



IDEA AND ESA EVALUATIONS

EXCEPTIONAL STUDENT SERVICES

JULY 2023

AGENDA

Background and Hot Topic Memo

IDEA Evaluations

ESA Evaluations

- A Child with a Disability and the IDEA

Independent Educational Evaluations (IEEs)

- IDEA IEEs
- ESA IEEs

Guiding Questions for Families

Questions



BACKGROUND AND HOT TOPIC GUIDANCE MEMO



EMPOWERMENT SCHOLARSHIP ACCOUNTS (ESA) BACKGROUND

What is an ESA?

- An account administered by the ADE and funded by state tax dollars to provide education options for Arizona students
- An ESA consists of 90% of the state funding that would have otherwise been allocated to the public school for the student
- ESA funding can be used to pay expenses such as private school tuition, curriculum supplies, home education costs, tutoring, and educational therapies and services

Timeline:

- Established by the legislature in 2012 for students who met specific criteria
- In July 2022, universal expansion of Arizona's ESA program was signed into law, extending eligibility to every K-12 student without eligibility criteria (HB 2583)
- Universal expansion began in October 2022

ADE/ESS GUIDANCE ON IDEA AND ESA EVALUATIONS



July 2023

Alert to Special Education Directors and Program Administrators: Individuals with Disabilities Education Act (IDEA) and Empowerment Scholarship Account (ESA) Evaluations

The Arizona Department of Education, Exceptional Student Services (ADE/ESS), has received numerous questions about evaluations related to Empowerment Scholarship Accounts (ESAs). The purpose of this *Hot Topic* is to help to highlight the differences between evaluations specified in federal and state special education regulations and ESA evaluations outlined in state regulations. To understand the differences between special education and ESA evaluations, it is necessary to review the legal requirements underpinning both types as well as the points in time in which evaluations could occur.

Individual with Disabilities Education Act (IDEA) Special Education Evaluations
The IDEA requires public education agencies (PEAs) to locate, identify, and evaluate all children with disabilities, aged birth through 21, located within their boundaries of responsibility who are in need of early intervention or special education services ([IDEA C.F.R. 34 § 300.111\(a\)](#), [Arizona Administrative Code \(AAC\) R7-2-401\(C-E\)](#)). This "Child Find" activity includes children with disabilities who are attending private schools and those who are homeschooled ([AAC R7-2-401\(D\)\(1\)](#)). Evaluations obtained as part of Child Find and reevaluation activities may result in determinations of eligibility for special education under the IDEA.

ESA Evaluations
A child who has been determined to be eligible under the IDEA and who has been withdrawn from public school may enter into an ESA contract with the ADE as a "child with a disability." The determination of "child with a disability" for ESA purposes is dependent upon any of the following: 1. Special education documentation obtained by a PEA for IDEA purposes (IDEA special education evaluation or Individualized Education Program (IEP)), 2. Section 504 documentation obtained by a PEA for Office for Civil Rights (OCR) purposes, or 3. an independent education evaluation obtained for ESA purposes and provided to the ADE/ESA program ([ARS § 15-2403](#)).

A Child with a Disability and the IDEA
It is important to note that the term "child with a disability" used for ESA purposes is not necessarily equivalent to a child with a disability who is eligible for special education under the IDEA. As described above, a student can be deemed a "child with a disability" for ESA purposes through multiple paths, including non-IDEA processes. Additionally, when a parent enters into

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Why did ADE/ESS create a guidance document on the ESA program?

The Arizona Revised Statutes (ARS) and Administrative Rules (created by the Arizona State Board of Education) passed in 2022 contain similar terms used in the IDEA, but they do not necessarily mean the same thing.

Special education stakeholders had questions relating to:

- Child Find evaluations and determination of eligibility
- Independent Educational Evaluations (IEEs)
- Entitlement to Free Appropriate Public Education (FAPE) under the IDEA
- Assumption of cost

IDEA EVALUATIONS

IDEA SPECIAL EDUCATION EVALUATIONS

The IDEA requires PEAs to locate, identify, and evaluate all children with disabilities, aged birth through 21, located within their boundaries of responsibility who are in need of early intervention and special education services.

This “Child Find” activity includes children with disabilities who are attending private schools and those who are homeschooled. Evaluations obtained as part of Child Find and reevaluation activities may result in determinations of eligibility for special education under the IDEA.

ESA EVALUATIONS

EMPOWERMENT SCHOLARSHIP ACCOUNT (ESA) EVALUATIONS

A child determined to be eligible under the IDEA and withdrawn from public school may enter into an ESA contract with the ADE as a “child with a disability.”

The determination of “child with a disability” for ESA purposes is dependent upon any of the following being provided to the ADE/ESA program:

- Special education documentation obtained by a PEA for IDEA purposes (Multidisciplinary Team report or Individualized Education Program (IEP))
- Section 504 documentation obtained by a PEA for Office for Civil Rights (OCR) purposes, or
- An independent educational evaluation (IEE) obtained for ESA purposes

AN ESA “CHILD WITH A DISABILITY” AND THE IDEA

The term “child with a disability” used for ESA purposes is not necessarily equivalent to a child with a disability who is eligible for special education under the IDEA.

When a parent enters into an ESA contract with ADE, they agree to release the PEA from most obligations to educate the ESA student.

A child with a disability who participates in the ESA program is not publicly enrolled and is viewed as a parentally privately placed or homeschooled child under the IDEA. **Therefore, there is no 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.**

However, under the IDEA, if the ESA recipient's parent/guardian submits a written request for evaluation, then the PEA still retains its responsibility to either evaluate a student for special education under Child Find or to provide prior written notice refusing to conduct the evaluation.



INDEPENDENT EDUCATIONAL EVALUATIONS (IEEs)



INDEPENDENT EDUCATIONAL EVALUATIONS (IEEs) AND THE IDEA

GENERAL DISCLAIMER

The term “independent educational evaluations” is used in federal and state special education regulations and ESA state regulations.

However, this term has a different purpose, criteria, and requirements depending on a child's enrollment and legal context.

IDEA IEEs

Parents of children evaluated for special education under the IDEA have a right to request an IEE if they disagree with the results of the PEA's evaluation.

- At public expense
- Conducted by a qualified examiner not employed by the PEA responsible for the child's education
- PEAs are required to maintain P & P that explain how a parent can obtain an IEE if they disagree with an evaluation conducted by the PEA.

IDEA IEEs should not be conflated with IEEs used for ESA purposes.

ESA INDEPENDENT EDUCATIONAL EVALUATIONS (IEEs)

There are two times when IEEs for ESA purposes may be sought for use in the ESA program.

1. When the child exits public school and takes an ESA

- ESA state regulations articulate that an independent third party may determine that a child has a disability for ESA purposes.
- This qualification by an independent third party through an IEE for ESA purposes is one of the mechanisms by which a student can enter the ESA program as a “child with a disability.”
- No ESA funding is available to a parent for this type of initial evaluation, and parents generally request evaluations through IDEA Child Find for this purpose.
- Costs related to evaluations conducted for the purpose of IDEA Child Find and/or reevaluation **are allowable expenses in the IDEA Consolidated grant**, whether or not the parent intends to enroll the child in a PEA.

ESA INDEPENDENT EDUCATIONAL EVALUATIONS (IEEs), Slide 2

2. **When a student is already participating in the ESA program as a “child with a disability,” but a parent wishes to obtain an evaluation to update a child’s disability category**
 - Reclassification can allow children with certain categories of eligibility in the ESA program to utilize ESA program monies for different educational therapies and services.
 - Parents whose children participate in the ESA program can request a reevaluation from a PEA to update their child’s ESA disability category, or they can seek a private IEE for ESA purposes.
 - The ADE/ESA program is seeking vendors to provide these private IEEs for ESA purposes. Parents may seek and pay for IEEs for ESA purposes independent of a PEA when a vendor list is developed.
 - Costs associated with evaluations conducted solely to update a child’s disability category in the ESA program (when the existing evaluation is based on IDEA regulations and is still current) or to provide documentation that articulates additional educational therapies and services a student may utilize in the ESA program **may not be allowable expenses** in the IDEA Consolidated grant.



WHAT INFORMATION IS HELPFUL FOR PEAs?

QUESTIONS TO CONSIDER WHEN TALKING TO FAMILIES

IDEA

- Has your PEA conducted a special education evaluation with which the parent disagrees?
- Is the parent requesting an IEE because they disagree with the outcome of the evaluation conducted by the PEA?
- Is your PEA conducting an evaluation that will provide a report consistent with agency protocols (e.g., a Multidisciplinary Evaluation Team report with all required components)?

ESA

- Is the child attending your PEA, or are they participating in the ESA program and living within your district boundaries?
- Is the child applying for/participating in the ESA program?
- Is the purpose of the parent's evaluation request to determine the type of educational therapies and services the child can access through the ESA program?



OVERSIGHT AND CONTACT INFORMATION



OVERSIGHT AND QUESTIONS

IDEA

ADE/ESS Program Support and Monitoring (PSM) Specialist for assigned PEA

Contact Program Support and Monitoring

[Find Your Specialist](#)

ESA

- ADE/ESA Staff
- Arizona State Board of Education

Contact

ESA Staff

(602) 364-1969

[Open A HelpDesk Ticket](#)

VISUAL COMPARISON OF IDEA AND ESA IN GUIDANCE

	IDEA	ESA
Evaluation Purpose	<ul style="list-style-type: none"> Determination of eligibility for special education under the IDEA 	<ul style="list-style-type: none"> Determine if an ESA student is a "child with a disability" as outlined in ARS § 15-2401. Determine if a qualified ESA student outlined in ARS § 15-2402 is eligible to receive educational therapies and services
Legal Citations	<ul style="list-style-type: none"> IDEA C.F.R. 34 § 300.111(a) AAC R7-2-401(C—E) 	<ul style="list-style-type: none"> ARS § 15-2401, ARS § 15-2402, & ARS § 15-2403 AAC R7-2-1501—1511
IEE	<ul style="list-style-type: none"> Right to a psychoeducational evaluation afforded to a parent who disagrees with the PEA's special education evaluation of their child; provided at public expense 	<ul style="list-style-type: none"> Private evaluation sought by a parent for ESA purposes to either determine eligibility as a "child with a disability" in the ESA program or to reclassify a child's ESA disability category to gain access to certain educational therapies and services

	IDEA	ESA
Questions to Consider When Talking to Families	<ul style="list-style-type: none"> Has your PEA conducted a special education evaluation with which the parent disagrees? Is the parent requesting an IEE because they disagree with the outcome of the evaluation conducted by the PEA? Is your PEA conducting an evaluation that will provide a report that is consistent with agency protocols (e.g., a Multidisciplinary Evaluation Team (MET) report with all required components)? 	<ul style="list-style-type: none"> Is the child currently attending your PEA, or are they participating in the ESA program and living in your district boundaries? Is the child applying for/participating in the ESA program? Is the purpose of the parent's evaluation request to determine the type of educational therapies and services the child can access through the ESA program?
Funding	<ul style="list-style-type: none"> Child Find and reevaluations conducted for IDEA purposes are allowable expenses in the IDEA Consolidated grant, whether or not the parent intends to enroll the child in a PEA 	<ul style="list-style-type: none"> Child Find (initial) evaluations conducted by a PEA that can also be used to determine eligibility as a "child with a disability" for ESA purposes are allowable expenses in the IDEA Consolidated grant, whether or not the parent intends to enroll the child in a PEA Evaluations conducted for the sole purpose of updating a child's disability category in the ESA program to access certain educational therapies and services may not be allowable expenses in the IDEA Consolidated grant
IEE Evaluator Criteria	<ul style="list-style-type: none"> Arizona Qualified Professionals List 	<ul style="list-style-type: none"> Independent third party; must be a qualified examiner as defined by ARS § 15-2403; licensed physician, psychiatrist, or psychologist
Oversight and Contact Information	<ul style="list-style-type: none"> ADE/ESS Program Support and Monitoring (PSM) Specialist for assigned PEA 	<ul style="list-style-type: none"> ADE/ESA Staff: 602-364-1969 Arizona State Board of Education

QUESTIONS

