



Education Scholarship Accounts: Model Policy

ExcelinEd Policy Toolkit - 2023

This document contains a model policy for education scholarship accounts (ESAs). Parents use ESAs to direct their children's education funding to the state-approved schools, courses, programs and services of their choice.

SUMMARY

The Education Scholarship Account Act allows parents to use the funds that would have been allocated to their child at their resident school district for an education program of the parents' choosing. The Act identifies student eligibility as well as approved educational expenses. The Act establishes procedures for parents to apply to the ESA program. The Act establishes procedures for an authority to oversee the ESA program. The Act also provides academic and fiscal transparency measures for participating families, schools and education providers.

MODEL POLICY - THE EDUCATION SCHOLARSHIP ACCOUNT ACT

Section 1. {Title}

(A) This Act shall be named the "Education Scholarship Account Act."

Section 2. {Definitions.}

(A) "Account" means a parent-directed education scholarship account established pursuant to this article and composed of state funds deposited on behalf of a participating student and which may be used for qualified education expenses.

(B) "Account funds" means the funds awarded on behalf of a participating student.

(C) "Child with a disability" has the same meaning as defined under the Individuals with Disabilities Education Act, Public Law 108-446.

(D) "Curriculum" means a complete course of study for a content area or grade level.

(E) "Education service provider" means a person or organization that provides qualified education expenses pursuant to this article and is not a participating school.

(F) "Eligible postsecondary institution" means a state or accredited community college, technical college, university or private postsecondary institution.

(G) "Parent" means a resident of this state who is a parent, guardian, custodian or other person with the authority to act on behalf of the child.

(H) "Participating school" means any private school that provides education to elementary and/or secondary students and has notified the program manager of its intention to participate in the program and comply with the program's requirements.

(I) "Participating student" means a student who receives an account pursuant to this act.

(J) "Program" means the Education Scholarship Account program created in this subchapter.

(K) "Program manager" means an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and is recognized by an agreement with the state board to administer the Education Scholarship Account program, in accordance with this act.ⁱ



(L) “Private tutoring” means tutoring services provided by a tutoring facility or a tutor who is a teacher licensed in any state, who has taught at an eligible postsecondary institution, who is a subject matter expert or who is otherwise approved by the program manager.

(M) “Qualified education expenses” are expenses listed in Section 3(B).

(N) “State board” means the State Board of Education.

Section 3. {Basic Elements of the Education Scholarship Act.}

(A) A child is eligible to participate in the program if they are an elementary or secondary student who is a resident of this state and is otherwise eligible to attend a public school.ⁱⁱ

(B) Parents participating in the program shall agree to only use the funds deposited in their participating student’s accounts for the following qualified education expenses:ⁱⁱⁱ

- 1) Tuition, fees, and required textbooks and uniforms at a participating school;
- 2) Private tutoring;
- 3) Textbooks, curriculum, or other instructional materials, including, but not limited to, any supplemental materials or associated online instruction required by either a curriculum or an education service provider;
- 4) Educational services and therapies from a licensed or accredited practitioner or provider, including but not limited to occupational, behavioral, physical and speech-language therapies;
- 5) Computer hardware, software, or other technological devices that are used solely for a student’s educational needs and approved by the program manager or a licensed physician;
- 6) Tuition and fees for an approved non-public online learning course or program, or fees paid for a high-quality internet connection;
- 7) Fees for national norm-referenced examinations, Advanced Placement examinations or similar courses, fees associated with state-recognized industry certification exams and any examinations related to college or university admission;
- 8) Tuition, fees and instructional materials at a career and technical education provider;
- 9) Tuition, fees and required textbooks at an eligible postsecondary institution;
- 10) Courses or contracted educational services, including co-curricular and extracurricular activities, provided at a public school or public school district;
- 11) Fees for information and counseling to help families navigate options related to schooling and/or other educational services, including postsecondary and career training;
- 12) Fees for transportation paid to a fee-for-service transportation provider for the participating student to travel to and from an eligible education service provider as defined in this section;^{iv}
- 13) Tuition and/or fees for summer education programs and after-school education programs; and
- 14) Any other valid education expenses approved by the program manager.



(C) The amount the state shall deposit into an account for a participating student shall be equivalent to the amount representing the per pupil state and local funds the student would have received in the district school to which he or she would have been assigned in the resident school district in addition to any appropriate weights based on student characteristics.^v Funds shall be given to the program manager and distributed to the account on a quarterly basis.

(D) The funds in an account may only be used for educational purposes. Any refund or rebate for goods or services purchased with a student's account funds shall be credited directly to the student's account.

(E) Nothing in this section will be construed to deny parents the opportunity to make payments for the costs of educational programs and services not covered by the funds in their accounts. Personal deposits into an account are not permitted.

(F) Funds received pursuant to this section do not constitute taxable income to the parent of the participating student.

(G) For purposes of continuity of educational choice, the program payments made under this section shall remain in force until a student participating in the program participates in any of the prohibited activities specified in this chapter, returns to a district or charter school, graduates from high school or attains 22 years of age, whichever occurs first.^{vi}

(H) Funds saved over the course of an entire school year are eligible to roll over to the following year. If a parent removes a child from the program before the end of the school year, any remaining funds from that school year shall return to the state and be allocated to fund other accounts.

(I) Accounts shall remain active and account funds usable until any of the following occur:

1) Funds are revoked by the program manager for misuse;

2) A student graduates from a postsecondary institution; after four consecutive years after high school graduation in which a student is not enrolled in a postsecondary institution unless active-duty military; a student turns 22 years of age; or

3) After two consecutive years of account inactivity.

Section 4. {Parent Application.}

(A) A parent may apply to the program manager to establish an account.

1) The program manager shall accept and approve applications year-round and shall establish procedures for approving applications in an expeditious manner.

(B) The program manager shall create a standard form that parents can submit to enroll their child in the program and shall ensure that the application is publicly available and may be submitted through various sources, including the Internet.^{vii}

(C) The program manager shall approve an application for an account if:

1) The parent applies for an account in accordance with any application procedures established by the program manager;

2) The student on whose behalf the parent is applying is an eligible student pursuant to Section 3(A); and

3) The parent signs an agreement with the program manager to:



a) Provide, at a minimum, an education for the participating student in at least the subjects of reading, language arts, mathematics, social studies, and science;

b) Use program funds only for qualified education expenses;

c) Comply with the rules and requirements of the program;

d) Not enroll their participating student in a district or charter school while participating in the program;

e) Not enroll their participating student in {LIST AND CROSS REF ANY ADDITIONAL STATE-FUNDED PRIVATE CHOICE PROGRAMS};^{viii} and

f) If the participating student is a child with a disability, acknowledge that they have received information from the AUTHORITY and understand that participation in this program qualifies as a parental placement of their child under 20 U.S.C. § 1412(a)(10)(A) of the Individuals with Disabilities Education Act (IDEA).

(D) The signed agreement between the parent and the program manager shall satisfy the compulsory school attendance requirements of [CITE APPROPRIATE STATE STATUTE].^{ix}

(E) Upon notice to the program manager, a participating student may choose to stop receiving account funds and enroll full-time in a public school.

1) Enrolling as a full-time student in a public school shall result in the immediate suspension of payment of additional funds into the student's account. However, for accounts that have been open for at least one full school year, the account shall remain open and active for the parent to make qualified education expenditures to educate the student from funds remaining in the account. When no funds remain in the student's account, the program manager may close the account.

2) The program manager may adopt rules and policies to provide the least disruptive process for participating students who desire to stop receiving account payments and enroll full-time in a public school.

3) If a participating student decides to return to the program, payments into the student's existing account may resume if the account is still open and active. A new account may be established if the student's account was closed.

Section 5. {Procurement and Review of the Program Manager.}

(A) In accordance with [STATE PROCUREMENT STATUTES], the state board shall issue a request for proposals, on or before [DATE], and enter an agreement with no more than one organization that qualifies as a program manager, for the state board to recognize as the program manager, on or before [DATE].^x

(B) An organization that responds to a request for proposals described in Subsection (1)(a) shall submit the following information in the organization's response:

1) a copy of the organization's incorporation documents;

2) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

3) a description of the methodology the organization will use to verify a student's eligibility under this part; and

4) a description of the organization's proposed scholarship account application process.

(C) The state board shall ensure that the agreement described in Subsection (1)(a):



- 1) ensures the efficiency and success of the program; and
- 2) does not impose any requirements on the program manager that:
 - a) are not essential to the basic administration of the program; or
 - b) create restrictions, directions, or mandates regarding instructional content or curriculum.

(D) The state board may regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager.

1) If the state board determines that a program manager has violated a provision of this part or a provision of the state board's agreement with the program manager, the state board shall send written notice to the program manager explaining the violation and the remedial action required to correct the violation.

2) A program manager that receives a notice described in this subsection shall, no later than 60 days after the day on which the program manager receives the notice, correct the violation and report the correction to the state board.

3) If a program manager fails to correct a violation within 60 days of receiving written notice, the state board may bar the program manager from further participation in the program.

a) A program manager may appeal a decision of the state board.

b) A program manager may not accept state funds while the program manager is barred from participating in the program.

(E) The state board shall establish a process for a program manager to report the information the program manager is required to report to the state board under Section 10.

(F) The state board shall adopt rules, including provisions in the state board's agreement with the program manager. This may include rules, policies or procedures:

- 1) Establishing or contracting for the establishment of an online anonymous fraud reporting service;
- 2) Establishing an anonymous telephone hotline for fraud reporting;
- 3) Requiring a surety bond for education service providers receiving more than \$100,000 in account funds;
- 4) Refunding payments from education service providers back to accounts; and/or

5) Ensuring that the establishment and maintenance of scholarship accounts and enrollment in the program are not disrupted if the program manager is barred from participating in the program.

(G) The state board may, if the program manager is barred from participating in the program, issue a new request for proposals and enter into a new agreement with an alternative program manager in accordance with this section.

(H) As frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

- 1) Scholarship account information;
- 2) Information on the program manager, including the program manager's contact information; and
- 3) An overview of the program.



Section 6. {Responsibilities of the Program Manager.}

- (A) The program manager shall maintain an updated list of participating schools and education service providers and shall ensure that the list is publicly available through various sources, including the Internet.
- (B) The program manager shall provide parents of participating students with a written explanation of the allowable uses of the accounts, information on selecting education service providers, the responsibilities of parents, the role of any private organizations that the program manager may contract with to administer the program and the duties of the program manager.
- (C) The program manager or an organization chosen by the program manager shall annually conduct a parental survey that asks parents of participating students to express:
- 1) Their satisfaction with the program; and
 - 2) Their opinions on other topics, items, or issues that the state finds would elicit information about the effectiveness of the program and the number of years their child has participated in the program.
- (D) The program manager shall compare the list of participating students in the program with public school enrollment lists before each program payment to avoid duplicate payments. The program manager shall discontinue payment to the account of any student who has enrolled as a full-time student in a public school.
- (E) The program manager may bar a participating school or education service provider from the program if the program manager establishes that the participating school or education service provider has:
- 1) Routinely failed to comply with the accountability standards established in this subchapter; or
 - 2) Failed to provide the participating student with the educational services funded by the account.
- (F) The program manager shall create procedures to ensure that a fair process exists to determine whether a participating school or education service provider may be barred from receiving payments from accounts.
- 1) If the program manager decides to bar a participating school or education service provider from the program, it shall notify affected participating students and their parents of this decision as quickly as possible.
 - 2) Participating schools and education service providers may appeal the program manager's decision to bar them from receiving payments from accounts pursuant to the state's administrative hearing act.
- (G) The program manager will have the authority to make any parent of a participating student ineligible for the program in the event of substantial misuse of the funds in the account.
- 1) The program manager shall create procedures to ensure that a fair process exists to determine whether an intentional and substantial misuse of account funds has occurred.
 - a) If a participating student is free from personal misconduct, that student shall be eligible for an account in the future if placed with a new guardian or other person with legal authority to act on behalf of the student.
 - 2) The program manager will have the authority to refer cases of substantial misuse of funds to law enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.
 - 3) A parent may appeal the program manager's decision to make a parent ineligible for the program.
- (H) The program manager. shall:



1) Contract for annual random audits on scholarship accounts conducted:

- a) By a certified public accountant who is independent from the program manager and the state board; and
- b) In accordance with generally accepted auditing standards.

2) Demonstrate the program manager's financial accountability by annually submitting to the state board the following:

- a) A financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and
- b) No later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in this subsection, including the program manager's financial statements in a format that meets generally accepted accounting principles.

(I) The program manager may accept gifts and grants from any source to cover administrative costs, to inform the public about the program or to fund additional accounts.

(J) The program manager shall develop a system for parents to direct account funds to participating schools and education service providers by electronic funds transfer, automated clearing house transfer or another system that the office finds to be commercially viable, cost-effective and easy for parents of participating students to use. The office shall not adopt a system that relies solely on reimbursing parents for out-of-pocket expenses but may determine certain qualified education expenses that must require reimbursement or preapproval for purchase. The program manager is authorized to qualify private financial management firms to manage the payment system. The program manager shall establish and provide reasonable fees for private financial management firms participating in the program based upon market rates.

(L) The program manager shall seek to implement a commercially viable, cost-effective, and parent-friendly system for parents to publicly rate, review and share information about participating schools and education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers.

(M) The program manager may deduct an amount from the grants to accounts to cover the costs of overseeing the accounts and administering the program up to a limit of 10 percent. Any unused funds designated for administration shall return to the program to finance additional accounts. Any remaining funds shall be divided evenly among current accounts.

(N) The program manager shall create information for parents regarding the program's interaction with the federal Individuals with Disabilities Education Act (IDEA). This information shall be provided to each parent of a child with a disability who applies to participate in the program. The information must include:

1) An explanation of a parental placement under 20 USC 1412 (a)(10)(A) of IDEA; An explanation of qualified education expenses and the allowable use of account funds, the responsibilities of parents, requirements for participating schools and duties of the program manager; and

2) Clear information on how a parent can choose to leave the program and enroll their child in a public school at any time.



Section 7. {Independence of Participating Schools and Education Service Providers.}

(A) Nothing in the provisions of this act shall be deemed to limit the independence or autonomy of an education service provider or to make the actions of a participating school or education service provider the actions of the state government.

(B) Participating schools and education service providers shall be given maximum freedom to provide for the educational needs of participating students without governmental control.

(C) Nothing in this act shall be construed to expand the regulatory authority of the state, its officers or any school district to impose any additional regulation of participating schools and education service providers beyond those narrowly tailored to enforce the requirements of the program.

(D) A participating school or education service provider that accepts payment from an account pursuant to this act is not an agent of the state or federal government.

(E) A participating school or education service provider shall not be required to alter its creed, practices, admissions policy, hiring policy or curriculum to accept payments from an account.

Section 8. {Parent Review Commission.}

(A) There is hereby created the Parent Review Commission to assist the program manager in determining whether questionable expenditures meet the requirements to be considered qualifying expenses to educate the participating student pursuant to Section 3(B) and to provide recommendations to the program manager about how to implement, administer and improve the program.

(B) The Parent Review Commission shall meet the following requirements:

1) The Commission shall consist of seven members;

2) The seven members shall be parents of participating students and represent no fewer than four counties in the state;

3) The seven members shall be appointed by the program manager;

4) The seven members serve at the program manager's pleasure for one calendar year and may be reappointed;
and

(C) A representative of the program manager shall serve as the nonvoting chair of the Commission. The program manager may request the Commission to meet, in person or virtually, to determine whether an expenditure of account funds is or was a qualifying expense to educate a participating student pursuant to section 3(B). If the program manager requests the Commission to determine the validity of an account expenditure, the Commission may vote to recommend to the program manager that the questionable expenditure be denied or approved by a majority vote.

(D) The program manager may also request the Commission to meet, in person or virtually, to review appeals of education service provider denials pursuant to Section 5(F)(2) and to provide a recommendation to the program manager as to whether an education service provider should be allowed to receive, or continue receiving, payments from accounts.



Section 9. {Accountability Standards for Participating Schools, Providers, and Students.}

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating schools shall:

- 1) Comply with all health and safety laws or codes that apply to private schools;
- 2) Certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;
- 3) Submit notice to the program manager that they wish to participate in the program; and
- 4) Conduct criminal background checks on employees. The participating school then shall:
 - a) Exclude from employment any people not permitted by state law to work in a non-public school; and
 - b) Exclude from employment any people that might reasonably pose a threat to the safety of students.

(B) Financial Accountability Standards. To ensure that funds are spent appropriately, all participating schools and education service providers shall:

- 1) Provide parents with a receipt for all qualifying expenses.
- 2) Demonstrate their financial viability by showing they can repay any funds that might be provided from accounts, if they are to receive \$100,000 or more during the school year, by:
 - a) Filing with the program manager prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the funds from accounts expected to be paid during the school year from students admitted at the participating school; or
 - b) Filing with the program manager prior to the start of the school year financial information that demonstrates the school can pay an aggregate amount equal to the amount of the funds from accounts expected to be paid during the school year to students admitted to the participating school.

(C) Academic Accountability Standards. To allow parents and taxpayers to measure the achievements of the program:

- 1) For participating students enrolled in participating schools, the participating school shall administer either the state achievement tests or nationally norm-referenced achievement tests that measure learning gains in math and language arts.^{xi} Students with disabilities for whom standardized testing is not appropriate, as determined in the child's Individualized Education Plan or by a physician licensed in the state, are exempt from this requirement.
- 2) For participating students not enrolled in participating schools, the program manager shall create a process for students either to be administered the state achievement tests or nationally norm-referenced achievement tests that measure learning gains in math and language arts, or to collect documented evidence that a certified teacher has reviewed the student's annual academic progress.
- 3) The results of tests administered to participating students shall be provided to the state board, the program manager, and to the parent, on an annual basis. The student information shall be reported in a way that allows the state to aggregate data by grade level, gender, family income level, and race. The program manager or an organization chosen by the state will be informed of the participating student's graduation from high school.



Section 10. {Annual Report.}

(A) In compliance with all student privacy laws, the program manager or an organization chosen by the program manager shall produce an annual report that is accessible via a state website. Student findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race. The report shall assess:

- 1) High school graduation rates;
- 2) Parental satisfaction via the survey pursuant to Section 5(C);
- 3) The percentage of funds used for each qualifying expense identified in Section 3(B); and

(B) The report shall:

- 1) Apply appropriate analytical behavioral science methodologies to ensure public confidence in the study; and
- 2) Protect the identity of participating students and schools by, among other things, keeping anonymous all disaggregated data.

Section 11. {Responsibilities of Resident School Districts.}

(A) The resident school district shall provide a participating school or education service provider that has admitted a participating student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232g).

Section 12. {Legal Proceedings.}

(A) In any legal proceeding challenging the application of this chapter to an education service provider, the state bears the burden of establishing that the law is necessary and does not impose any undue burden on education service providers.

(B) No liability shall arise on the part of the program manager or the state or of any public school or school district based on the award of or use of an account pursuant to this act.

(C) If any part of this act is challenged in a state court as violating either the state or federal constitutions, parents of participating students shall be permitted to intervene in such lawsuit for the purposes of defending the program's constitutionality. However, for the purposes of judicial administration, a court may limit the number of parents permitted to intervene or require that all parents file a joint brief, so long as they are not required to join any brief filed on behalf of any named state defendant.

(D) If any provision of this act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.



Section 13. {Effective Date.}

(A) The Education Scholarship Account program will be in effect beginning with the fall semester of next year.^{xii}

ENDNOTE

ⁱ Where possible, states should establish a nonprofit organization as the Authority, due to the extra agility they bring to promote maximum flexibility in ESA spending for parents within program guardrails. As an alternative, a state agency may be considered, which eliminates the need for Section 5.

ⁱⁱ In lieu of granting universal K-12 eligibility, state policymakers could alternatively limit ESA access on a means-tested basis, as well as to students requiring special education services under the Individuals with Disabilities Act (see below), to children in the foster care system, and/or to children of military and public safety personnel. Policymakers should not require prior public-school attendance as a condition of eligibility. If enacting any categories to define limited eligibility, the policy should also include all siblings of participating students for family consistency and convenience. Though less ideal, ESA student eligibility may also be limited by geography, in which case this section could be modified to note that any student eligible to attend a certain district or who is a resident of a certain county would qualify for this program.

IDEA (Individuals with Disabilities Education Act) provides definitions for 13 disability categories, which include: autism, deaf blindness, deafness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment (including ADHD), specific learning disability (which covers dyslexia), speech or language impairment, traumatic brain injury, and visual impairment (including blindness). Under IDEA, schools are required to locate, identify, and evaluate children to see if they are eligible for special education services. Students who are determined eligible for special education services receive an Individualized Education Plan (IEP). Other students may not be deemed eligible for an IEP but instead receive support and accommodation through a 504 plan.

Some students may not receive an IEP or 504 plan through the public-school evaluation process, but are still diagnosed with one of the IDEA disabilities. For that reason, it is important that ESA legislation does not limit student eligibility to those with an IEP. Students should also be eligible if they have been diagnosed by a licensed physician in one of the IDEA disability categories.

ⁱⁱⁱ 529 and Coverdell contributions are intentionally omitted from the list of eligible expenses. Contributions to these accounts can be withdrawn with a tax penalty [like early 401(k) withdrawals], and there is no way to ensure that parents will use withdrawn funds for qualified education expenses.

^{iv} The following language may also be adopted depending on the unique context of your state: “The resident school district shall provide transportation for a participating student to and from the qualifying school or education service provider under the same conditions as the resident school district is required to provide transportation for other resident students to private schools per current law. The resident school district will qualify for state transportation aid for each student so transported.”

^v The specific funding mechanism will vary based on unique conditions and factors in individual states. Although this model policy does not offer explicit recommendations on funding levels, it is vital that scholarship amounts reflect student need and track as closely as possible with funding formulas for students enrolled in public schools. Accounts could be funded with:

i. A percentage of the per-student revenue in: the state, the student's resident school district or a charter school (this could be restricted to state funds or include a combination of state and local funds)

ii. A flat amount plus weights (i.e., \$8,000 per student plus added amounts for students with disabilities, means-tested, English language learners, gifted/talented, rural and any other student groups who may need additional funding)



iii. Tiered funding based on need (i.e. \$10,000 for 100% of poverty, \$8,000 for 200% of poverty, etc.)

Automatic formula funding is preferred to annual appropriations. Relying on the state's funding formula is more reliable and less prone to persistent political controversy than line item appropriations.

^{vi} It may also be necessary to include a cap on the account balance above which no additional deposits can be made into it. A reasonable cap would be about three years' worth of base funding.

^{vii} If an ESA program is limited by the amount of available funding (or a maximum number of participants) a lottery may be necessary to award ESAs to interested families.

^{viii} When considering whether funding from different choice programs should be stackable for students, the availability of tax-credit scholarships for low-income students may be seen as an alternative to weighted funding within an ESA program, allowing needier students greater access to dollars. Ideally, a state would consolidate choice programs and weight funding appropriately so this does not become an issue.

^{ix} Due to the differences in each state's homeschooling laws, regulations and compulsory attendance requirements, how homeschoolers are treated in ESA programs will depend on each state's specific context. It is important to meet with homeschooling advocates in your state in advance to discuss their willingness to participate in an ESA program and how to structure it. In some states, it may be necessary to amend the state's compulsory education statute to explicitly say that participation in the ESA program satisfies the state's compulsory education requirement. This type of language is necessary because some ESA students may not be enrolled full-time in a private or nonpublic online school and may instead be educated by a unique combination of the qualifying expenses laid out in Section 3(b) and such ESA students should not be considered truant.

^x A 90-day period for the program manager RFP is reasonable.

^{xi} As an alternative, a participating student enrolled in a nonpublic school could also have his or her academic progress demonstrated in a portfolio maintained by the parent, who selects either a certified teacher or another teacher employed in the nonpublic school to check the work.

^{xii} The program should launch in the fall to correspond with the beginning of the school year. Launching an ESA program in January (or any time mid-year) presents unneeded complexity.