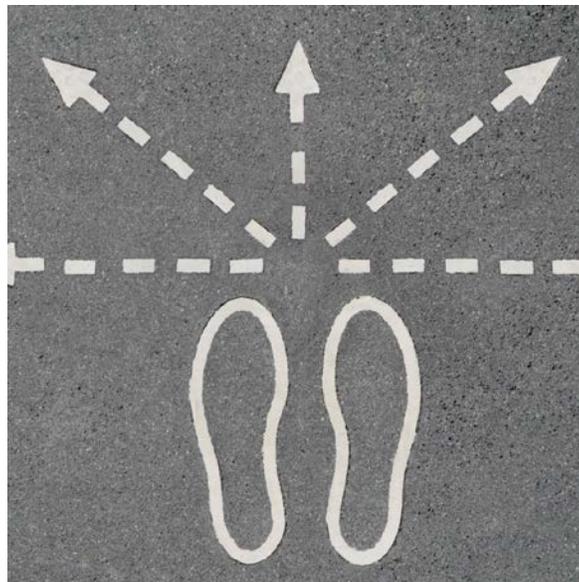




A SELF-ADVOCACY GUIDE

Arizona's Empowerment Scholarship Account (ESA) Program:

School Vouchers and Implications for Students with Disabilities



KNOW YOUR RIGHTS

5025 E. Washington Street, Ste. 202
Phoenix, Arizona 85034-7439
(602) 274-6287
Toll Free 1-800-927-2260

177 N. Church Avenue, Ste. 800
Tucson, Arizona 85701-1119
(520) 327-9547
Toll Free 1-800-922-1447

This guide was funded in part through grants from the Administration on Developmental Disabilities, U.S. Dept. of Health & Human Services. The views expressed in this guide are not necessarily those of the granting agencies.

TABLE OF CONTENTS

School Vouchers and ESA

1. [What is a school voucher?](#) [Page 4](#)
2. [What is the Empowerment Scholarship Account \(ESA\) program?](#) [Page 4](#)
3. [Who qualifies for ESA?](#) [Page 4](#)
4. [How do you demonstrate you are a student with a disability for purposes of ESA eligibility?](#) [Page 5](#)
5. [Are there any specific requirements for the required MET/Evaluation Report, IEP or 504 Plan?](#) [Page 5](#)
6. [How do you apply for ESA?](#) [Page 6](#)
7. [How long does it take for ADE to process ESA applications?](#) [Page 6](#)
8. [What happens once an ESA application is approved?](#) [Page 6](#)
9. [How much money will my child receive through ESA?](#) [Page 7](#)

ESA Rules

10. [How can ESA money be used?](#) [Page 7](#)
11. [Are parents required to make reports about spending ESA money?](#) [Page 8](#)
12. [What if I change my mind about ESA and want to re-enroll my child in a public school district or charter school?](#) [Page 8](#)

ESA Implications for Students with Disabilities

13. [Will my child retain her special education rights if she has an ESA account?](#) [Page 9](#)
14. [If I use ESA money to pay for my child to attend a private school, does the private school need to follow my child's IEP?](#) [Page 9](#)

15. [If I use ESA money to pay for my child to attend a private school and I disagree with the way the private school is educating my child, may I file a complaint with the Arizona Department of Education? Page 10](#)
 16. [If I use ESA money to pay for my child to attend a private school and the private school discriminates against my child because of her disability, may I file a discrimination complaint? Page 10](#)
 17. [Who is responsible for conducting and paying for the reevaluation done every three years? Page 11](#)
 18. [My child has specialized transportation as a related service in her IEP. Can ESA funding be used to pay for specialized transportation for my child? Page 11](#)
 19. [My child uses a text-to-speech device, and her public school used to pay for it. Now that we have opened an ESA account, can we use ESA funding to purchase a text-to-speech device? Page 12](#)
 20. [Can I use ESA funding to pay a paraprofessional or educational aide to help me homeschool my child? Page 12](#)
 21. [My child is turning 18 this school year, but has not met graduation requirements. Can we keep using ESA? Page 12](#)
 22. [My child is getting ready to finish high school. Can I use ESA funding for transition services to help my child prepare for post-secondary life? Page 13](#)
 23. [I do not believe my child's public school is meeting her educational needs, but I do not want to forfeit my child's special education rights by opening an ESA account. Is there another way to fund a private school placement? Page 13](#)
- [Links to additional resources Page 14](#)

School Vouchers and ESA

1. What is a school voucher?

School voucher programs give parents a choice about what school their child attends. School vouchers, along with education savings accounts and tax-credit scholarships, divert education tax dollars from public schools to private schools and services.

By accepting a school voucher, parents remove their children from the public school system and take a percentage of the funding the public school would have received for educating that child. Parents can use the money toward non-public educational services for the child, such as tuition to attend a private school.

School vouchers began in the United States in 1990 in the state of Wisconsin. As of the 2016-2017 school year, there are school voucher programs in 26 states and Washington, D.C. Each state's voucher program has different rules about which students are eligible for a voucher, how the voucher money can be spent, and the procedures that parents must follow.

2. What is the Empowerment Scholarship Account (ESA) program?

The Empowerment Scholarship Account (ESA) program is Arizona's school voucher program. ESA is administered by the Arizona Department of Education (ADE). The ESA program allows parents of qualified students to use public monies to pay for educational services from private schools, education providers, and vendors.

The ESA program operates as a contract between the parent and ADE. The parent (known as the "account holder") will receive a prepaid bank card with 90% of the state funding that a public school would have received for educating the account holder's child.

3. Who qualifies for ESA?

Students may be found eligible for ESA if they fit at least one of the following categories:

- Preschool students with a disability
- K-12 students with a disability
- Students with a parent who is active duty military
- Students with a parent who was killed in the line of duty
- Students with a parent who is legally blind, deaf, or hard of hearing
- Students attending a D or F rated school

- Students residing within a Native American reservation
- Students with a sibling who is a current or previous ESA recipient
- Students who are wards of the court
- Students who used to be on an ESA account

To learn more about how a student qualifies for ESA, visit the Arizona Department of Education's ESA website: <https://www.azed.gov/esa/eligibility-requirements/>

4. How do you demonstrate you are a student with a disability for purposes of ESA eligibility?

K-12 students with a disability are eligible if they meet all of these requirements:

- The student must be at least five years of age as of September 1st of the application year.
- The Applicant must be the legal parent or guardian of the student.
- The student and Applicant must be Arizona residents.
- The student must have attended the first 100 days of the school year prior to the application year.
 - Students entering kindergarten do not have to meet the 100-day requirement.
- **The student must have a current Multidisciplinary Evaluation Team (MET)/Evaluation Report or Individualized Education Program (IEP) or 504 Plan from an Arizona public school.**

The ESA eligibility requirements for a preschool student with a disability are the same as those above, except that the student must be two years and nine months old at the time of application. The 100-day requirement also does not apply to preschool students.

5. Are there any specific requirements for the required MET/Evaluation Report, IEP or 504 Plan?

Yes, the MET/Evaluation Report or IEP or 504 Plan must meet all of the following requirements:

- Must be from an Arizona public school.
- The student's primary category of eligibility must be provided.
- If the student is a K-12 student, the document must also state the student's school-age eligibility.*

* K-12 Students cannot receive ESA under the category of Preschool Severe Delay (P-SD). Instead,

- Must be current at the time of the application.
 - IEPs expire 1 year after the date of the last IEP meeting.
 - METs expire 3 years after the evaluation date.
 - The ESA program does not specify a timeframe after which 504 plans expire.
- The following documentation will not be accepted as a substitute for a MET/Evaluation, IEP or 504 Plan:
 - Individualized Support Plans (ISPs) from the Department of Developmental Disabilities (DDD).
 - Evaluations from a private school.
 - Private medical or psychiatric/psychological evaluations.

6. How do you apply for ESA?

You can apply for ESA online: <https://esaonline.azed.gov/OnlineApplication>. You will be asked to upload copies of necessary documents, such as the student's birth certificate and a copy of the MET/Evaluation, IEP, or 504 Plan. You can check the status of your ESA application online. If you do not have a personal computer, you can use a public computer at a library or community center. Unfortunately, ESA does not accept paper applications.

7. How long does it take for ADE to process ESA applications?

There is a 45-day processing period after your application is submitted before a decision is made. If your application is missing any required documents or if your student is not eligible for ESA, the application will be denied, but you will have the option to reapply. If your application is approved, ESA will alert you.

8. What happens once an ESA application is approved?

If you choose to move forward with an ESA account, you will need to withdraw the student from public school and provide ESA with verification of that withdrawal. After verifying the student has been withdrawn from public school, ESA will issue a contract to the parent, and once the parent signs and returns the contract, the account is considered active and ready to receive funding. Funding is provided on a quarterly

they must have a school-age eligibility category. If you are the parent of a student with a disability who was awarded an ESA under the disability category of Preschool Severe Delay (P-SD) and your student will turn 5 years old on or before September 1st of the coming school year, a reevaluation must be conducted by the public school district to determine if your child is eligible under a school-age eligibility. That new MET/Evaluation Report or IEP with the school-age eligibility category must then be submitted to appropriately fund your child's ESA as a K-12 student.

basis.

9. How much money will my child receive through ESA?

Through an ESA account, parents are provided with 90% of the amount of funding that would otherwise go to the child's public school of enrollment. That amount will vary depending on the student, and may change from year to year depending on the state's education budget.

Arizona's school funding formula assumes that providing an equivalent educational opportunity to all students will be more expensive in some situations and less expensive in others. To account for these differences, the amount of funding provided per student is weighted depending on various factors. For example, the formula assumes that educating high school students costs more than educating elementary school students, so a high school student is weighted more heavily than a K-8 student. Similarly, different disability categories are weighted differently. More significant disabilities are weighted more heavily, as the formula assumes it will be more expensive to provide a student with a more significant disability with equal access to education.

The minimum amount a parent can expect to receive through ESA is around \$3,000 per school year. The highest amount would be about \$37,000 for a student with multiple significant disabilities (please note that funding at this level is very rare). There is a table with estimated amounts of ESA funding students with different disabilities might receive on the ADE website:

<https://cms.azed.gov/home/GetDocumentFile?id=5d8278521dcb251b084564fe>

The only way to determine the exact amount of funding your child will receive in an ESA is to complete and submit an ESA application.

ESA Rules

10. How can ESA money be used?

ESA money must be used on educational services and materials for the benefit of the student. ADE provides an extensive list of permitted and prohibited expenses. Some permitted spending categories include:

- Tuition or fees at a qualified school
- Tutoring services
- Educational therapies
- Curriculum
- Fees for nationally standardized tests
- Uniforms

Some prohibited spending categories include:

- Consumable educational supplies (paper, pencils, backpacks, etc.)
- Computer hardware and other technological devices
- Transportation

For more specific information about what you can and cannot purchase with ESA money, please read the ESA Parent Handbook:

<https://cms.azed.gov/home/GetDocumentFile?id=5d09273b1dcb25172849f2c9>

If you are unsure if a particular purchase you are considering is allowable, you can contact ESA for support at 602-364-1969 or via email at esa@azed.gov.

Additionally, while a student is on an ESA contract, the account holder cannot enroll the eligible student in a public school district, charter school, or public online school. Doing so will result in the termination of the ESA contract.

11. Are parents required to make reports about spending ESA money?

Yes, when a parent enters into an ESA contract with ADE, the parent is responsible and required to report all expenses made on the ESA bank card on a quarterly basis.

- 💰 Parents must include complete invoices when submitting expense reports, as well as all required credentials of providers or vendors.
- 💰 Parents can submit their quarterly expense reports online using the ESA Expense Report Portal. This system is designed to allow parents to submit all expenses, including invoices and credentials, at any time.
- 💰 Expense report due dates can be found online:
<https://www.azed.gov/esa/important-dates/>
- 💰 ADE is authorized to audit all expenditures and may request further information if needed from the account holder at any time. ADE has a zero-tolerance policy on misspending.
- 💰 Misspending or failing to submit expense reports can result in ESA account suspension or termination and referral to the Attorney General's Office of Collection or Fraud.

12. What if I change my mind about ESA and want to re-enroll my child in a public school district or charter school?

A parent may remove their child from the ESA program at any time by filling out the

online Close Account Request Form:

<https://cms.azed.gov/home/GetDocumentFile?id=5a25df513217e11308089ff7>

If the account holder withdraws the student from the ESA program during the contract year or before the end of a quarter, any tuition payments should be pro-rated for the days attended by the student in that quarter and additional funds should be refunded to the ESA debit card before the student returns to public or charter school. If the parent ends their ESA contract at the end of a quarter, all expenses must be properly submitted.

ESA Implications for Students with Disabilities

13. Will my child retain her special education rights if she has an ESA account?

By accepting an ESA account, parents release the public school system (the school district or public charter school) from the obligation to educate their child. The child's rights under the Individuals with Disabilities Education Act (IDEA) no longer apply. If a child accepts ESA, they will lose protections, including:

- The right to be provided a free appropriate public education (FAPE).
- The right to file a complaint with the Arizona Department of Education regarding a violation of IDEA committed by vendors providing ESA services.
- The right to engage in the State's dispute resolution procedures, such as mediation or a due process hearing.
- The right to be educated by a qualified special education teacher.
- The right to participate in standardized testing.

As explained below in the answer to Q. 17, a child who is using an ESA account retains the right to receive a reevaluation every three years.

Children with disabilities with an ESA may still be protected from discrimination by ESA service providers and vendors under other federal civil rights laws, including Section 504 of the Rehabilitation Act and Title III of the Americans with Disabilities Act (ADA).

Opting out of the ESA program and re-enrolling the student in public school restores the child's IDEA protections.

14. If I use ESA money to pay for my child to attend a private school, does the private school need to follow my child's IEP?

No. As explained in the answer to Q. 13, IDEA does not apply to students who are not enrolled in the public school system. There is no obligation for a private school

funded by ESA money to follow the IEP created by a child's previous public school.

If a private school is designed to serve students with disabilities, the school may wish to review a student's IEP to determine what types of services or programming are appropriate for that student. The private school may choose to create an individualized plan for a student and/or to meet with parents on a regular basis, but the private school is under no legal obligation to do so.

15. If I use ESA money to pay for my child to attend a private school and I disagree with the way the private school is educating my child, may I file a complaint with the Arizona Department of Education?

No. The Arizona Department of Education (ADE) does not have monitoring or enforcement authority over private schools, even if private school tuition is being paid with tax dollars through an ESA account. As explained in the answer to Q. 13, IDEA does not apply to private schools. Any complaints filed with ADE regarding a private school's failure to comply with IDEA will not be investigated.

If you disagree with the way your child's private school is educating your child, you may try working with the private school teachers and administrators to make changes. If you are still not satisfied with your child's education at a private school, you always have the option of closing your ESA account and re-enrolling your child in a public school district or public charter school. Be sure to check the ESA Parent Handbook for the correct procedures for closing the ESA account and re-enrolling in public school:

<https://cms.azed.gov/home/GetDocumentFile?id=5d09273b1dcb25172849f2c9>

16. If I use ESA money to pay for my child to attend a private school and the private school discriminates against my child because of her disability, may I file a discrimination complaint?

In most cases, yes. Although private schools are not required to comply with IDEA, most are still covered by federal anti-discrimination laws. Private schools that receive any federal funding are covered by Section 504 of the Rehabilitation Act, and private schools that do not receive any federal funding are covered by Title III of the Americans with Disabilities Act (ADA), unless they fall under a narrow exemption for schools controlled by religious entities.

Under these laws, students with disabilities are protected from discrimination in most private schools. This means that even though your child is not entitled to special education or related services under IDEA, the private school may have an independent legal obligation under the ADA or the Rehabilitation Act to not discriminate against your child based on disability. Discrimination includes:

- Refusing to provide services;
- Providing a lesser service;

- Segregating students unnecessarily;
- Refusing to provide reasonable modifications to policies and procedures (e.g., refusing to permit a service animal);
- Denying auxiliary aids and services (e.g., denying a sign language interpreter or audio format); and
- Refusing to remove architectural barriers.

If you believe your child's private school is discriminating against your child on the basis of his or her disability, you may file a complaint with the U.S. Department of Education's Office for Civil Rights, with the U.S. Department of Justice, with the Arizona Attorney General's Office, or you may pursue a lawsuit in a court of competent jurisdiction.

You can learn more about filing a complaint with the U.S. Department of Education's Office for Civil Rights here:

<https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

You can learn more about filing a complaint with the U.S. Department of Justice here: https://www.ada.gov/filing_complaint.htm

You can learn more about filing a complaint with the Arizona Attorney General's Office here: <https://www.azag.gov/complaints/civil-rights>

17. Who is responsible for conducting and paying for the reevaluation done every three years?

As explained in the answer to Q. 13, one of the only special education rights a child who is using ESA retains is the right to a reevaluation every three years.

If your child attends a non-profit private school, the public school district in which the private school is located is responsible for the evaluation process.

If your child attends a for-profit private school or is homeschooled, the public school district in which you (the child's parent or guardian) reside is responsible for the evaluation process.

If you are unsure which public school district is responsible for conducting a reevaluation of your child, you can contact ESA for support at 602-364-1969 or via email at esa@azed.gov.

18. My child has specialized transportation as a related service in her IEP. Can ESA funding be used to pay for specialized transportation for my child?

No. Transportation is one of the spending categories prohibited by ESA. This means that parents of a child using ESA funding to attend private school are responsible for

providing transportation for their child to and from school.

Transportation may be an important factor to consider when deciding whether or not to use an ESA account, especially if the private school is located a great distance from the child's home.

19. My child uses a text-to-speech device, and her public school used to pay for it. Now that we have opened an ESA account, can we use ESA funding to purchase a text-to-speech device?

No. ESA funding cannot be used to purchase assistive technology.

However, parents of students with disabilities are allowed to rent assistive technology. For the rented assistive technology item to be approved as an ESA expense, a renter's agreement for the equipment must be submitted with the expense report. ESA funds cannot be used to pay for assistive technology that is returned damaged or late.

20. Can I use ESA funding to pay a paraprofessional or educational aide to help me homeschool my child?

Yes, if your child has a disability and a MET/Evaluation Report, IEP, or 504 Plan is on file with ESA. Paraprofessionals and aides are an approved expense for students with disabilities only.

ESA funding may also be used to pay for tutoring or teaching services and for educational therapies and services. You can read more about what credentials are required for each of these providers in the ESA Parent Handbook:

<https://cms.azed.gov/home/GetDocumentFile?id=5d09273b1dcb25172849f2c9>

21. My child is turning 18 this school year, but has not met graduation requirements. Can we keep using ESA?

Yes. All children move in a cohort from the grade they entered ESA, so if your child began using ESA in 10th grade, he or she will be considered a 12th grader two years later. Typically, funding stops once a student completes the 12th grade.

However, ESA students with a disability may be able to continue in the ESA program until the age of 22 if the student has not completed all high school graduation requirements by their cohort's 12th grade year. The parent of such a student must complete an "Eligibility Attestation Form" attesting that the student needs ESA support for one more school year. The form must be completed and submitted by a specific deadline in order for ESA to issue a contract for the upcoming school year. The attestation form can be signed each year until the year the student turns 22.

Be aware, if it is found that the student has graduated and continues to receive ESA disbursements, ESA will ask that those funds be repaid.

22. My child is getting ready to finish high school. Can I use ESA funding for transition services to help my child prepare for post-secondary life?

Yes. ESA funds can be used to pay for vocational and life skills education approved by ADE. ESA funds can be spent on tuition at vocational/trade schools or programs such as, but not limited to, Joint Technical Education Districts (JTEDs), Career and Technical Education Districts (CTEDs), trade schools, community colleges, and vocational schools.

If you are unsure if a particular transition service or program is approved by ADE or is an acceptable use of ESA funding, you can contact ESA for support at 602-364-1969 or via email at esa@azed.gov.

23. I do not believe my child's public school is meeting her educational needs, but I do not want to forfeit my child's special education rights by opening an ESA account. Is there another way to fund a private school placement?

Yes. If you believe the least restrictive environment appropriate to your child's needs is a private school, you may request this change in placement at an IEP meeting. If your child's IEP team agrees that a private school is the least restrictive environment for your child, the team will change your child's placement. When a student is placed in a private school as a result of an IEP team decision, the school is required to follow the IEP and the student is provided all the other protections under the IDEA. IEP team private placements are made into schools approved by ADE and typically provide specialized programs specifically for students with disabilities.

If you believe your child is not being provided a free appropriate public education (FAPE) by their public school district, and your child's IEP team will not agree to a change in placement to a private school, you may unilaterally place your child in a private school without using ESA funding. This means you will pay for the private placement yourself. If you notify your child's public school at least 10 business days in advance of moving your child to private school, you then have the option to file a due process complaint against the public school alleging a denial of FAPE and seeking reimbursement for the cost the private placement. Due process is a time-intensive and sometimes costly undertaking, and we recommend consulting with an attorney before taking this route.

Additional Resources

Federal:

National Council on Disability

“Choice & Vouchers—Implications for Students with Disabilities” available online at:
https://ncd.gov/sites/default/files/NCD_Choice-Vouchers_508_0.pdf

State:

The Arizona Department of Education, Empowerment Scholarship Account Program

“Empowerment Scholarship Account Program Parent Handbook: School Year 2019-2020” available online at:
<https://cms.azed.gov/home/GetDocumentFile?id=5d09273b1dcb25172849f2c9>