applying in advance for an ESA to be funded beginning the following school year.
  3. Shall not accept a scholarship from a school tuition organization pursuant to A.R.S., Title 43 concurrently with an ESA for the qualified student in the same year a parent signs the contract pursuant to this Section;
  4. Shall use the monies deposited in the qualified student's ESA only for the expenses listed in A.R.S. § 15-2402(B)(4);
  5. Shall not file an affidavit of intent to homeschool pursuant to A.R.S. § 15-802(B)(2) or (3);
  6. Shall not use monies deposited in the qualified student's account for any of the following:
    - a. Computer hardware or other technological devices, except as provided in R7-2- 1505(B) and § 15-2402(B)(4)(p); or
    - b. Transportation of the pupil, except for transportation services described A.R.S. § 15- 2402(B)(4)(o).
  7. Shall submit expenses and documentation as required in R7-2-1508.
- B. If a qualified student meets any of the criteria specified in A.R.S. § 15-2401(7)(a)(i), (ii), or (iii), as determined by a school district or by an independent third party under A.R.S. § 15- 2403(J), the qualified student may use the following additional services:
1. Educational therapies from a licensed or accredited practitioner or provider including and up to any amount not covered by insurance if the expense is partially paid by a health insurance policy for the qualified students,
  2. A licensed or accredited paraprofessional or educational aide,
  3. Tuition for vocational and life skills education approved by the department, and
  4. Associated goods and services that include, but are not limited to, educational and psychological evaluations, assistive technology rentals and braille translation goods and services approved by the Department. Associated goods as described in this subsection may include computer hardware or technological devices that assist in accessing educational materials or services and that are associated with the qualified student's needs. Parents that are seeking to use Program funds for an associated good or service pursuant to this subsection shall provide to the Department the special

education course of study, service or educational need that the good or service is associated with or may provide the Department with the most current individualized education program, evaluation, or a letter from a qualified service provider. Parents are not advised to contact their districts seeking to update or change their students' individualized education programs or request special education reevaluations in order to make ESA purchases.

5. Pursuant to A.R.S. §15-2403(J)(2), the Department shall accept independent educational evaluations that are obtained by the parent of a student and performed by a qualified examiner. A "qualified examiner" is defined in A.R.S. §15-2403(J)(2). A "parent" is defined in R7-2-1501. Such evaluations shall not be denied based solely on the age of the evaluation.

## **R7-2-1506. Contract Renewal**

- A. A parent is eligible to renew an ESA if:
  - 1. Pursuant to R7-2-1508, the parent submitted expenses and documentation or submitted quarterly attestations;
  - 2. If required, the Department approved expenses pursuant to R7-2-1508;
  - 3. The parent spent monies to provide an education in at least reading, grammar, mathematics, social studies, and science for the contract year pursuant to R7-2-1505(A)(1); and
  - 4. The parent does not owe the Department monies for disallowed expenses. A parent remains eligible to renew an ESA if the parent has an unresolved appeal regarding a disallowed expense.
- B. A student with a disability as defined in A.R.S. § 15-2401(7)(a)(i), (ii), or (iii), as determined by a school district or by an independent third party under A.R.S. § 15-2403(J), may continue on the Program until the end of the school year in which the student reaches the age of 22, if the student or the parent provides documentation to the Department that demonstrates the student has not finished high school.
- C. A parent shall renew ESAs on an annual basis as follows:
  - 1. The Department shall provide renewal contracts on or before May 1 to each parent who meets R7-2-1506(A) of this Section;
  - 2. Each parent shall submit the renewal contract to the Department on or before June 30; and
  - 3. Within 30 days of receipt, the Department shall notify each parent of the renewal of the contract. The Department may provide notification through an online portal.
- D. If a parent does not submit a renewal contract pursuant to R7-2-1506(C), the Department shall temporarily close the account and cease funding to the ESA until the parent submits the appropriate signed renewal contract. During the temporary closure, funding shall remain in the account until the parent signs the appropriate renewal contract in a format provided by the Department or the Department closes the ESA pursuant to R7-2-1506(E).
- E. After an ESA has been temporarily closed for non-renewal pursuant to R7-2-1506(D), a parent may submit the appropriate signed renewal contract in a format provided by the Department to reactivate the ESA. If a parent does not submit a renewal contract for a period of three academic years, the Department shall provide notice through certified mail, email and telephone, if applicable, that the ESA will be closed. To renew the ESA, the parent shall submit a renewal contract within 60 days of receipt of the notification. If the parent does not submit a renewal contract within 60 days, the Department shall close the ESA and return any remaining monies in the ESA to the state general fund. Notwithstanding R7-2-1506(C)(1) and (2), a parent may submit the appropriate signed renewal contract between July 1 and June 30 for the purposes of this subsection.
- F. Notwithstanding R7-2-1506(E), on the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, but not before this time as long as the account holder continues using a portion of account monies for eligible expenses each year and is in good standing, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining monies shall be returned to the state general fund.
- G. Pursuant to R7-2-1511, a parent whose contract was not renewed by the Department may file a written request for a hearing within 30 days after being served the notice of the non-renewal.
- H. At the written request of a parent, the Department shall extend the renewal contract timeframe for up

to 30 days from the deadline prescribed in this Section if the parent demonstrates hardship, including an act of God or similar circumstance that prevented the parent from responding by the deadline.

## **R7-2-1507. Use of Funds**

- A. The Department shall establish and maintain a database of approved expenses and disallowed expenses for the current and upcoming fiscal years pursuant to A.R.S. § 15-2401 et seq, and this Article. The Department shall make the database available to parents online and disaggregate the approved expenses by eligibility category.
- B. The Department shall establish a process to review an expense before making an administrative decision to deny the expense. The Department shall provide a copy of the process to the Board and include the process in the handbook adopted pursuant to R7-2-1503.
- C. The Department shall not request repayment for an expense it has approved for a specific ESA. The Department shall treat similar expenditures by similarly situated account holders in the same manner. This Section does not create authorization for an account holder to expend funds in a manner not permitted by statute.
- D. The Department shall consider all account holder requests for MCC Code expansions. Any MCC code exceptions granted to one parent, shall be extended to all parents within 5 business days.
- E. Pursuant to R7-2-1511, a parent who has had an expense disallowed by the Department may file a written request for a hearing within 30 days after being served the notice of the disallowed expense.

## **R7-2-1508. Review of Expenses**

- A. The Department may conduct or contract for random or annual audits as needed to ensure monies are used only for expenses that were approved or allowed at the time the expense was made. The Department shall use record retention requirements that were in place at the time the expense was made to determine compliance. The Department may only audit account activity from the last two fiscal years, including the current fiscal year.
- B. The Department shall provide annual notice to each parent of when and how the Department will conduct reviews of expenses and audits. The notice may be provided in the handbook adopted pursuant to R7-2-1503. Notwithstanding any other Section, the Department may review expenses less frequently using a risk-based approach, if the Department provides notice to parents and the Board pursuant to this Section.
- C. Parents shall submit expenses that shall include, but are not limited to, the following:
  - 1. Invoices for each vendor, individual or product;
  - 2. Invoices for private schools, which shall include the following:
    - a. The name of the qualified student,
    - b. The name of the private school,
    - c. The transaction date,
    - d. Tuition or fee amounts, and
    - e. Total charged to the card, and for reimbursements, proof of method of payment;
  - 3. Invoices for tutors, paraprofessionals, service type or therapists which shall include:
    - a. Name of the qualified student,
    - b. The name of one of the following: the vendor, facility, therapist or tutor,
    - c. A description of the services,
    - d. The transaction date,
    - e. The rate amounts,
    - f. Any processing fees, and
    - g. Total charged to the card, and for reimbursements, proof of method of payment.
- D. For debit card transactions, a parent shall submit all debit card transaction expense receipts to the Department as follows:
  - 1. On or before October 31 for quarter one,
  - 2. On or before January 31 for quarter two,
  - 3. On or before April 30 for quarter three, and
  - 4. On or before July 31 for quarter four.
- E. The Department shall review and approve expenses and make its next quarterly disbursement of funds within 30 days of the deadlines prescribed in R7-2-1508(D).
- F. On receipt and approval of debit card transaction expense receipts or reimbursements, the Department shall notify the parent through electronic mail or through an online portal. The Department shall not withhold funds for a subsequent quarter if it fails to review expenses, debit card transaction expense receipts or reimbursements within 30 days of the deadline. A parent may submit corrected debit card transaction expense receipts any time prior to the quarterly submission deadline.
- G. If a parent fails to submit debit card transaction expense receipts, if required, by the deadlines prescribed in R7-2-1508(D) or submits incomplete debit card transaction expense receipts or reimbursements,



the Department shall:

1. Serve notice to the parent of the deficiencies,
  2. Provide the parent 15 days from the date of receipt of the notice to submit complete debit card transaction expense receipts or reimbursements, and
  3. Review debit card transaction expense receipts or reimbursements submitted pursuant to this subsection within five days of receipt from the parent.
- H. Following the 15 day period provided in R7-2-1508(G)(2), the Department may remove a parent from the Program for failing to submit required debit card transaction expense receipts or failing to correct the deficiencies of a debit card transaction expense receipt.
- I. Pursuant to R7-2-1511, a parent that has been removed from the Program may file a written request for a hearing within 30 days after being served the notice of removal. Except in cases in which the Board has found misuse of funds or fraud pursuant to R7-2-1509, the Department shall not withhold funding to one qualified student's ESA due to deficiencies in the expense reporting of a sibling's account.
- J. At the written request of a parent, the Department shall extend the deadlines prescribed in R7-2-1508(D) for up to 30 days from the deadlines prescribed in this Section if the parent demonstrates hardship, including an act of God or similar circumstance that prevented the parent from responding by the deadline.
- K. If a parent does not make any expenses in a quarter, the parent shall submit attest to that fact in a format provided by the Department.

## **R7-2-1509. Misuse of Funds**

- A. Based on a finding that a parent knowingly misuses funds, the Department shall temporarily suspend the account and provide notice to the parent. The notice shall:
  1. Include the reason for the temporary suspension and a detailed description of the disallowed expense; and
  2. Provide the parent 15 days, not including weekends, to either:
    - a. Present documentation that demonstrates the expense is allowable or that the parent was victim to identity theft or fraud; or
    - b. Agree to repay the amount.
- B. The Department shall review the documentation submitted pursuant to R7-2-1509(A)(2)(a) within five days of receipt to determine if the expense is allowable or if the parent was victim to identity theft or fraud. If the Department determines the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension.
- C. If the Department determines the documentation fails to demonstrate the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall provide notification to the parent that the amount must be repaid. The Department shall withhold the disbursement of any additional ESA funds until repayment is made. The Department may agree to a gradual repayment plans at the request of the parent and shall reinstate additional ESA funding once repayment has begun. The Department may remove a parent from the Program that fails to repay an amount or agree to a repayment plan.
- D. Once a parent agrees to a gradual repayment plan or repays an amount pursuant to R7-2- 1509(A) (2)(b) or R7-2-1509(C), the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension as follows:
  1. Within one day, if the repayment is made by cashier's check or money order; or
  2. Within seven days, if repayment is made by personal check.
- E. Except in cases which the Attorney General determines that a parent or account holder has committed fraud, any expenditure from an Arizona Empowerment Scholarship Account for a purchase that is deemed ineligible pursuant to A.R.S. § 15-2402 and that is subsequently repaid by the parent or account holder shall be credited back to the Arizona Empowerment Scholarship Account balance within 30 days after the receipt of payment.
- F. Pursuant to R7-2-1511, a parent who has been removed from the Program pursuant to this Section may file a written request for a hearing within 30 days after being served the notice of removal.
- G. The Department shall refer a case to the Board if a parent does not file an appeal pursuant to R7-2-1511 and either:
  1. Fails to repay the amount of a disallowed expense, or
  2. Fails to make a payment on a gradual repayment plan.
- H. On a finding of misuse of monies, the Board may refer the case to the Attorney General who may bring an action to recover the monies. Upon obtaining evidence of fraudulent use of an account, the Board may refer the case to the Attorney General for the purpose of a criminal investigation.
- I. A parent or qualified student is not eligible to enroll a qualified student in the ESA Program if that parent was an account holder on an account that was referred to the Attorney General for misuse of monies unless the parent's expense was subsequently found to be allowable or the parent was the

victim of identity theft or fraud.

- J. If a parent commits fraud, the Department shall withhold funds from all accounts in the parent's name and close the accounts.

### **R7-2-1510. Corrective Action**

- A. Except for misuse of funds or failing to submit debit card transaction expense receipts pursuant to R7-2-1508, if the Department finds that a parent violated A.R.S. § 15-2401 et seq, this Article or the terms and conditions set forth by the Department in the contract signed by the parent, the Department shall:
  - 1. Temporarily suspend the account;
  - 2. Provide notice to the parent of the violation, including an explanation of the violation; and
  - 3. Provide the parent 15 days to correct the violation.
- B. The Department may remove a parent or qualified student from the Program for failing to correct a violation pursuant to this Section.
- C. Pursuant to R7-2-1511, a parent or qualified student who has been removed from the Program pursuant to this Section may file a written request for a hearing within 30 days after being served the notice of removal.

## **R7-2-1511. Appeals**

- A. A parent may appeal to the Board any administrative decision the Department makes pursuant to A.R.S. Title 15, Chapter 19, Article 1, including determinations of allowable expenses, removal from the Program or enrollment eligibility.
- B. Stay
  - 1. Pending the resolution of an appeal during which an account is suspended, a parent may request a stay on the account suspension.
    - a. Included in the request for a hearing filed pursuant to R7-2-1511(F), a parent may file a request to the Board to stay an account suspension. Such request shall be in writing and shall address the matters stated in the Department's notice in R7-2-1511(E).
    - b. The Department may file a response to the parent's request to stay the suspension of the account. Such response shall be filed with the Board within five business days of receipt of the parent's request to stay the suspension. Such response shall be in writing and shall address the matters stated in the parent's request.
    - c. Within 10 business days after receipt of the Department's response, the executive director of the Board or the executive director's designee shall make a written determination to either:
      - i. Proceed with suspension of the account, or
      - ii. Stay all or part of the suspension of the account if there is a reasonable probability that the appeal will be upheld or that the stay is in the best interest of the State. If a stay is issued, the Department may not withhold funding or contract renewal for the account holder on account of the appealed administrative decision during the stay unless directed by the Board to do so.
    - d. The executive director or the executive director's designee shall provide the parent and the Department with a written copy of the stay determination including the basis for the determination.
- C. Notwithstanding any other Section, the Department may, with the agreement of the account holder on the resolution, informally resolve a disputed administrative action at any time without a formal appeal pursuant to this Article.
- D. The Department, on its website and in the parent handbook, shall provide information on the Board's appeals process.
- E. The Department shall provide parents with written notice of an appealable action taken by the Department. Such written notice shall inform the parents of his/her right to request a hearing on the action and shall include the following:
  - 1. The statute or rule that is alleged to have been violated or on which the action is based;
  - 2. Identify, with reasonable particularity, the nature of any alleged violation or action;
  - 3. Include a description of the parent's right to request a hearing on the appealable agency action; and
  - 4. Include a description of the parent's right to request an informal settlement conference.
- F. Within 30 days after being served with notice of an appealable action, a parent may file a request for a hearing. The notice must be in writing and shall state the following:
  - 1. The identity of the party requesting the hearing,
  - 2. The mailing address of the party requesting the hearing,
  - 3. The agency that rendered the decision related to the appealable action,

4. Identification of the action being appealed,
  5. A concise statement of the reasons for the request for hearing,
  6. A copy of the administrative decision issued by the Department, and
  7. Any other information or documentation requested by the Board applicable to the appeal process.
- G. If good cause is submitted, the Board may accept a request for a hearing that is not filed in a timely manner. Such request must be made in writing and state the basis for not filing the request on time.
- H. If a parent requests a hearing pursuant to R7-2-1511(F) and includes all of the items listed in R7-2-1511(F)(1) through (7), the Board shall schedule a hearing.
- I. The Board shall provide all parties with a written notice at least 20 days prior to the date set for the hearing. The notice shall include:
1. A statement of the time, place and nature of the hearing;
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  3. A reference to the particular sections of the statutes and rules involved; and
  4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- J. All notices shall be served via personal delivery or certified mail, return receipt requested or by any other method reasonably calculated to effect actual notice on the agency and all parties to the action at each party's last address of record.
- K. A hearing on the appealable action shall be held after a complete appeal is filed and may be advanced or delayed on the agreement of the parties or on a showing of good cause.
- L. Informal Settlement Conference
1. A parent may request an informal settlement conference be held with the Department. The request shall be in writing and shall be filed with the Department, and a copy provided to the Board, no later than 10 days after the Board provides notice that the appeal is complete. The Department shall hold an informal settlement conference within seven days after receiving the request. The Department shall notify the Board of the result of the informal settlement conference within five days of the conclusion of the informal settlement conference or prior to the hearing date, whichever is first. The request for an informal settlement conference does not alter the date the hearing is to be held.
  2. If an informal settlement conference is held, a person with the authority to act on behalf of the Department must represent the Department at the conference. The Department representative shall notify the parent in writing that statements, either written or oral, made at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing.
- M. Informal disposition may be made by stipulation, agreed settlement, consent order or default.
- N. Hearing Process
1. All hearings shall be conducted before a hearing officer pursuant to this Section.
  2. The parties to the appealable agency action have the right to be represented by legal counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.
    - a. Pursuant to A.R.S. § 15-2403(E), a parent may designate a representative, not necessarily an attorney, before any hearing held pursuant to this Section. Any designated representative who

is not an attorney admitted to practice may not charge for any services rendered in connection with such a hearing.

- b. The fact that a representative participated in the hearing or assisted the account holder is not grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
  3. The Board shall schedule a prehearing conference on request of any party. A prehearing conference may be held for the following purposes:
    - a. Clarify or limit procedural, legal or factual issues;
    - b. Consider amendments to any pleading;
    - c. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing;
    - d. Obtain stipulations or rulings regarding testimony, exhibits, facts or law;
    - e. Schedule deadlines, hearing dates and locations if not previously set; or
    - f. Allow the parties opportunity to discuss settlement.
  4. The record in a contested case shall include:
    - a. All pleadings, motions and interlocutory rulings.
    - b. Evidence received or considered.
    - c. A statement of matters officially noticed.
    - d. Objections and offers of proof and rulings thereon.
    - e. Proposed findings of fact and conclusions of law and exceptions thereto.
    - f. Any decision, opinion, recommendation or report of the hearing officer.
    - g. All staff memoranda, other than privileged communications, or data submitted to the hearing officer in connection with its consideration of the case.
  5. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
  6. A participant of record shall not communicate, either directly or indirectly, with the Hearing Officer about any substantive issue in a pending matter unless:
    - a. All participants of record are present;
    - b. Communication is during a scheduled proceeding, where an absent participant of record fails to appeal after proper notice; or
    - c. Communication is by written motion with copies to all participants of record.
  7. The Hearing Officer may postpone, continue, or cancel a hearing for good cause upon the written request of either party. The participant of record must establish good cause for the written request.
  8. For good cause shown, the hearing officer may grant continuances and extensions of time for filing notices or other documents.
  9. The Hearing Officer may direct a party to submit additional memorandum or information within a reasonable period of time. The Hearing Officer shall grant the opposing party a reasonable period of time to respond to the additional memorandum or information.
  10. Upon written request, any party may request an opportunity to compare a document copy with the original. The Hearing Officer may grant the request if the record establishes good cause.
- O. Conduct of Hearing
1. All hearings shall be recorded. The Board shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding.

2. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
3. The parties may submit proposed findings of fact and conclusions of law prior to the hearing. The hearing officer may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.
4. All interested parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal. An interested party shall arrange for the presence of that party's witnesses at a hearing.
5. If a party fails to appear at a hearing, the hearing body may proceed with the presentation of the evidence of the appearing party.
6. The Hearing Officer conducting the hearing may close the hearing to other than interested parties to the extent necessary to protect the interests and rights of the interested parties, within the requirements of A.R.S. §§ 38-431.01, and 38-431.03.
7. The Hearing Officer may conduct all or part of the hearing by telephone other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
8. Conduct at any hearing that is disruptive or shows contempt for the proceeding shall be grounds for exclusion from further participation.

P. Evidence

1. All witnesses shall testify under oath or affirmation. The hearing officer shall administer oaths and affirmations.
2. The hearing officer shall afford interested parties an opportunity either to present oral or documentary evidence, or both, and to conduct such cross-examination as may be required for a full and fair disclosure of the facts. The hearing officer may limit the time of oral argument.
3. The hearing officer may choose to admit evidence, a witness' deposition, or a witness' affidavit and determine evidentiary weight of all submitted evidence. The party taking a witness' deposition or affidavit shall bear all deposition-related or affidavit-related costs. The hearing officer shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning, to exclude evidence the hearing officer determines to be irrelevant, immaterial or unduly repetitious, and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information.

Q. Stipulations. Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the hearing officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

R. Final Administrative Decision

1. The hearing officer shall issue a written recommendation within 20 days after the hearing is concluded. The written recommendation shall contain a concise explanation of the reasons supporting the recommendation, including the findings of fact and conclusions of law.
2. The hearing officer shall serve a copy of the recommendation on the Board. On request of the Board, the hearing officer shall also transmit to the Board the record of the hearing as described



in A.R.S. § 12-904.

3. At one of the following two regularly scheduled meetings of the Board after the hearing officer sends a copy of the recommendation to the Board, the Board may review the recommendation and accept, reject or modify it.
  - a. If the Board declines to review the hearing officer's recommendation, the Board shall serve a copy of the recommendation on all parties.
  - b. If the Board rejects or modifies the recommendation, the Board shall serve on all parties, a copy of the hearing officer's recommendation with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law.
4. The Board shall provide all parties with at least 20 days written notice of the date, time and location of the public meeting at which the Board will consider the hearing officer's recommendation.

S. Rehearing and review of decisions

1. A party may file a motion for rehearing or review within 10 days after service of the final administrative decision. The motion shall be in writing and state the basis upon which rehearing or review is requested. The motion shall be filed with the Board and a copy provided to the opposing party. When a motion of rehearing is based on new evidence, the new evidence shall be served to the Board with the written motion.
2. The opposing party may file a response to the motion for rehearing within 15 days after the date the motion for rehearing is filed. The response shall be in writing and address the basis upon which the rehearing or review is requested. The motion shall be filed with the Board and a copy provide to the moving party.
3. A rehearing of a final administrative decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
  - a. Except as provided for in R7-2-1511(O)(2), irregularity in the administrative proceedings of the hearing, or abuse of discretion, whereby the moving party was deprived of a fair hearing;
  - b. Misconduct of the hearing officer; or
  - c. Newly discovered materials which could not with reasonable diligence have been discovered and produced at the hearing.
4. The filed motion shall be considered at one of the following two regularly scheduled meetings of the Board.
5. Service is complete on personal service or five days after the date the final administrative decision is mailed to the party's last known address.
6. After a hearing has been held and a final administrative decision has been entered a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

*Section R7-2-1511 Appeals, becomes effective from and after January 1, 2023*

## ESA Party Roles

<p>Arizona Department of Education 1535 W. Jefferson Street, Bin # 41 Phoenix, AZ 85007</p> <p>(602) 364-1969 <a href="http://www.azed.gov/esa">www.azed.gov/esa</a></p>	<ul style="list-style-type: none"> <li>• Administers and manages the daily operations of the ESA program: determining eligibility, determining allowed vs. disallowed expenses, and determination of ESA account termination. Issues administrative decisions related these decisions.</li> <li>• Processes applications and issues contracts.</li> <li>• Answers questions from stakeholders about the ESA program. Troubleshoots roadblocks that account holders experience when trying to get into the program, experience when accessing the program, or when trying to leave the program.</li> <li>• Establishes standardized program protocols and processes that are consistent with Arizona State Statute (law) and Arizona Administrative Code (Rule). Seeks clarification from ADE legal counsel regarding any instances regarding potentially problematic Statutes and Rules that are considered contradictory, inconsistent, etc.</li> <li>• Seeks and applies allowable program feedback from stakeholders to updates and changes in Statute, Rule, Handbook, and parties with which the program contracts, etc.</li> <li>• Submits to the Board: quarterly reports, updates on the program, and accounts being referred to the Auditor General Collections and/or Fraud Department.</li> </ul>
<p>Office of the Arizona State Treasurer <a href="https://www.aztreasury.gov/">https://www.aztreasury.gov/</a></p>	<ul style="list-style-type: none"> <li>• As Arizona’s banker, completes requests from the Department to fund and unload each individual ESA account.</li> <li>• Collaborates with the Department regarding third-party contracts with vendors that service the ESA program.</li> </ul>
<p>Arizona State Board of Education 1700 W. Washington Street Executive Tower, Suite 300 Phoenix, AZ 85007 (602) 542-5057 <a href="https://azsbe.az.gov/">https://azsbe.az.gov/</a> Email: <a href="mailto:esafeedback@azsbe.az.gov">esafeedback@azsbe.az.gov</a></p>	<ul style="list-style-type: none"> <li>• Receives and processes ESA Appeals of Department administrative decisions.</li> <li>• Approves, writes and updates the ESA Rules by collaborating with the Department and stakeholders as changes to ESA laws are passed by the state Legislature, to include adoption of updates made to the ESA Parent Handbook due to Rule and Law changes.</li> <li>• Provides the Department with clarifications regarding any Rule intent inquiries.</li> <li>• Evaluates ESA account holder referrals made by the Department and sends referrals to the Attorney General’s Office of Collections and/or Fraud.</li> </ul>



Empowerment Scholarship Account Program

School Year 2022-2023

[www.azed.gov/esa](http://www.azed.gov/esa)