

Exhibit B

Eligibility Rules (As Written vs. As Changed)

Description: Rules in Effect at Time of Purchase vs. Post–June 23, 2025 Changes
What the rules allowed... before ESA rewrote them.

Exhibit B1

Arizona Revised Statutes § 15-2402 (Subsection B(4)) In effect at time of purchase

Description: Statutory authority governing qualified educational expenses. No dollar limits, thresholds, or pre-approval requirements appear anywhere in §15-2402.

Source: Arizona State Legislature – <https://www.azleg.gov/ars/15/02402.htm>

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 the 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 the qualified student from applying in advance for an Arizona empowerment scholarship account to be funded beginning the following school year, subject to section 15-2403, subsection H.

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 that requires all teaching staff and personnel who have unsupervised contact with students to be fingerprinted.

(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 who is not subject to disciplinary action by the state board of education for immoral or unprofessional conduct pursuant to section 15-505 or 15-534.04 or a facility that is accredited by a state, regional or national accrediting organization. The department shall ensure any individual who provides tutoring or teaching services to one or more qualified students pursuant to this

subdivision is not subject to disciplinary action by the state board of education. The department shall also remove any individual who is subject to disciplinary action by the state board of education from all platforms that the department provides to parents and qualified students for the purchase of goods or educational services using account monies.

(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. The department of education shall verify that the parent's child is a qualified student as defined in section 15-2401 or 15-2401.01 in the year for which the parent seeks to renew the Arizona empowerment scholarship account. This subsection does not require the department to annually verify the child's disability for the purpose of section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii), if applicable.

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 allowable 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.

Exhibit B2

ESA Parent Handbook (Prior Version – Pre–June 23, 2025)
In effect at time of purchase

Description: Handbook language explicitly allowing the purchase.

Context Annotation (Author Added):

This exhibit shows what the ESA rules actually said before the appeal forced a rewrite.

This handbook version tracks the statute as written and places spending discretion with parents. It lists allowable expense categories directly from A.R.S. §15-2402(B)(4) and contains no spending caps, no discretionary approval tests, and no “reasonableness” standards later inserted mid-appeal. It also supports parent-directed instructional use, including physical education-related supplementary materials, and lists computer hardware as an allowable educational expense without qualification. These were the controlling rules when the denials occurred.



Parent Handbook

Empowerment Scholarship Account Program School Year 2023-2024

Arizona Department of Education
1535 W. Jefferson Street Bin #41
Phoenix, AZ 85007
ESACallCenter@AZED.GOV
602-364-1969

July 1, 2023

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.⁴
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).

Purpose: Establishes that ESA must follow statutes as written and that spending discretion rests with the Account Holder.

⁴ ClassWallet has vendors listed in their platform

Approved Spending Categories for ALL Students

Purpose: Shows the handbook directly mirrors A.R.S. §15-2402(B)(4) without adding agency discretion.

Approved Spending Categories for ALL Students⁵

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 ⁶ 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 ⁷
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 ⁸
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 under the AZ Board of Regents, or an accredited private postsecondary institution

⁵ 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.

⁶ 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.

⁷ 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.

⁸ 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.

Purpose: Shows the handbook directly mirrors A.R.S. §15-2402(B)(4) without adding agency discretion.

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.

Context Annotation (Author Added):

This table mirrors the qualified expenses listed in A.R.S. §15-2402(B)(4)(p). Computer hardware and technological devices are listed as allowable educational expenses.

No spending caps or pre-approval requirements are stated.

Purpose: Demonstrates that physical education instruction and equipment were expressly permitted as supplementary materials without documentation requirements.

Supplementary 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.

- 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!

Purpose: Confirms continuation of supplementary materials without new approval standards.

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.*

Author Summary — Baseline Rules in Effect

The baseline absolutely matters.

These were the controlling rules:

- ~ The ESA Parent Handbook in effect followed the statute as written.**
- ~ Educational spending discretion rested with parents, not the agency**
- ~ Allowable expense categories mirrored A.R.S. §15-2402(B)(4) verbatim**
- ~ No dollar caps, discretionary approval tests, or pre-approval requirements existed beyond statute**
- ~ Physical education instruction and equipment were expressly permitted as supplementary materials**
- ~ Computer hardware and technological devices were listed as allowable educational expenses without qualification or dollar limits**

These were the rules in force when the denials occurred.



Empowerment Scholarship Account Program

School Year 2022-2023

www.azed.gov/esa

Exhibit B3

ESA Parent Handbook (Post–June 23, 2025 Revision)

June 23, 2025

Description: Restrictions added after the dispute began.

Context Annotation (Author Added):

This excerpt establishes the procedural rules that governed the appeal before the record was restricted and the case was dismissed.



Parent Handbook

Empowerment Scholarship Account Program School Year 2025-2026

July 1, 2025

Purpose: Establish continuity and absence of limits (this is the baseline)

Chapter 3 | Purchase and Program Requirements – ALL Students

Approved purchasing categories for ALL students

Approved purchasing categories listed in <u>A.R.S. §15-2402(B)(4)</u>	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 serving PK-12 th grades. ⁶ 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 business currently accredited by a state, regional, or accrediting organization. ^{7, 8}
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. ⁹
Fees	Fees to manage the Empowerment Scholarship Account ¹⁰
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 or other exams including preparation exams related to college or university admissions, such as the ACT or SAT. This also includes grade-level standardized achievement testing.

⁶ 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.

⁷ When a single individual provides tutoring or teaching services, as a private individual or a business, the tutor or teacher will need at least to provide his or her high school diploma or higher degree, which will serve as his or her accreditation from a state, regional, or national accrediting organization. In contrast, a business with more than one tutor that is billing with an invoice under its business name will need to provide an accreditation by a state, regional, or national accrediting organization OR the business can attest to the fact that all its employees providing services to ESA students are accredited, including high school diplomas or higher, by submitting an [attestation](#) of such. Pursuant to [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.

⁸ Degrees or transcripts issued by a foreign educational institution must be translated at the expense of the vendor into English and evaluated for U.S degree equivalence by a vendor qualified to make such evaluations.

⁹ 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, complement, enrich, extend, or support the curriculum. [A.A.C. R7-2-1501\(14\)](#).

¹⁰ Any fees that may be levied by the Department to cover the costs of managing the Empowerment Scholarship Account program.

Chapter 3 | Purchase and Program Requirements – ALL Students

Tuition or fees at an eligible postsecondary institution and 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
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 for allowable expenses
Public transportation services	Includes a commuter pass for a qualified student, or transportation network services as defined in A.R.S. §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. Does not include entertainment and other primarily noneducational devices, including televisions, telephones, video game consoles and accessories, and home theatre and audio equipment.

Note: When making purchases and submitting them for approval or reimbursement through the ClassWallet platform, **Account Holders will be required to select from the allowable categories above to categorize their expenses.**

Context Annotation (Author Added):

Pages 15–16 contain no spending caps, approval tests, or discretionary qualifiers.

Computer hardware and technological devices are listed without dollar limits, pre-approval requirements, or “reasonableness” standards.

Chapter 3 | Purchase and Program Requirements – ALL Students

The following list includes examples of common supplemental material that require curricula. Documentation for a curriculum must clearly demonstrate that the item is *recommended or required*.

Additionally, consistent with [A.R.S. §15-2402](#), the Department will approve expenses that are reasonably related to an educational or vocational purpose, based on consideration of the following factors:

- The specific circumstances and educational needs of the qualified student
- Whether the Department has previously approved of the item or expense for the qualified student or for another qualified student in similar circumstances
- The primary purpose of the expense or item, based on ordinary and customary usage and the stated description of the expense or item
- The cost or quantity of the expense or item is not greater than what meets the student's education needs and circumstances in relation to other readily-available and reasonable alternatives

The Department may request additional information and/or documentation on a case-by-case basis to determine whether an expense is allowable.

Pursuant to [A.R.S. § 15-2403](#) and applicable laws and rules, all expenses are subject to risk-based auditing, annual random reviews by the Department, and other legislatively-authorized administrative actions designed to protect the integrity of the ESA program.

It should be noted that all orders processed under the Department's threshold for auto-fulfilled orders are not deemed "approved" by the Department, until they are audited OR the [timeframe](#) to audit the orders has passed.

Supplemental material

- Bento box and compartmentalized trays
- Educational camps (travel, overnight accommodations and food are not an allowable expense)
- Gym and physical education facility membership (individual memberships for ESA student only, family memberships are not allowed)
- Home economic accessories such as measuring cup, spatula, whisk, etc.
- Home economic countertop appliances and related accessories, such as cooking and baking equipment and sewing machines, etc.
- Instruments
- Photography equipment
- Physical education equipment
- Playground
- Seeds/small saplings only

Chapter 3 | Purchase and Program Requirements – ALL Students

- Single tickets for educational events or venues such as zoos, science or art museums, plays, ballet, orchestra, musicals, etc.
- Smart Board
- Sports league or enrollment in sports camps (travel, overnight accommodations and food are not an allowable expense)
- Watches (analog or digital)
- Tools for vocational education

This list is not exhaustive, any revisions to the allowable list will be available at <https://www.azed.gov/esa/esa-support>.

NOTE: What parents are required to document for general education supplemental material below is currently the subject of a lawsuit pending in Arizona Superior Court. As of the date of this publication, the matter has not been resolved.

Effective July 1, 2025 – June 30, 2026:

- A) If required by law or court order, all supplemental materials shall be submitted with curriculum documentation.
- B) If not required by law or court order, curriculum documentation is not required for supplementary material generally known to be educational, including the following:

General education supplemental material

- Art supplies (paint, watercolors, paint brushes, canvas, drawing paper, clay, glue, colored pencils, pens, markers, crayons)
- Audio/Visual players
- Basic sport items such as bats, balls, gloves, racquets, and protective equipment
- Board games/strategy games/puzzles
- Bookcase (not to exceed 40 sq. ft.)
- Books (including audio, digital, players)/coloring books/magazines
- Compass/protractors/rulers
- Desk (which can accommodate up to two people) and chair for ESA student
- Desk organizer/small file drawer
- Dry erase boards and easels
- Educational DVDs and CDs
- Educational flash cards/prompt cue cards
- Educational kits
- Educational software & apps
- Educational periodical subscriptions
- Educational toys
- Educational workbooks/planners/calendars
- Instrument accessories and maintenance

Context Annotation (Author Added):

Why this matters:

- ESA admits documentation requirements for supplemental materials are under active legal challenge.
- ESA continues enforcing those disputed requirements anyway.
- ESA applied those standards during the exact window my appeal was pending.

This is smoking-gun institutional recklessness, not mere administrative discretion.

Purpose: Show NEW enforcement language added after the appeal

Chapter 3 | Purchase and Program Requirements – ALL Students

- An Arizona community college, as defined in [A.R.S. §15-1401](#)
- A state university that is under the jurisdiction of the AZ Board of Regents
- An accredited private in-state or online postsecondary institution

Restricting the use of Empowerment Scholarships to in-state educational institutions has been upheld by the State Board of Education and an Administrative Law Judge.

Empowerment Scholarships may be used for textbooks, tuition, and fees required by the university or college classes. They cannot be used for room and board, meals, meal plans, food, or transportation.

Dual enrollment

Empowerment Scholarships may be used to pay for university or college enrollment when a high school student is taking college courses while still enrolled in a secondary school. This is referred to as dual enrollment.

Dual Enrollment programs allow students to take college classes while enrolled in high school. These classes count for both high school and college credit. High school students who complete dual enrollment may need to take fewer classes in college due to earning transferable college credits.

Public transportation services

In accordance with [A.R.S. §15-2402\(4\)](#), Empowerment Scholarships can be used for public transportation within the state of Arizona for ESA students between their residences and their qualified school where they are 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

Chapter 3 | Purchase and Program Requirements – ALL Students

- Microscopes
- Telescopes
- Printers

You cannot use Empowerment Scholarships for devices that are primarily for entertainment. Additionally, other devices whose primary use is noneducational are also not allowable, such as:

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

However, audio equipment primarily used for education, such as headphones or earbuds, are an allowable expense and must be categorized as *supplemental material*.



(critical re-categorization move)
This is where interpretive discretion first enters the handbook.

Purpose: Show conditional approval + documentation leverage

Chapter 3 | Purchase and Program Requirements – Students with a Disability

students in grades K-12, a student's account will not indicate the student has any disability.

A re-evaluation is not required for a preschool student with severe delay to continue in the ESA program; however, from kindergarten on, an evaluation indicating a disability applicable to students in grades K-12 is needed, if the student is to continue to be eligible as a student with a disability. Account Holders can also contact the ESA Support Line at 602-364-1969 or submit an [ESA Support Ticket](#) to learn if a specific account will be affected.

Developmental Delay funding

Pursuant to [A.R.S. §15-2401\(7\)\(a\)\(ii\)](#) and [A.R.S. §15-761\(3\)](#), the *Developmental Delay* disability classification is only applicable to students from the ages of 3 through 9 years old. If a parent believes that his or her student qualifies for another disability classification at age 10 or beyond, the parent must have the student re-evaluated to determine whether the student has another disability that allows him or her to participate in the ESA program as a student with a disability.

A parent is not required to have his or her student re-evaluated for another disability to remain in the ESA program. However, without an evaluation that the student has another disability which allows the student to remain in the program as a student with a disability, he or she will not receive an Empowerment Scholarship award that reflects a disability classification. Account Holders can also contact the ESA Support Line at 602-364-1969 or submit a [Support Ticket](#) to learn if a specific account will be affected.

Students with a disability (*After 12th-grade cohort year*)

Pursuant to [A.R.S. §15-2402\(4\)\(n\)](#), students with a disability who are not ready to graduate high school or have not earned their GED (General Education Development) diploma are eligible to receive Empowerment Scholarships until the age of 22.

When a student is identified as being a student with a disability in the ESA program and is in the spring of his or her 12th-grade cohort year, ESA will notify the Account Holder that action is required if the Account Holder plans to keep his or her student in the ESA program beyond the ESA student's 12th-grade cohort year.

Expenses for students with a disability

- Purchases only approvable for students with disabilities will be reviewed when Account Holders submit proper documentation supporting the purchases. Such support will include documentation such as evaluations, programs, and recommendations from qualified examiners, licensed therapists, or qualified service

Context Annotation (Author Added):

This is where retaliatory documentation demands are normalized under the guise of disability review.

- When submitting purchases only approvable for students with a disability, Account Holders may provide additional explanation as to how their purchase will assist the student's educational needs. Account Holders can add information in the "Comments" section of the ClassWallet platform where purchases are submitted.

Context Annotation (Author Added):

This section introduces discretionary documentation requirements for purchases associated with students with disabilities, creating an enforcement mechanism not present in prior handbooks and not specified in statute.

Deadline for debit card transactions

Quarter	Purchasing dates	Deadline for receipts and documentation
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

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.

Additionally, Account Holders must submit supporting documentation for debit card purchases after every 20 transactions, even if it results in them submitting prior to established deadlines. Failure to submit all supporting documentation after the 20-transactions ceiling will result in the Account Holder’s ClassWallet debit card being deactivated.

Improper use of debit cards and suspension—Cash withdrawals, cash advances, or purchase of cashier's 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 or take action. Failure to contact the Department by the date stated on the letter may result in termination of the ESA.

Note: Private schools and vendors are never allowed to keep debit cards on behalf of Account Holders. The ClassWallet debit card must always be in the Account Holder’s possession.

Additionally, the functionality of a debit card at point of sale does not validate the allowability of a purchase.

Reimbursement: If Account Holders cannot make a purchase or pay using one of the three ways listed above, they may make purchases using their personal money or credit card. They must then submit itemized receipts or payment receipts accompanied by an itemized invoice to the ESA program for reimbursement from their accounts.

To receive reimbursement, Account Holders must link their bank accounts to their ClassWallet accounts, and ClassWallet must verify the bank account's authenticity.

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

When submitting purchases for reimbursement, Account Holders MUST submit:

- Receipts only for transactions made after the date they signed their ESA contracts.
- Complete itemized receipts or payment receipts accompanied by itemized invoices.
- **All other necessary documentation such as curricula, therapist letters recommending supplemental material, educational service provider's credentials, business accreditation, etc.**



Invoice requirements are available under the [Invoice Requirements](#) section. Receipt requirements can be found under the [Receipt Requirements](#) section.

Vendor registration in ClassWallet

If an Account Holder has a preferred vendor that is not on the ClassWallet platform, private schools, educational service providers, and vendors can register to become a ClassWallet vendor by visiting the "Vendor" section of the ESA Support page of ADE's website at <https://www.azed.gov/esa/esa-support>. They can also contact ClassWallet at help@classwallet.com or 1-877-969-5536.

ClassWallet charges a 2% processing fee to vendors and not directly to the ESA Account Holder. However, the vendor has discretion to charge Account Holders a processing fee to offset this expense.



Context Annotation (Author Added):

This language implicitly links computer hardware to curriculum documentation, despite no such requirement appearing in A.R.S. §15-2402(B)(4).

Chapter 5

Auditing and Compliance for ESA Purchases

Context Annotation (Author Added):

This chapter formalizes an enforcement posture that did not exist in prior handbook versions, enabling post-purchase scrutiny and retroactive compliance actions.

Purpose: To show retroactive scrutiny

Auditing purchases

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 rules pertaining to purchases. Such audits 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 State Board of Education (SBE) at one of its meetings.

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.²² 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.

Comparison of ESA students and allowable items

Situation	Student 1	Student 2	Item allowability comparison
Similarly Situated	Student with Disability-ASD (autism spectrum disorder)	Student with Disability-ASD	<i>Weighted blanket</i> approved for all students with an ASD classification as a good associated with ASD.
Not Similarly Situated	Student with Disability-ASD	Student with Disability-SLI (speech language impairment)	<i>Weighted blanket</i> approved for Student 1 but not Student 2, since weighted blankets are not a good associated with an SLI disability.
Not Similarly Situated	Student with Disability-ASD	Universal-eligibility student	<i>Weighted blanket</i> approved for Student 1 but not Student 2, since weighted blankets are not a good associated with regular education students.

²² The Department may ask for repayment of any items approved in error, if items are improper or unallowable under your ESA contract, state law, administrative rule, program policies, or this ESA Parent Handbook.

Context Annotation (Author Added):


This page authorizes retrospective review of previously approved purchases, enabling enforcement actions based on standards that may not have existed at the time of purchase.

Context Annotation (Author Added):
The handbook cannot exceed statute or rules.
This line alone nukes ESA's "handbook discretion" defense.

child's disability for the purpose of section [15-2401](#), paragraph 7, subdivision (a), item (i), (ii) or (iii), if applicable.

- 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 allowable 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.

Statute link: <https://www.azleg.gov/ars/15/02402.htm>




[A.R.S. §15-2403 – Arizona empowerment scholarship accounts; administration; appeals; risk-based audits; 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. **The department, in consultation with the office of the auditor general, shall develop risk-based auditing procedures for audits conducted pursuant to this subsection.**

C. The department shall annually review a sample of Arizona empowerment scholarship accounts, selected at random, to determine whether the parent or qualified student is in compliance with the terms of the contract, applicable laws, rules and orders relating to the Arizona empowerment scholarship accounts program. The Arizona empowerment scholarship account of a parent or qualified student who is in good standing may be randomly selected pursuant to this subsection only one time during any five-year period. 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 designated representative who is not an attorney admitted to practice may not charge for any services rendered in connection with the 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

Context Annotation (Author Added):

This establishes that appeal rights are mandatory, expense determinations are appealable, and notice is required. Which makes procedural shutdown legally indefensible.

Context Annotation (Author Added):

The handbook cannot exceed statute or rules.

This line alone nukes ESA's "handbook discretion" defense.

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 qualified 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 qualified student who resides within the county has the right to obtain an independent educational evaluation from a qualified examiner to determine whether the qualified 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 qualified student resides and that serves the grade level of the qualified 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 the department's website.**
 - L. The department shall:
 1. Establish and maintain an online database of allowable and disallowed categories of expenses and provide a link to the database on the department's website.
 2. **Allow the use of account monies to reimburse the parent of a qualified student or a qualified student for the purchase of a good or educational service that is an allowable expense pursuant to section [15-2402](#), subsection B.**
 - M. 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 the department determines is not an allowable expense pursuant to section [15-2402](#) and that is subsequently repaid by

Context Annotation (Author Added):

This shows the Legislature anticipated appeals and barred retaliation during them.

This is devastating in light of, mid-appeal handbook revision, reimbursement denials, and dismissal with prejudice

the parent or account holder shall be credited back to the Arizona empowerment scholarship account balance within thirty days after the receipt of payment.

- N. 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 because of the appealed administrative decision during the stay unless directed by the board to do so.

Statute link: <https://www.azleg.gov/ars/15/02403.htm>

[A.R.S. §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.

Statute link: <https://www.azleg.gov/ars/15/02404.htm>

[A.R.S. §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.

- 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

Context Annotation (Author Added):

This statute expressly prohibits state control or supervision over educational content or providers, directly conflicting with discretionary approval and enforcement mechanisms introduced in the revised handbook.

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.

Context Annotation (Author Added):

These rules governed my appeal at the time. The dismissal occurred without compliance with these requirements, despite preserved objections and an incomplete record.

They ignored the rules that already existed.

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.

C. 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.

D. 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.

E. 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

Context Annotation (Author Added):

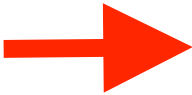
My case was dismissed without findings of fact or conclusions of law addressing preserved objections.

Context Annotation (Author Added):

If objections were unresolved and the case was dismissed with prejudice without written justification, this sentence is the rule they violated.

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.**



F. 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 the 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



These lines describes my case exactly:

objections tabled

record narrowed

dismissal with prejudice

no resolution on merits

This is the standard they ignored.

decision in order to exhaust the party's administrative remedies.

Arizona Administrative Code – ESA: https://azsbe.az.gov/sites/default/files/2023-08/01-23-2023%2520ESA%2520RULES_1.pdf

Author Summary — Sequence of Events

The sequence absolutely matters.

- ~ Denial under non-existent rules**
- ~ Objections preserved showing no authority**
- ~ Handbook rewritten mid-hearing**
- ~ Hearing dismissed with prejudice**
- ~ New rules used to justify old conduct**

That's not coincidence. That's institutional self-protection.



Empowerment Scholarship Account Program

2025 – 2026 Parent Handbook

www.azed.gov/esa

Exhibit B4

Handbook Changes Triggered by the Appeal Post–June 23, 2025

Description: This exhibit documents material handbook revisions made during a pending appeal. The added discretionary standards did not exist at the time of the denials and do not appear in the governing statute.

Difference Report: What Changed, and Why It Matters

Purpose: To show that ESA added discretionary denial mechanisms after the appeal began, mechanisms later used to justify denials that could not be justified before.

The revisions added only provisions that:

1. **Introduced discretion where none existed**
2. **Imposed approval tests not found in statute**
3. **Added documentation or “reasonableness” standards**
4. **Shifted authority from parent to agency**
5. **Retroactively justify earlier denials**

Before **June 23, 2025**, the ESA Parent Handbook followed the law as written. **It expressly allowed instructional materials for physical education** and imposed **no spending caps, no discretionary approval tests**, and **no pre-approval requirements** beyond statute. [The law and handbook in effect at the time permitted the purchase at issue.](#)

Despite this, **ESA denied my daughter physical education equipment for more than three months under rules that did not exist.**

During the appeal when confronted with those facts, **the agency was repeatedly unable to cite any statute, rule, or handbook provision authorizing the denial.** Formal objections preserved in the record **challenged the absence of legal authority, the use of unpublished criteria, and the retroactive application of standards not found in the governing materials.**

While the appeal was pending... and those objections remained tabled and unresolved... the handbook was revised on June 23, 2025. New discretionary language was added allowing ESA to deny purchases based on **“reasonableness,” “alternative availability,” and additional documentation requirements.** These standards did not exist when the denial occurred and do not appear in *A.R.S. § 15-2402(B)(4)*.

Approximately two months after these revisions were issued, the hearing was **dismissed with prejudice, despite unresolved and preserved objections.** The denial was never upheld under the rules in force at the time. **Instead, the governing guidance was rewritten mid-appeal and the case was terminated.**

Let that sink in. **ESA denied an allowable purchase under non-existent rules for more than three months, revised the handbook during the appeal to add those rules, and then closed the case with prejudice** without ever addressing the original objections.

The issue was not resolved on the merits; it was **deliberately erased through procedural termination after the rules were changed.**