

Exhibit C

The Appeal & Preserved Objections

Description: Formal appeal properly filed under ESA rules.

Exhibit C1

Notice of Appeal / Hearing Request
March 12, 2025

Description: Formal appeal properly filed under ESA rules.

ESA APPEAL FORM

Fill out the appeal form and email this form and the ADE administrative decision to esafeedback@azsbe.az.gov.

Date _____

Parent Full Name: _____

Mailing Address: _____

Phone Number: _____

Email Address: _____

Student Initials: _____

Student Application ID: _____

Arizona State Board of Education
Attn: ESA Appeal
1700 West Washington Street
Executive Tower, Suite 300
Phoenix, AZ 85007
esafeedback@azsbe.az.gov

Pursuant to Arizona Revised Statute (A.R.S.) § 15-2403(D) and Arizona Administrative Code (A.A.C.) R7-2-1511, I request an appeal to the administrative decision made by the Arizona Department of Education (ADE).

My request for an appeal with the Arizona State Board of Education (SBE) is consistent with A.R.S. § 15-2403(D).

The action being appealed is:

- Eligibility Denied
- Contract Terminated
- Expense Item(s) Disallowed
- Other:

I am appealing ADE's administrative decision for the following reasons:

ESA APPEAL FORM

Fill out the appeal form and email this form and the ADE administrative decision to esafeedback@azsbe.az.gov.

THIS SECTION IS ONLY APPLICABLE TO TERMINATED/SUSPENDED ESA ACCOUNTS

This section:

- Does **not** apply to my appeal
- Does** apply to my appeal. My request for a stay is detailed below.

Requested Stay

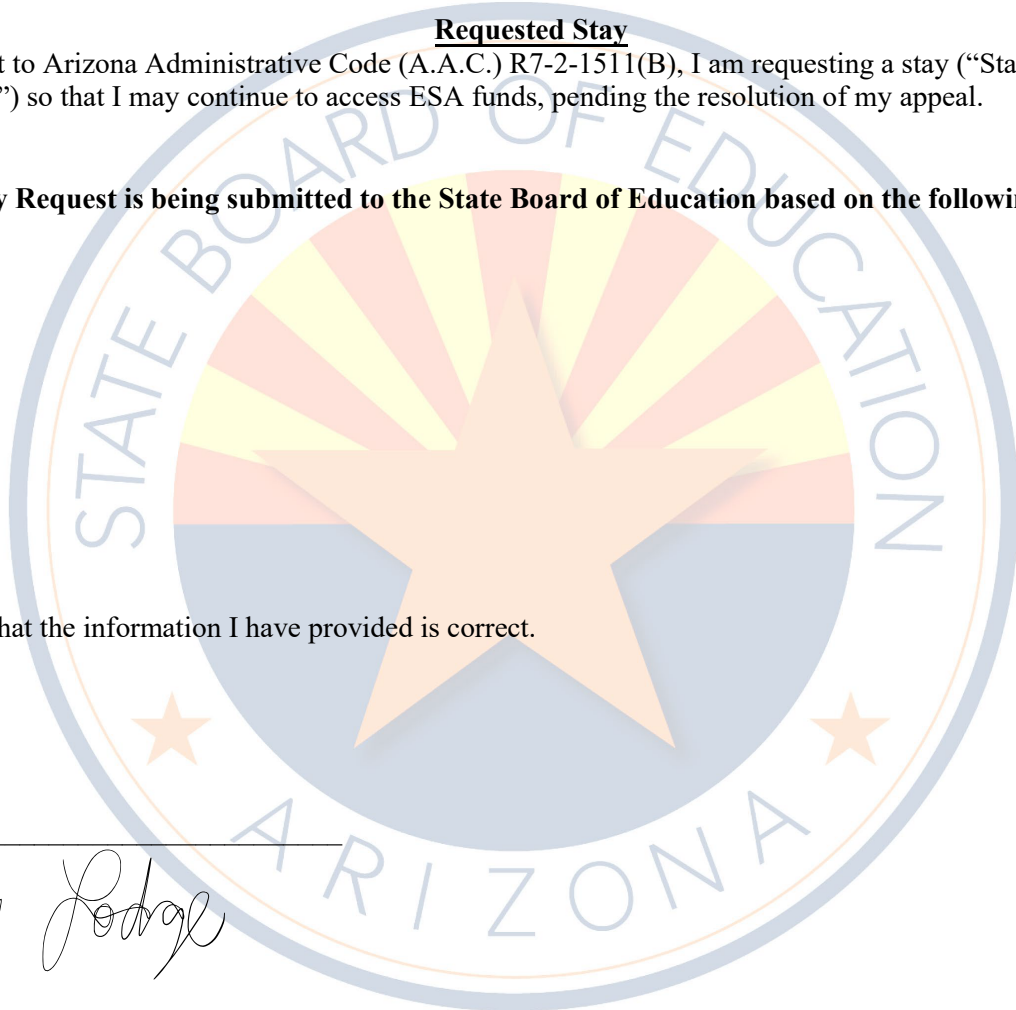
Pursuant to Arizona Administrative Code (A.A.C.) R7-2-1511(B), I am requesting a stay (“Stay Request”) so that I may continue to access ESA funds, pending the resolution of my appeal.

My Stay Request is being submitted to the State Board of Education based on the following:

I attest that the information I have provided is correct.

Signed,

Jay Lodge



Received 03-07-2025

ESA Appeal – Unjust Rejection of Pre-Approved Physical Education Equipment Arizona State Board of Education (SBE) – ESA Program

Re: Appeal of ESA Equipment Purchase Rejection

Appellant: Guy Lodge

ESA Account ID: 

Date of Rejection: March 6, 2025

Rejected Item: Spirit CRW800 Rower (94 x 18 x 38 Inches)

Reason Given for Rejection: "Disallowed item pursuant to ARS 15-2402"

Appeal Statement

I am **formally appealing** the Arizona Department of Education's (ADE) rejection of my ESA purchase for the **Spirit CRW800 Rower**, a pre-approved **physical education** item that was arbitrarily disallowed without justification.

This rejection is **inconsistent with ESA policies and lacks any valid reasoning**. My appeal is based on the following grounds:

1. **The Spirit CRW800 Rower was listed on the ESA pre-approved Physical Education Equipment list** at the time of purchase. There is **no policy prohibiting this equipment** under ARS 15-2402.
2. **Physical education is an allowable ESA category**, and this item is specifically designed for that purpose.
3. **No valid justification was provided** beyond an "executive decision." ESA families deserve transparency, not arbitrary denials.
4. This rejection sets a **dangerous precedent** where ESA funds are inconsistently applied, preventing families from purchasing legitimate educational items.

I am requesting an **immediate reversal of this decision** and approval of my purchase, or a clear written explanation citing the **specific** section of ARS 15-2402 that justifies its rejection. If no such policy exists, this decision must be overturned immediately.

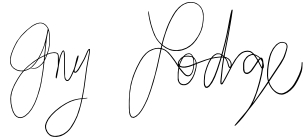
Requested Action

- **Immediate approval** of my ESA purchase for the **Spirit CRW800 Rower**
- **A clear written response** explaining why this item was rejected despite being pre-approved
- **A commitment to transparency** in ESA decision-making to prevent similar arbitrary rejections in the future

I appreciate your prompt attention to this matter and expect a response within the **next 10 business days**, per the ESA appeal process. If this issue is not addressed, I am prepared to escalate my concerns to additional state agencies and legislators overseeing ESA oversight.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Guy Lodge". The signature is written in a cursive, flowing style.

Guy Lodge


ESA Account ID: 

Exhibit C2

First Objection to Tribunal Ruling
May 27, 2025

Description: Legal objections preserved on the record.

May 29, 2025

To:

**Office of Administrative Hearings
Arizona Department of Administration
1400 W. Washington St., Suite 101
Phoenix, AZ 85007**

**RE: Formal Objection & Procedural Response to May 27, 2025 Ruling
Docket No. 25C-ESA-006-SBE
Guy Lodge v. Arizona Department of Education**

To Whom It May Concern,

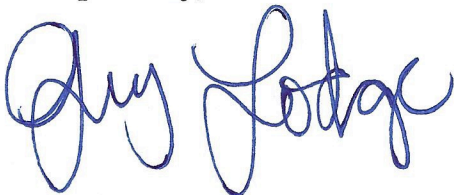
I am submitting the enclosed **Objection and Procedural Response** to ensure the record reflects all relevant procedural concerns, missteps, and unresolved issues stemming from the Tribunal's **May 27, 2025** ruling. This filing addresses the improper denial of my revised Motion for Reconsideration, the inconsistent application of deadlines and evidentiary standards, and broader concerns about fairness and selective enforcement throughout these proceedings.

Included are:

- Formal Objection & Procedural Response (May 29, 2025)
- Certificate of Delivery (May 20, 2025)
- Exhibit A – Original Subpoena Motion
- Exhibit A1 – Revised Subpoena Motion (May 12/May 20)
- Exhibit B – Disjointed Email from OAH (May 20)
- Exhibit C – Certificate of Delivery (re: May 20 filings)

I respectfully request that these materials be entered into the official record and considered accordingly.

Respectfully,



Guy Lodge

May 29, 2025

To:

**Office of Administrative Hearings
Arizona Department of Administration
1400 W. Washington St., Suite 101
Phoenix, AZ 85007**

Docket No.: 25C-ESA-006-SBE

Appellant: Guy Lodge, on behalf of 

Respondent: Arizona Department of Education

RE: OBJECTION & PROCEDURAL RESPONSE TO MAY 27, 2025 RULING

Docket No. 25C-ESA-006-SBE

To the Office of Administrative Hearings:

I am formally **objecting to the ruling issued on May 27, 2025, on both procedural and substantive grounds.** This process has now crossed into territory that undermines not only the facts of this case, but also the legitimacy of the hearing itself.

My **Motion for Reconsideration** of the subpoena was originally mailed on **May 12, 2025** and confirmed as picked up at the Post Office on **May 17, 2025**. It took five business days for the Tribunal to retrieve the certified mailing. But because that filing was never docketed or acknowledged, I was forced to resubmit it by hand on May 20 — just to ensure it entered the record. That delay had cascading effects: when I served the original part of the motion through the third-party server, Maria filed a Motion to Quash on the grounds that it was “late.” In reality, the only reason it reached her after the deadline was because the Tribunal failed to process my original, timely submission.

It is now clear that either:

- These filings were never reviewed, or
- They were reviewed and deliberately ignored.

That is not adjudication. That is administrative negligence, at best — and at worst, an active suppression of a parent's documented efforts to be heard.

And let's be absolutely clear about what that leaves families with: nothing. I have exhausted every internal remedy available — and still find myself blocked, erased, or procedurally overruled. And while I should be able to turn to the Attorney General for protection in cases involving discrimination, selective enforcement, or bad-faith retaliation by a public agency, the AG's office serves as counsel for that very agency. That is a structural conflict — and it leaves parents like me with no watchdog, no shield, and no impartial safeguard against misconduct from within the system.

The longer this continues, the more obvious it becomes that this isn't an honest process — it's a defensive one.

1. Motion Narrowed by ALJ Guidelines — Then Still Denied Without Cause

The Court denied my **Motion for Reconsideration** — not because it was late, not because it lacked substance, but because it was allegedly **outside the scope**. That is simply not true. Let's be clear about the record.

The original motion, submitted on **March 12**, was already structured, focused, and firmly grounded in relevance. It requested information directly tied to the denials at issue, including **educational equipment purchases, threshold-based denials, 504 Plan relevance, and email obstruction evidence**. It focused on a specific time period — January 2023 to present — and laid out four clear sections, each justified by facts already in evidence. It wasn't a fishing expedition. It was a motion built to demonstrate **selective enforcement and retaliation**, with concrete references — not speculation.

The Court denied half of that motion and instructed me to narrow the timeframe to two years preceding my appeal. So I did.

The revised **Motion for Reconsideration**, submitted on **May 12**, confirmed as picked up at the **Post Office on May 17**, and then **hand-delivered again on May 20**, followed the Tribunal's directive word for word. **I explicitly adopted the two-year scope limit. I tightened every section. I removed any language that could be perceived as general discovery. I made each request specific, justified, and directly tied to the rower denials and the \$5,400 cap issue.** I asked for names, dates, itemized records, server-side email logs. This wasn't about hypotheticals — it was about facts that already exist, facts the agency should already have, and facts that go to the heart of this case.

This was not a "do-over." It was a **procedurally sound, scope-compliant** refinement of a valid motion already on record. Yet the Tribunal denied it again — without any substantive explanation or citation of the specific rule it allegedly violated.

Meanwhile, **the very issue raised in that motion forced me to hand-deliver filings during the final three days of the deadline.** Not because I enjoy visiting state buildings — but because I had no other choice. **ESA was blocking emails. The Tribunal was ignoring certified mail.** If the motion were truly irrelevant, I wouldn't have been barred from emailing ESA. **My certified mail wouldn't have gone unacknowledged.** And I wouldn't have been forced into repeated hand deliveries just to protect the record.

The denial isn't just unjustified — **it directly contradicts the real-world barriers this process has imposed.**

Let's be absolutely clear:

The original motion was strong.

The revised motion wasn't just a second attempt — it was a precision fix, shaped by the Court's own guidance and fully within the limits of scope.

Yet it was denied again — without reason, without citation, **and without regard for the procedural realities I've been forced to navigate.**

And why?

Because that record implicates the Department.

It asks **who created secret thresholds. Who changed rules after appeals were filed. Who blocked parent emails with keyword filters. And who approved these actions while families were still relying on the handbook** — not the internal playbook.

When I complied, the goalposts moved again.

That's not legal analysis — that's procedural gatekeeping.

If the Court won't even allow a parent to ask who set the traps, how can any of us be expected to avoid them? Just to protect the record.

See **Exhibit A** – Original Subpoena Motion **and Exhibit A1** – Revised Subpoena Motion Submitted After Scope Guidance

2. Selective Enforcement & Pattern of Retaliation

The Department's enforcement **thresholds** have **shifted repeatedly** — from **\$2,000** to **\$1,000** — but only in retroactive and selectively applied ways. These sudden changes have never been published as official ESA policy, nor were they disclosed to parents prior to purchases. **I have stated that from day one and throughout these proceedings.**

Most notably, the **\$5,400 computer** — purchased for **direct educational use and curriculum access** — **was denied *after* I filed my appeal.** That timing was not coincidental. It was retaliatory. **I have stated that from day one and throughout these proceedings.**

And while the Department now claims the issue was “curriculum,” **the actual denial letter makes no such claim** — **it cites only a price cap. Period. I've submitted that language verbatim across multiple exhibits in these proceedings.** Their new explanation isn't supported by the record — it's revisionist fiction, retroactively designed to justify a retaliatory denial.

What followed only deepens the appearance of retaliation — and adds undeniable evidence of obstruction.

In the eleventh hour on **May 19**, the Department filed a **Motion to Dismiss** filled with **distorted facts** — facts **Maria Syms** knew were **false when she submitted them**. Less than **24 hours later**, on **May 20**, I received a **vague, disjointed email** from the Office of Administrative Hearings, giving me **only until May 22 to respond**.

See **Exhibit B: OAH Email Dated May 20 (Disjointed Notice of Response Deadline)**

But the email didn't clearly identify which motion it referenced. The sentences didn't even connect logically. It bizarrely instructed me to "amend" a subpoena — even though **no subpoena was part of that filing**. The message was **confusing, poorly written, and suspiciously convenient** — either rushed and careless... or deliberately vague.

That email imposed a **48-hour response window** — while my own timely motions had been **ignored for days**. Still, I complied. I hand-delivered both my **Objection to the Motion to Dismiss** and my revised **Motion to Reconsider**, complete with a **certificate of delivery**, **two full days before the deadline**.

They were dismissed anyway — for being "too broad."

Then, just days later, the Department filed their **Motion to Quash** — **after the deadline** — and **you accepted it without question**. No delays. No scrutiny. This, despite the fact that the only reason my filings arrived late to the other party was because of real-world barriers created by OAH itself: **certified mail was ignored, communication was vague or absent, and I was forced to hand-deliver filings just to be heard**.

That's not justice. That's procedural sabotage.

Let's be clear about what happened:

The only reason my motion reached ESA "late" was because the Tribunal failed to docket — or rule on — my certified filing from **May 12**, which wasn't picked up from the Post Office until **five business days later**, on **May 17**. That delay wasn't mine. It was the **Tribunal's**. I followed every rule. I used **certified mail**. I **verified delivery**. And yet I was **punished for your delay** — while ESA faced no such consequence.

And instead of acknowledging those real-world barriers —
like **ESA blocking my emails**,
OAH ignoring certified mail,
and **me being forced to hand-deliver filings just to be heard** —
you acted like none of it happened.

Then you used the delay your office caused as the reason to **rule in favor of their quash**.

That's not just **procedural unfairness** —
that's a manufactured default — **built on obstruction, then used against me**.

3. Agency Motions Approved — Parent Filings Ignored

On **May 20**, I hand-delivered a full Opposition to the Department's Motion to Dismiss — **two full days before the May 22 response deadline**. That filing included a **Certificate of Delivery** and my **resubmitted Motion to Reconsider**, which had been revised in good faith to reflect the ALJ's own prior guidance.

See **Exhibit C – Certificate of Delivery Filed May 20**

Yet that entire filing was **ignored** — never acknowledged, never docketed, and ultimately dismissed.

Then, on **May 23**, I submitted a separate **Opposition to the Department's Motion to Quash** — on the **same day** that motion was filed. My opposition raised **direct objections to the Department's factual misrepresentations**.

That filing, too, was never acknowledged.

Meanwhile, the Department's **May 23 Motion to Quash** — which was filed **after the May 22 deadline** — was accepted, considered, and ruled on without question. No delay. No objection. No issue.

That's not neutral adjudication — that's a one-sided standard.

My timely filings were erased. The agency's late motion was granted.

This undermines the legitimacy of the hearing and calls into question the impartiality of the Tribunal's process.

4. Demand Letter Was Submitted — Then Erased from the Record

On **May 20**, I submitted a formal **Demand Letter** as **Exhibit F**, attached to my **Opposition to the Department's Motion to Dismiss**. It outlined — in clear, documented terms — the Department's **retaliatory conduct, shifting reimbursement thresholds, procedural obstruction, and the full scope of impacted educational purchases**.

This wasn't buried in a footnote. It was **front and center** — referenced within my filings, submitted with supporting exhibits, and **hand-delivered** with a certificate of delivery. It was filed at the **exact same day** as the Department's own motions.

Yet in the Tribunal's May 27 ruling, it disappears. The ruling makes no mention of the letter — and shockingly reduces the entire issue to a **single rowing machine**, ignoring every other claim. That's not oversight. **That's omission — and it's deliberate.**

Even more telling: the **Department themselves** referenced my Demand Letter in their own filing. Not to dispute its facts, but to accuse me of being “unreasonable.”

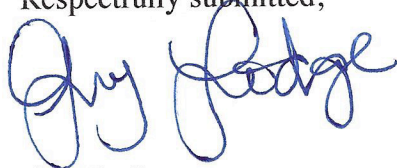
So the letter is admissible when it benefits the agency — but inadmissible when it strengthens the parent's case?

That's not just bias. That's a rigged process.

And while we're naming things plainly — **should we really be surprised?** The state agency is allowed to oversee the state-run education program, with the state adjudicating the fairness of its own conduct. Who signed off on that structure? Where is the accountability in letting the same system **judge itself?**

That's not justice. That's institutional self-protection — and the erasure of this Demand Letter proves it.

Respectfully submitted,

A handwritten signature in blue ink that reads "Guy Lodge". The signature is written in a cursive, flowing style.

Guy Lodge
Parent & Appellee



Exhibit List – Objection to May 27 Ruling

- **Exhibit A – Original Subpoena Motion**
- **Exhibit A1 – Revised Subpoena Motion Submitted After Scope Guidance**
- **Exhibit B – OAH Email Dated May 20 (Disjointed Notice of Response Deadline)**
- **Exhibit C – Certificate of Delivery Filed May 20**
- **Certificate of Delivery (Motions filed May 23, 2025)**

Certificate of Delivery

RE: Objection & Procedural Response – Docket No. 25C-ESA-006-SBE
Guy Lodge v. Arizona Department of Education

I, **Guy Lodge**, certify that on this date, **May 29, 2025**, I submitted the following materials via the **OAH electronic filing portal**, for the record in the above-captioned case:

Documents Delivered:

1. Formal Objection & Procedural Response (May 27, 2025)

– Addresses the ALJ’s May 27 ruling, selective acceptance of filings, and procedural due process concerns.

2. Exhibit A – This Certificate of Delivery

– Confirming the May 27 submission.

3. Exhibit B – Certificate of Delivery: May 20–22, 2025 Filings

– Verifies prior submission of physical and certified materials, including Exhibit Y and supplemental motions, all ignored in the ruling.

4. Exhibit C – Why the Demand Letter Was Filed

– Explains the purpose, timing, and relevance of the demand letter — not re-submitted, but cited by both parties and improperly omitted from the ruling.

Note for the Record:

This is **not** a re-submission of the demand letter or previous motions. These documents are referenced to **demonstrate procedural failures and administrative disregard**. They were already filed and ignored. The Department itself relied on these materials in its own arguments — while the Tribunal omitted them from the ruling entirely.

Submitted By: Guy Lodge

Email: 

Date: May 29, 2025

Signature: /s/ Guy Lodge

Printed Name: Guy Lodge

Exhibit A

Motion to Issue Subpoena – ESA Appeal Docket No. 25C-ESA-006-SBE

Date: April 25, 2025

To:

Office of Administrative Hearings (OAH)


Attn: **Administrative Law Judge – Docket No. 25C-ESA-006-SBE**

1740 West Adams Street

Phoenix, AZ 85007

From:

Guy Lodge

ESA Account ID: 

Re: Enclosed Motion to Issue Subpoena + Supporting Exhibits

Dear Administrative Law Judge,

Please find enclosed my **Motion to Issue Subpoena** related to the ESA Appeal under Docket No. 25C-ESA-006-SBE.

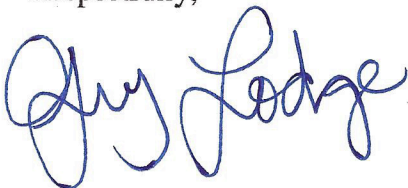
This motion requests the production of specific records relevant to my appeal, including documentation related to large-ticket exercise equipment approvals and denials, unpublished reimbursement limits, and selective policy enforcement practices.

Enclosed are:

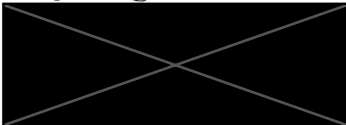
- Motion to Issue Subpoena (signed by appellant)
- Detailed supporting Exhibits (A–G or A–H, depending on submission)
- Exhibit List (for clarity and organization)

Please confirm receipt of this filing and include it in the official case record.

Respectfully,



Guy Lodge



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

Parent G.L. v. Arizona Department of Education
Docket No.: 25C-ESA-006-SBE
SUBPOENA (Duces Tecum)
Under the Authority of Arizona Revised Statutes 41-1092.07(C)

Docket No. 25C-ESA-006-SBE
SUBPOENA (Duces Tecum)
Under the Authority of Arizona Revised Statutes 41-1092.07C

TO: Name: Arizona Department of Education - ESA Program
c/o Zkari Thomas, ESA Account Administrator
Address: 1535 W. Jefferson Street, Bin #41, Phoenix, AZ 85007

You are commanded to ATTEND a hearing in this matter at the date, time and location listed below and to remain until excused.

Date: _____ Time: _____

Location: _____

X You are commanded to PRODUCE documents or other tangible items for the above entitled matter, specifically: (describe items) See attached page titled " Subpoena Duces Tecum -Document Description"

for the hearing listed above OR (if another date other than the hearing) then on or before May 20, 2025 at (location): Delivery via email to [redacted] or directly to the OAH case file.

The Office of Administrative Hearings endeavors to ensure the accessibility of its hearings to all persons with disabilities. Should you need special accommodations please contact the Office of Administrative Hearing at (602)-542-9826 at least three working days prior to the hearing.

DATED this _____ day of _____.

Guy Lodge (handwritten signature)

Administrative Law Judge

AT THE REQUEST OF: Guy Lodge

TELEPHONE NUMBER: [redacted]

Document Description & Justification

Subpoena Duces Tecum – Document Description & Justification

Docket No.: 25C-ESA-006-SBE

Submitted by: Guy Lodge

Requested Documents

A. Records of Denials and Approvals for Large Physical Education Equipment

All records from **January 1, 2023 to present** related to ESA program decisions (approvals or denials) for **large exercise or physical education equipment priced at \$1,800 or more**, including but not limited to:

- Rowing machines (e.g., Spirit CRW800, Hydrow Core)
- Treadmills
- Ellipticals
- Stationary bikes
- Strength training machines

Each record should include:

- Item name and price
- Approval or denial status
- Justification or explanation provided
- Policy, rule, or unpublished threshold cited
- Whether the ESA student had a **504 Plan or disability documentation** on file at the time of request

(See **Exhibit A** – Sample reference of similar rower denial)

B. ESA Policies, Guidelines, or Internal Threshold Rules

All internal ESA documentation, rules, memos, administrative guidance, or policy references (formal or informal) from **January 1, 2023 to present** pertaining to:

- Reimbursement or purchase limits (e.g., \$1,000 or \$2,000 thresholds)
- Equipment or technology reimbursement caps
- Policy guidance related to physical education items

- Threshold or policy adjustments for ESA students with 504 Plans or disabilities
- Any administrative use of “final executive decision” language as justification for denial

(See **Exhibit B** – ESA email citing \$2,000 reimbursement cap and resubmission deadline)

C. List of Threshold-Based Reimbursement Denials

A compiled report or database extract listing all ESA reimbursements denied **due to policy thresholds or administrative caps** from **January 1, 2023 to present**, including:

- Item name and category
- Item cost
- Date of request
- Reason or policy cited for denial
- Whether the request was later appealed, reversed, or resubmitted

D. Records of Internal Email Filtering Rules or Rejection Logs

Any internal mail flow rule, email filtering policy, server log, or content-based rejection configuration implemented by **azed.gov**, that:

- Rejected emails sent to **esa@azed.gov**
- Blocked or flagged based on specific content (e.g., “motion”, “subpoena”)
- Affected incoming communications between ESA participants and ADE from January 1, 2023 to present

This includes any **administrator-created rules or disclaimers** that could have triggered the rejection of procedural filings related to ESA appeals or motions.

(See **Exhibit C** – Bounce-back rejection message received when emailing **esa@azed.gov**)

Relevance & Procedural Justification

These records are necessary to determine whether ESA policies are being applied consistently, transparently, and in accordance with published rules. I am contesting the denial of two separate rowing machine purchases and a \$5,000+ computer, both allegedly rejected under informal or unpublished policies. These records are necessary to evaluate potential selective enforcement, misapplication of 504 Plan protections, and retaliation following the filing of my appeal.

Additionally, this subpoena is required due to **procedural barriers I encountered attempting to obtain these records directly**. When I attempted to submit a lawful motion via email to **esa@azed.gov**, the message was rejected by the ADE mail server. The bounce-back explicitly stated that a **custom mail filter** had blocked the email due to content, specifically because it contained legal terms such as **“motion”** and **“subpoena.”**

A copy of this bounce-back message is attached as Exhibit C, and it will also be included with my upcoming formal filings to ensure it is entered into the case record.

This raises **serious due process concerns**, as it prevented me from communicating through the official ESA contact email regarding time-sensitive, legally protected matters. As a result, I am requesting these records through subpoena to ensure access to the information necessary for a fair hearing.

Exhibit List – Subpoena Request Packet

- **Exhibit A** – Sample equipment denial (Spirit CRW800 or Hydrow rower, if available)
- **Exhibit B** – ESA email citing \$2,000 reimbursement limit and 15-day denial warning
- **Exhibit C** – Bounce-back message and email rejection log from esa@azed.gov

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to

Office of Admin. Hearings
Attn: Admin. Law Judge
1740 West Adams St., Bin #41
PHX, AZ. 85007



2. A

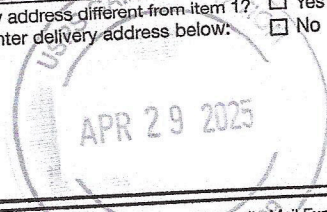


COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

Thomas B. Stapparo Yes
D. Is delivery address different from item 1? No
If YES, enter delivery address below:



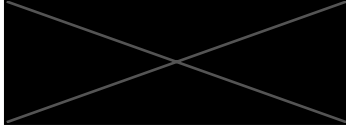
3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

85 05 Restricted Delivery (over \$500)

Domestic Return Receipt

Exhibit A1

Guy Lodge



May 12, 2025

Administrative Law Judge Jenna Clark
Office of Administrative Hearings
1400 W. Washington Street, Suite 101
Phoenix, AZ 85007

Re: Motion to Reconsider — Docket No.: 25C-ESA-006-SBE

Dear Administrative Law Judge Clark,

Please find attached the **Motion to Reconsider** in response to your prior ruling in the above-referenced matter.

This filing outlines serious issues that remain unresolved. It makes clear that the denial was not only **procedurally flawed**—it was **factually unsupported, retaliatory in nature**, and rests on policy that was **selectively enforced and entirely unpublished** at the time of my family's purchase. The updated record now includes clearer documentation of **reimbursement inconsistencies, reactive approvals, and shifting caps applied without transparency or accountability**.

This motion is not submitted lightly. It reflects a pattern I've experienced firsthand: **deny, delay, and disqualify—at all costs—until a parent gives up**. However, I didn't give up, and I have **absolutely no plans to**. I gathered the evidence. And now I'm giving the system a chance to get it right.

I trust that upon further review, the concerns raised in this motion will warrant a reconsideration of the prior ruling, especially in light of the expanded record and the procedural questions it presents.


Sincerely,

A handwritten signature in black ink that reads "Guy Lodge". The signature is fluid and cursive.

Guy Lodge

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

 Student by and through)	Docket No. <u>25C-ESA-006-SBE</u>
Parent G.L.)	SUBPOENA (Duces Tecum)
v.)	Under the Authority of
Arizona Department of Education)	Arizona Revised Statutes 41-1092.07C
Docket No.: 25C-ESA-006-SBE)	
SUBPOENA (Duces Tecum))	
Under the Authority of Arizona)	
Revised Statutes 41-1092.07(C))	

TO: Name: Arizona Department of Education – ESA Program
c/o Zkari Thomas, ESA Account Administrator


Address: 1535 W. Jefferson Street, Bin #41, Phoenix, AZ 85007

 You are commanded to ATTEND a hearing in this matter at the date, time and location listed below and to remain until excused.

Date: _____ Time: _____

Location: _____

X You are commanded to PRODUCE documents or other tangible items for the above entitled matter, specifically: (describe items) See attached page titled " Motion to Reconsider Partial Denial of Subpoena Request – Sections C & D "

for the hearing listed above OR (if another date other than the hearing) then on or before May 20, 2025, _____ at (location): Delivery via email to  or directly to the OAH case file. _____.)

The Office of Administrative Hearings endeavors to ensure the accessibility of its hearings to all persons with disabilities. Should you need special accommodations please contact the Office of Administrative Hearing at (602)-542-9826 at least three working days prior to the hearing.

DATED this _____ day of _____.

Administrative Law Judge

Guy Lodge

AT THE REQUEST OF: Guy Lodge

TELEPHONE NUMBER: 

Motion to Reconsider Partial Denial of Subpoena Request – Sections C & D

Docket No. 25C-ESA-006-SBE

Submitted by: Guy Lodge

Dear Administrative Law Judge Clark,

I am submitting this **Motion to Reconsider** the partial denial of my subpoena request. Sections C and D—which seek records directly related to **threshold-based denials** and **content-based email filtering**—were rejected as “overbroad, vague, and irrelevant.” With all due respect, I believe that conclusion warrants further review. These requests are **narrow in scope, time-limited per your notation, and directly tied** to the issues under review in this hearing.

To be clear, **this hearing does not exist in a vacuum**. The denial of the rowing machines is the **crux of the original appeal**—but that denial was justified using **shifting, unpublished, and selectively enforced policies**. What followed was clear **retaliation: straightforward reimbursements were blocked under unpublished caps**, applied only after I exercised my **right to appeal**, and there is **evidence suggesting the selective filtering and suppression of email communications**. The purpose of Sections C and D is to obtain documentation that clarifies **how these policies were applied** and whether they were **created or manipulated in response to my protected activity**. That information is not only **relevant**—it is essential to assessing whether the denial was **fair, lawful, and procedurally sound**.

As the presiding Administrative Law Judge, I trust you recognize the importance of ensuring that families like mine have a fair opportunity to access relevant information and present a complete case. I am simply asking that this motion be reviewed on the basis of what it is: a **targeted request for information** that may reveal whether ESA administrators have engaged in **selective enforcement, retaliatory conduct, or procedural obstruction**—all of which go to the **heart of my pending appeal**.

Section C – Threshold-Based Reimbursement Denials

Revised Request (2-year prior to petitioner request applied per ALJ notation):

A compiled record of **all ESA reimbursements denied due to internal caps or thresholds**, including:

- Item name, category, and price
- Date of request and denial
- The threshold or policy cited for denial
- Whether the item was later appealed, reversed, or resubmitted

This request is directly tied to the issues in this case. I have challenged the denial of **two rowing machines** and a **\$5,400 educational computer** — **all blocked based on internal thresholds that are not published in any ESA handbook, rule, or training document**.

ESA continues to enforce limits that families are **never informed of**, and these records are essential to determine whether my experience reflects **targeted retaliation** or a **broader administrative pattern**. The public has a right to know whether these so-called thresholds are being applied inconsistently — **especially in response to families who file appeals**.

Meanwhile, \$5,400 of my hard-earned money remains withheld unless I agree to an invented threshold that slashes my reimbursement by more than half. On top of that, my children are being denied consistent access to physical education — something that, in Arizona’s 100 degree heat, is not a luxury, but a necessity.

Section D – Internal Email Filtering Rules and Rejection Logs

Revised Request (2-year prior to petitioner request applied per ALJ notation):

All documentation relating to **content-based filtering applied to esa@azed.gov**, including:

- Mail flow rules that blocked messages containing legal terms like “motion” or “subpoena”
- Server-side rejection logs triggered by such filters
- Internal memos, staff emails, or administrative actions establishing or maintaining these filters
- **Identification of the email administrator(s)** responsible for creating, activating, or approving such blocks

This is not a hypothetical concern. I personally attempted to submit a lawful motion several times to esa@azed.gov and received a **server rejection citing a custom mail flow rule**.

(See **Exhibit C – Rejected email and bounce-back error**)

Blocking legal filings is **not a technical error** — it is a **procedural violation** that directly interferes with my rights under state administrative law. As a participant, I have a right to know:

- **Who created** the email block?
- **Who approved** it for a public-facing agency address?
- **Who knew** families were being denied access while trying to assert their rights?

These are not abstract questions. They go to the **core of procedural fairness** and are central to determining whether my case — and potentially others — have been compromised by invisible roadblocks.

Conclusion

I urge the Court to reconsider the denial of Sections C and D. Both requests are now explicitly

limited to a **2-year scope** and are **factually and procedurally relevant** to the contested decisions in this appeal.

Again, this is not a fishing expedition. These are **targeted records** designed to answer key questions:

- **Is ESA selectively enforcing unpublished thresholds?**
- **Is the agency interfering with families' right to appeal through content filtering?**
- **Who inside the agency is responsible for setting these limits or barriers?**

The law protects families from **retaliation, obstruction, and undisclosed policy enforcement**. These subpoenas aim to expose practices that violate those protections. **That is not irrelevant – it is the very heart of why this appeal was filed.**

Thank you again for your attention to this matter, and I look forward to your response.

Respectfully submitted,

Guy Lodge

9589 0710 5270 3188 4307 96

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Certified Mail Fee	\$4.85
Extra Services & Fees (check box, add fees as appropriate)	\$4.10
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$2.04

Total Postage and Fees \$10.99

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City, State, ZIP+4® **PHX AZ 85007**

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SURPRISE AZ SDC
14955 W BELL RD
SURPRISE, AZ 85374-9905
(800)275-8777

05/12/2025 02:15 PM

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope	1		\$2.04
Phoenix, AZ 85007 Weight: 0 lb 2.40 oz Estimated Delivery Date Wed 05/14/2025			
Certified Mail®			\$4.85
Tracking #: 9589 0710 5270 3188 4307 96			
Return Receipt			\$4.10
Tracking #: 9590 9402 9482 5069 8761 85			
Total			\$10.99

Grand Total: \$10.99

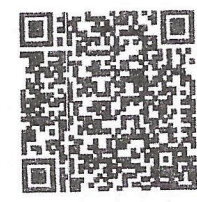
Credit Card Remit \$10.99
Card Name: VISA
Account #: XXXXXXXXXXXXX0154
Approval #: 011517
Transaction #: 214
AID: A0000000980840 Chip
AL: US DEBIT
PIN: Not Required

In a hurry? Self-service kiosks offer quick and easy check-out. Any Retail Associate can show you how.

PREVIEW YOUR MAIL AND PACKAGES
Sign up for FREE at
<https://informedelivery.usps.com>

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Tell us about your experience.
Go to: <https://postalexperience.com/Pcs>
or scan this code with your mobile device.



or call 1-800-410-7420.

UFN: 038273-0719
Receipt #: 840-58520404-3-12769102-2
Clerk: 05

Exhibit B



25C-ESA-006-SBE M.L., STUDENT BY AND THROUGH PARENT G.L., v. ARIZONA DEPARTMENT OF EDUCATION

OAH <oah@azoah.com>

Tue, May 20, 2025 at

To: [REDACTED]
Cc: maria.syms@azed.gov, hannah.mccarthy@azed.gov, Karen Mccue <karen.mccue@azed.gov>, Christine Sbarcea <christine.sbarcea@azed.gov>, john.ward@azed.gov, Kat Ruiz <katherine.ruiz@azsbe.az.gov>

Good afternoon,
OAH received a motion yesterday 05/19/25. Respondent has the right to submit a response prior to the Tribunal's issuance of a ruling. It will be due by 05/22/25.

Additionally, Respondent submitted a Motion to Dismiss that he has a right to respond to before the Tribunal issues a ruling.

Mr. Lodge Please (1) supply the Tribunal with an amended subpoena request for review, as one was not included with this motion, and (2) notify him that a written reply to Respondent's motion is due by 05/22/25.

Thank you,
OAH

This message is confidential and intended only for the named recipient(s). This message may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient(s), you are notified that reading, disseminating, distributing or copying this message is strictly prohibited. If you have received this message in error or are not the named recipient, please notify the sender by telephone, facsimile or e-mail and delete this message from your computer. Receipt by anyone other than the named recipient(s) is not a waiver of any attorney-client, work product or other applicable privilege.

Exhibit C

CERTIFICATE OF SERVICE

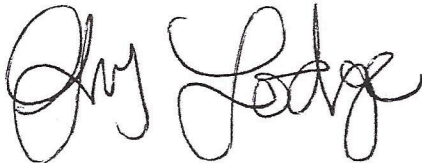
Case No. 25C-ESA-006-SBE

I, **Guy Lodge**, hereby certify that on this **20th day of May, 2025**, I hand-delivered a true and correct copy of the following documents to the Arizona Office of Administrative Hearings in connection with the above-referenced case:

- Appellant's Response in Opposition to Respondent's Motion to Dismiss
- Exhibits A-G (inclusive)
- Motion to Reconsider Partial Subpoena Denial
- Exhibit F: Formal Demand Letter with Cover Letter
- Exhibit List and Title Page

Copies were also previously delivered via email to the appropriate parties as noted in prior correspondence.

Respectfully submitted,



Guy Lodge

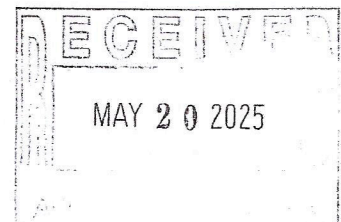


Exhibit C3

Second Objection Filed
June 2, 2025

Description: Second formal objection raising additional procedural concerns.

OBJECTION TO MOTION TO CONTINUE HEARING

IN THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF ARIZONA

IN THE MATTER OF:

M.L., Student, by and through Parent G.L.

Appellant,

v.

ARIZONA DEPARTMENT OF EDUCATION,

Respondent.

Docket No.: 25C-ESA-006-SBE

OBJECTION TO MOTION TO CONTINUE HEARING

Date: June 2, 2025

Submitted by: Guy Lodge

To the Office of Administrative Hearings

Attn: Administrative Law Judge Jenna Clark

I respectfully object to the Department's last-minute Motion to Continue the hearing set for **June 4, 2025**. I also object to the Tribunal's **immediate granting** of that motion **without allowing me to respond**—an action that is both unusual and, at the very least, suspicious, **raising serious due process concerns**.

This proposed **four-month delay** would mean **seven months** from the time of filing **until a resolution** — with my funds **still on hold** and my daughter's exercise equipment left waiting. That is not just an administrative delay; it is a **financial penalty, a health penalty, and an obstacle to due process**. I object to this delay for the following reasons:

First and foremost, this case is about retaliation and procedural misconduct — not just a single rower denial. The Department's shifting policies, post-hoc justifications, and the OAH's repeated refusal to acknowledge key facts are at the core of my claim. Delaying the hearing until October shields the agency from accountability and prolongs the financial harm I've endured. That is **completely unacceptable**.

Second, the Department's motion misrepresents the facts. This is not a routine request; it is an attempt to delay accountability. The Department's "**extensive**" subpoenaed documentation is neither so complex nor so voluminous that it justifies a four-month delay. ClassWallet records are digital, and the Department has ample staff and resources to produce, review, and redact the requested information in a matter of weeks—if not days. Granting a four-month extension on such a thin explanation effectively shields the agency from immediate scrutiny and rewards its pattern of evasion.

Third, the Department's last-minute motion—and the Tribunal's rapid approval—fail to acknowledge the procedural failures that forced me to re-serve my motion and delayed the Department's receipt. Despite the ALJ's original opinion that my due process concerns were "**irrelevant**," that very issue forced me to hand-deliver documents three days in a row before the deadline — including dealing with ESA's refusal to accept my hand delivery and their unnecessary call to law enforcement. These barriers were not irrelevant or "out of scope." They were real, they were documented, and they directly impacted my ability to participate fairly in this hearing.

Moreover, dismissing the direct result of OAH's failure to process my timely Motion for Reconsideration of the subpoena is not acceptable. That motion — originally sent via **Certified Mail with Return Receipt on May 12th** and confirmed as picked up by the post office on **May 17th** — was not docketed or ruled on until I was forced to resubmit it by hand on **May 20th**, just to get it on record. That **manufactured delay**—caused entirely by the Tribunal's failure to process my timely filing—is now being **exploited** by the Department to argue that the motion was untimely. That delay is not mine — it's OAH's. And I refuse to be penalized for it.

Fourth, the Department's motion and the Tribunal's rapid approval fail to acknowledge the ongoing issues with the OAH portal, where my last two submissions showed the attachments as uploaded on my end, yet they were received without attachments on the Tribunal's side. I received the instant confirmation but did not receive email confirmations for those uploads. I had to call OAH staff and email the documents directly to ensure they were added to the record. This is not a reliable system, and I have all instant confirmations to prove every filing was properly submitted on my end. I am requesting confirmation from OAH that every filing—including the most recent Clarification—has been properly attached to the case record and transmitted to the Department. This repeated failure undermines my ability to participate fully and fairly in these proceedings.

Fifth, since this is being pushed out further, I need to be in the building. I formally request that any rescheduled hearing be held in person, rather than remotely. I am making this request now so it falls within the seven-day window for any new date. I need to be able to present evidence and confront the Department's shifting narratives directly and transparently.

Additionally, I must object to the procedural imbalance on display here: Since the Tribunal's **May 27 ruling**, I have prepared, finalized, and submitted now my **fourth substantial filing**. Each of these filings was prepared while navigating the Department's shifting narratives, unexplained denials, and procedural roadblocks. If I, an ordinary parent, can respond at this pace under these circumstances, then the Department—with full-time General Counsel and extensive resources—should have been able to file its motion to continue immediately after the Tribunal's May 27 ruling. Instead, per usual, they waited until the last possible moment on May 30 to file their request—just days before the hearing. **And the Tribunal just granted that request with no opportunity for me to respond**. That's not just **unfair**—it's a clear example of a system that favors the agency at every turn while making it nearly impossible for a parent to assert their rights. I object to this imbalance and the repeated pattern of giving the agency preferential treatment.

In summary:

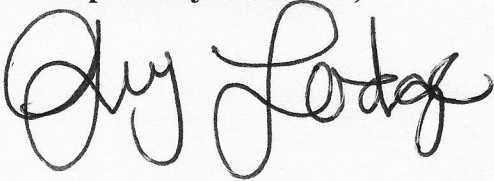
This hearing is about retaliation and agency misconduct—and it must proceed as soon as possible. The delays are caused by a combination of OAH’s failure to process timely filings and the Department’s last-minute tactics, not by me. The portal’s unreliability further threatens the fairness of this proceeding—and therefore, I formally request verification that every filing on record has been properly attached and transmitted to the Department.

This hearing should be in person, not remote, to ensure a full and fair presentation of the evidence. Given the Department’s resources, a two-week extension is more than sufficient to compile and redact the requested information, if needed. This case is serious and demands prompt resolution—not a seven-month delay.

I respectfully request that the Tribunal reconsider the length of the continuance and instead grant a limited two-week extension—no later than **June 18, 2025**—to allow the Department to complete the requested tasks without further undermining my due process rights.

Delays of three (3) months for the original hearing date and an additional four months are completely unacceptable.

Respectfully submitted,

A handwritten signature in black ink that reads "Guy Lodge". The signature is written in a cursive, flowing style.

Guy Lodge

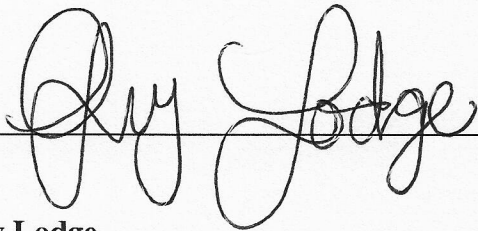


CERTIFICATE OF DELIVERY

I, **Guy Lodge**, certify that on this day, **June 2, 2025**, I submitted the attached **Objection to Motion to Continue Hearing** via the Office of Administrative Hearings (OAH) electronic filing portal. As part of this submission, the document was served electronically on the following parties:

- **Jenna Clark**, Administrative Law Judge
- **Maria Syms**, Associate Superintendent & Director of Legal Services – ADE
- **John Ward**, ESA Executive Director – ADE
- **Christine Sbarcea**, ESA Deputy Director – ADE
- **Sean Ross**, Executive Director – SBE
- **Bruce DuPlanty**, Deputy Director – SBE

Signature _____

A handwritten signature in black ink that reads "Guy Lodge". The signature is written in a cursive style and is positioned over a horizontal line.

Printed Guy Lodge
Date: June 2, 2025

Exhibit C4

Addendum Listing Third Set of Objections June 17, 2025

Description: A formal addendum submitting an additional set of objections for inclusion in the administrative record.

June 17, 2025

Case No. 25C-ESA-006-SBE

M.L., Student, by and through Parent G.L., Appellee

v.

Arizona Department of Education, Appellant

Submission: Addendum to Objection

Submitted via: Office of Administrative Hearings Electronic Portal

Submitted by:

/s/ Guy Lodge

Parent & Appellee

[Digitally Signed]

IN THE OFFICE OF ADMINISTRATIVE HEARINGS
M.L., Student, by and through Parent G.L., Appellee
v.
Arizona Department of Education, Appellant
No. 25C-ESA-006-SBE

ADDENDUM TO OBJECTION

I submit this Addendum to formally object to the recent Minute Entry issued by the Tribunal on June 13, 2025, and to reiterate the following unresolved concerns for the record:

1. The Tribunal's treatment of post hoc justifications as fact is improper.

I object to the Tribunal's assertion that it cannot consider ongoing retaliation, procedural obstruction, or subsequent reimbursement denials connected to the original March 6, 2025 denial of the Spirit Rower. **Of course you can. The law permits it. Fairness demands it.** And frankly, the idea that your hands are tied by some imaginary boundary is as convenient as it is unconvincing. There is nothing in the statutory or procedural rules that prohibits this Tribunal from considering **retaliatory patterns that emerge during the pendency of an appeal... only a conscious choice to ignore them does.** Since that denial, the Department has engaged in a pattern of **post hoc justifications, shifting narratives, and selective enforcement — and you have repeatedly accepted these evolving explanations as if they were established facts.**

You have made absolutely no effort to require **sworn testimony, documentary support, or cross-examination** of the Department's claims — claims that have wavered back and forth without consistency. In doing so, you've effectively allowed **unverified denials** to stand unchallenged. That is not just concerning — **it undermines the fairness and legitimacy** of these proceedings.

The **April 2025 computer denial** and the **April 2025 second rower denial** are not "new issues" — they are continuations of the same **retaliatory pattern** that began with the original rower denial and intensified as I exercised my right to appeal. If you recall, that first rower was initially rejected based on a **fabricated monetary restriction**. Yet now, the Department has conveniently shifted its justification to a "**curriculum**" issue — and you've allowed that post hoc pivot to stand, **without consequence or scrutiny**. Ignoring this context ensures there will be **no accountability, no correction, and no deterrent** for future harm.

It is not the role of this Tribunal to function as an echo chamber for the Department's shifting narrative — **especially not when that narrative continues to evolve in response to legal pressure**. This refusal to acknowledge a clear pattern sends a dangerous message: that **selective enforcement** and **procedural obstruction** are **permissible** so long as the agency is the one doing it... and the Tribunal looks the other way.

Let the record reflect that I object to that message, and to this continuous narrowing of the record.

2. Failure to Ensure a Fair Hearing

According to Arizona law — including **A.R.S. § 41-1092.07** — the assigned Administrative Law Judge is required to ensure a full and fair hearing. That includes the right to **present evidence, to challenge opposing claims, and to have disputed facts resolved based on a proper evidentiary record.**

That did not happen here. Not even close.

The Department's evolving justifications were never tested through **sworn testimony, documentary support, or cross-examination... despite my repeated objections and calls for accountability.** Specifically, the Department's original rejection claimed a \$2,000 limitation, but in these proceedings, it conveniently changed to a curriculum rejection. Yet the Tribunal accepted those post hoc claims as fact — as if they were part of the original rationale — without requiring any evidence whatsoever.

Any neutral observer could see that this is not neutral adjudication. This is not a full and fair hearing. **It is a clear procedural failure... and I object to it in full.**

3. Denying the connection between ongoing retaliation and the original denial undermines the entire hearing.

This is not a case about one rower. It is a case about a parent who challenged an improper denial — and the retaliation that followed. Any fair-minded review of the Department's actions reveals a clear cause-and-effect sequence: the more I asserted my rights, the more extreme the roadblocks became. That pattern matters. And if this Tribunal were not a State entity itself... perhaps you'd be able to recognize that pattern without needing direction. Your refusal to acknowledge it is a clear indication that this process is absolutely broken.

4. The refusal to allow relevant facts into the hearing record is procedurally unjust.

If the Department can repeatedly change its rationale, but I cannot introduce evidence showing how those changes impacted my family, then this is not a hearing — it is a façade. No one can claim to be applying the law fairly while willfully ignoring facts that expose misconduct. **Period.**

5. The Tribunal's framing rewards evasion and obstruction.

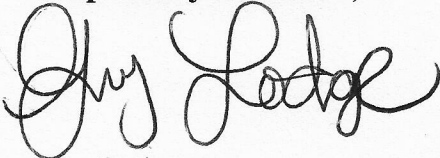
The Department has been allowed to **delay, block, ignore, and deny without consequence.** But when I raise these **procedural barriers**, I'm told they're "**irrelevant and out of scope**" — despite all the chaos **they've caused.** That is not neutrality — that is **imbalance.** And it's visible in every ruling that narrows the record to protect the agency from scrutiny.

Conclusion

This entire proceeding hinges on whether there will be an **honest accounting** of the Department's actions — and a **fair opportunity** for me to challenge them. If OAH continues down this path — **excluding relevant evidence, accepting post hoc claims without scrutiny, and limiting the scope to a single, isolated issue** — then **due process is not being upheld**.

I submit this Addendum not to reargue the facts, but to **preserve the truth**. This process may be flawed — but the **record absolutely matters**.

Respectfully submitted,



Guy Lodge,
Parent & Appellee



June 17, 2025

CERTIFICATE OF DELIVERY

I, **Guy Lodge**, Parent and Appellee in **Case No. 25C-ESA-006-SBE**, hereby certify that on **June 17, 2025**, I submitted a true and correct copy of the attached **Addendum to Objection** via the **Office of Administrative Hearings Electronic Portal**, in compliance with applicable procedural rules.

Electronic portal submission serves all registered parties of record.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/s/ Guy Lodge
Parent & Appellee
[Digitally Signed]

Exhibit C5

Un-submitted Objection (Prepared, Blocked)
June 17, 2025

Description: The shutdown wasn't theoretical, it physically prevented filings.

August 4, 2025

Case No. 25C-ESA-006-SBE

M.L., Student, by and through Parent G.L., Appellee V.

Arizona Department of Education, Appellant

**Submission: PETITIONER'S STATUS UPDATE AND FORMAL RESPONSE TO ADE
FILING (JULY 31, 2025)**

Submitted via: Office of Administrative Hearings Electronic Portal

Submitted by:

Guy Lodge Parent & Appellee

IN THE OFFICE OF ADMINISTRATIVE HEARINGS
M.L., Student, by and through Parent G.L., Appellee

V.

Arizona Department of Education, Appellant No. 25C-ESA-006-SBE

Case No. 25C-ESA-006-SBE
(SBE Case Number 00017)

**PETITIONER'S STATUS UPDATE AND FORMAL RESPONSE TO ADE
FILING (JULY 31, 2025)**

Perhaps the most revealing part of this entire process is what happened after I submitted my Objection, and then amended it with even greater clarity and evidence. As usual, instead of addressing the serious procedural and legal violations I outlined, **the Tribunal's first move was to reframe the record, subtly recasting the facts in the Department's favor and proceeding as if nothing had been challenged at all.**

Why are we still debating whether I "knew" a parent-prepared curriculum was required, when the Department never cited such a requirement in its original denial, and the policy itself was never published or consistently enforced at the time? While the 2025–2026 ESA Handbook now includes language that suggests curriculum may be required for certain supplemental items, this language was neither clearly adopted nor uniformly applied—and it certainly was not communicated in this case. The Department did not rely on this justification until months later, yet both the Department and the Tribunal now behave as if it was always the standard. It was not..

To eliminate any ambiguity, I have attached the **ESA Parent Handbook (2025–2026 Edition)** hereto at **Exhibit A**, specifically referencing **pages 22–23 (Supplemental Materials Requiring Curriculum)**. While ADE now cites the 2025–2026 ESA Parent Handbook to justify its curriculum requirement, that handbook was not adopted until **June 23, 2025**, months after my purchase order was submitted. **At the time of the denial, this policy was not in effect, had not been approved by the State Board of Education, and was not publicly available to parents. The Department's attempt to retroactively apply a policy that did not yet exist... one never cited in the original denial... is procedurally improper and violates basic due process.** A parent cannot be expected to comply with a requirement that **was not published, adopted, or enforced at the time of the transaction.** No such requirement had been publicly or consistently enforced.

Additionally, I've already demonstrated in writing that the Department's justification has changed multiple times. I submitted the exact language used to deny my transactions: **all three different versions.** First, the denial referenced an internal "**final administrative decision**" with no citation. Then, they introduced a **non-existent \$1,000 cap.** Now, it claims it was always a **curriculum deficiency**...despite never citing that requirement in the original denial or applying

it consistently. The only consistent thread is the Department's ongoing effort to retroactively invent new rules to justify decisions already made. And these shifting justifications are imposed as fact, without scrutiny, without inquiry, and without any trace of neutral review.

This case was never about whether a curriculum was submitted.

It is, and has always been, about whether a state agency can deny a legitimate purchase, invent new justifications after the fact, and then escape accountability by selectively offering retroactive approval. Due process is not a bargaining chip. And yet ADE's tactics, and the Tribunal's silence in the face of them, have reduced this hearing to a procedural formality rather than a search for justice.

I. ADE'S RENEWED ATTEMPT TO DISMISS MUST BE REJECTED

ADE's request for the ALJ to reconsider her prior denial of its Motion to Dismiss is nothing short of a backdoor attempt to avoid accountability. It is procedurally improper, having already been ruled upon, and ethically indefensible given ADE's own conduct.

In its recent filings, ADE and the Tribunal now refer to the denial as simply having been "overturned" on May 12th. But what actually happened is exactly what I've been saying from the start. **First**, it was labeled a "final administrative decision." **Then**, a non-existent "\$1,000 cap" was introduced. **Then** they claimed it had been "overturned." **Now**, they call it a "curriculum deficiency." That is not clarification, it is revisionism. ADE is rewriting its own timeline to make me appear unreasonable, when in reality, each new justification only confirms that the original denial had **no lawful basis**. This is not an exoneration. It is a veiled admission of misconduct.

ADE cannot **invent new rules, deny a valid purchase**, and then try to **clean up the violation** by attaching conditions to a retroactive approval. **What about the five months of harm? The \$5,400 withheld? The interest lost? None of that disappears just because ADE changed its mind.** This tactic does not erase the misconduct, it confirms it.

If ADE truly believed its denial was lawful, it would defend it on the record... not attempt to "overturn it" quietly and pretend the original decision was justified.

II. PETITIONER OBJECTS TO ADE'S MISREPRESENTATION OF AGUIRRE

ADE's reliance on the *Aguirre* ruling is both **legally irrelevant and factually misleading**.

The July 10, 2025 order in *Aguirre v. State of Arizona* merely denied the plaintiffs' motion for summary judgment, finding the Court could not rule on the legality of ADE's documentation policy based solely on the record before it:

"The Court cannot find, as a matter of law, based upon plaintiffs' motion and the record before it that the new documentation policy violates state law or that plaintiffs have a right under state law

or contract to use scholarship funds without providing documentation." (*Aguirre* Ruling, July 10, 2025) 【7†25C-ESA-006-SBE (00017) ADE STATUS UPDATE.pdf†L24-L26】 .

It did not uphold the policy. It did not validate ADE's behavior. It merely declined to rule on insufficient evidence.

More importantly, **this matter raises materially different legal questions, including retaliatory denial of services, selective enforcement of unpublished thresholds, and violations of procedural due process.** None of these issues were litigated in *Aguirre*, and that ruling has no bearing here.

It is deeply inappropriate for ADE to rely on pending litigation with no precedential value while ignoring the facts, documentation, and violations specific to this case. This is not a general policy challenge. **This is a targeted campaign of obstruction.**

III. A PATTERN OF SHIFTING DENIALS, WITH NO NOTICE OR BASIS

To reiterate: the Department's justification for denial has shifted multiple times, with:

- No formal notice
- No published policy
- No consistent standard

The pattern is unmistakable:

1. First, a vague internal "**administrative decision**" was cited for the first row.
2. Then, a **non-existent \$1,000 cap** was introduced for the second row.
3. Now, a **retroactive curriculum requirement** is being used as a universal rationale.

None of these rationales were cited in the handbook at the time. None of this was formally communicated. These justifications were fabricated in real time... each one layered on top of the last to rationalize decisions **the Department knew were improper.**

IV. THE TRIBUNAL HAS FAILED TO ADDRESS CRITICAL QUESTIONS

There is clear evidence of shifting justifications.

And yet, instead of examining these shifting justifications, the Tribunal has effectively rubber-stamped the Department's conduct. That is not neutrality. That is not due process. That borders on complicity.

If this hearing were truly impartial, a judge might have asked:

- Why does ADE's justification keep **changing**?

- What is the actual policy, and **where is it published?**
- Why wasn't **curriculum** mentioned in the original denials?
- What happened to the **\$5,400** that's still owed to this family?
- Why should this family believe ADE's explanation now?

Not one of these basic questions has been asked... not even in passing. The Tribunal's failure to pose them... or to meaningfully engage with formal objections... calls into question the neutrality of this process. That silence is not just concerning — it's revealing.

V. DUE PROCESS CANNOT BE CONDITIONAL

For the record: I was never asked for curriculum documentation during the original review process. The first time this requirement was mentioned was during ADE's inadequate attempt at settlement... after I filed the appeal. Only then did they suddenly offer to approve the rower if I submitted a parent-prepared curriculum. I declined. Not out of obstinance, but because this demand was never part of the original decision and had no lawful basis at the time.

I stated clearly: **retroactive approval of an already-eligible expense that should have been approved months ago** is not a settlement.

To reiterate, when my daughter's gymnastics equipment was initially denied, **I complied and submitted curriculum documentation. It was denied anyway.** That same equipment was later **approved...** after I filed for a hearing... **with no new documentation at all. This is already in the record.**

VI. ADMINISTRATIVE SILENCE ≠ JUDICIAL IMMUNITY

No amount of **backtracking** or "**clarifying minutes**" will erase the procedural violations at the heart of this case. The Tribunal's refusal to acknowledge objections, its failure to investigate ADE's inconsistencies, and its posture of strategic silence all erode the credibility of this proceeding.

You do not get to declare objections closed when the misconduct continues. I will continue documenting every instance of evasion, obstruction, and record manipulation.

VII. PROCEDURAL DOUBLE STANDARD

The Tribunal previously stated that no further objections would be considered. And yet, ADE is now attempting to reintroduce a previously denied Motion to Dismiss. This time through a "**status update.**"

Whether or not the Tribunal ultimately entertains this request, the fact that it is even under consideration raises serious concerns.

If procedural rules are used to block a parent from challenging misconduct, but ignored when the agency seeks relief, that is not neutrality. It is institutional bias.

This double-standard undermines trust in the hearing process and confirms what this case has exposed from the beginning: **There are two sets of rules. One for families, and none for the Department.** Justice cannot exist where accountability is optional.

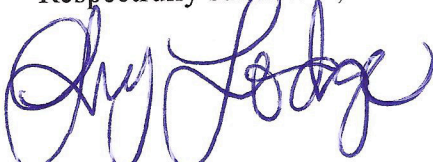
VIII. REQUEST FOR RELIEF

Petitioner respectfully asks the Tribunal to:

1. **Deny ADE's request to reconsider its failed Motion to Dismiss;**
2. **Reject ADE's reliance on the *Aguirre* ruling as irrelevant and misleading;**
3. **Proceed to hearing so the Department's pattern of retaliation, procedural abuse, and selective enforcement may be fully adjudicated.**

Petitioner reserves all rights to pursue further administrative or legal remedies related to this matter, including those arising from **due process violations, procedural inconsistencies, and discriminatory enforcement of ESA policy.** Anything less would reward misconduct and permanently damage public trust in the fairness of this process.

Respectfully submitted,



Guy Lodge
Petitioner

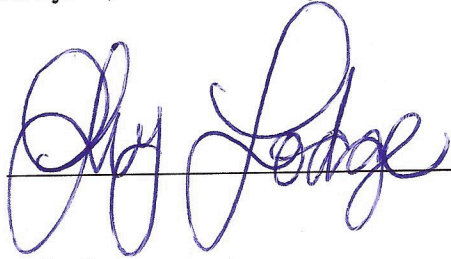


CERTIFICATE OF DELIVERY

I, Guy Lodge, certify that on this day, **August 4, 2025**, I submitted the attached **Status Update and Formal Response to ADE Filing (July 31, 2025)** via the Office of Administrative Hearings (OAH) electronic filing portal. As part of this submission, the document was served electronically on the following parties:

- Maria Syms, Director of Legal Services – ADE

Signature: _____



Printed: Guy Lodge
Date: August 4, 2025

Exhibit A

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