

ESA Rulemaking Parent Forum #1

SEPTEMBER 15, 2021



State Board Staff Introductions

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Agenda

1. State Board Introductions
2. Who is the State Board of Education?
3. State Board of Education vs. Department of Education
4. What are the House Bill 2898 changes to ESA?
5. What is the State Board's rulemaking process?
6. What is in the Rule?
7. What is not in the Rule?
8. What are the next steps?
9. Questions & Discussion



Who is the State Board of Education?

- Constitutional Board, made up of 11 members: 10 members are appointed by the Governor and confirmed by the Senate, one member is elected (Superintendent)
- Purpose: General supervision over the conduct of public school system (Title 15)
 - Adopt rules and policies to accomplish this purpose
 - Adopt graduation requirements
 - Supervise and control the certification of educators, including discipline of unprofessional/immoral conduct
 - Approve educator preparation programs
 - Adopt statewide proficiency assessments, passing scores, and methods of administering assessments
 - Delegate to the Superintendent of Public Instruction the execution of board policies and rules
 - Investigate allegations of immoral and unprofessional conduct
 - Receive ESA Appeals, ESA rules, and refer ESA Accounts to the Attorney General's Office for collections and fraud



State Board of Education vs. Department of Education

State Board of Education is the *policy* arm.

Staff: 19 FTEs

Policy: Administrative Rules and State Board policies

I.E.: Certification Rules vs. School Accountability Policy

Department of Education is the *administrative* arm.

Staff: 600+ FTEs

Administration: Day to Day operations

I.E.: Certification Desk and School Accountability Unit



What are House Bill 2898 Changes?

Pursuant to the House Bill 2898:

1. Exempts State Board from using OAH, and accompanying statutes, for Appeal Hearings
2. Modifies eligibility requirements as follows:
 - Exempts children from the public school enrollment requirement if they qualify for free and reduced-price lunch and attended a D or F school or school district or are eligible to attend kindergarten and reside within the attendance boundaries of a D or F school;
 - Reduces the public school enrollment requirement from the first 100 days of the prior fiscal year to 45 days of the current or prior fiscal year; and
 - Requires kindergarten students enrolled in AOI to log 200 hours of instruction to be eligible.
3. Allows ESA funds to be used towards educational therapies, including amounts not covered by insurance.
4. Requires ADE enroll and issue award letters for ESA Applications within 30 days; rather than 45 days.
5. Except for in cases of fraud, requires repaid expense to be credited back to the child's ESA rather than the general fund.
6. Prohibits ADE from withholding funding or contract renewal from a parent if the Board has granted a stay request in response to an appeal.

What is the State Board's rulemaking process?

Administrative Rule Process:

1. Host a Live meeting with interested stakeholders to review conforming changes per House Bill 2898
2. Submit draft of rules to the State Board of Education to “open” (starts the formal rule making process)
3. Hold a public hearing (opportunity for the public to speak on the open rules)
4. Update the Board on the open rules at a second Board meeting
5. Hold a second public hearing if material changes are made to open rules
6. Bring the open rule draft to the third Board meeting for the Board to “close” the rules. Could be “closed” at the fourth, fifth, etc. Board Meeting.
7. Once the Board “closes” the rule, the rule becomes enacted. The Board may choose to implement all or portions of the rule at a later date or the day the Board “closes” the rule
8. Throughout this process, feedback is gathered through surveys, phone calls, meetings, etc.



What is in the Rule?

1. Establishes an appeals process outside of OAH. The goal is to process appeals faster than OAH.
2. Makes conforming changes from HB 2898
3. Clarifies that students may meet the 45-day public school enrollment eligibility requirement by accumulating the days in the current or prior fiscal year, or a combination of the two years.
4. Requires parents to provide a mailing address, home address, phone number and email.
5. Requires ADE quarterly reports to include information on how appeals are resolved prior to going to a hearing.
6. Clarifies that not all parents are required to submit quarterly expense reports.
7. Clarifies that a parent who has had their account suspended for failing to submit a renewal contract, may submit the appropriate renewal contract year round to the Department to reactivate the account.



Current Appeals Process



Updated Appeals Process



What is not in the Rule?

- Administrative functions are not included in the rule
- Dictating to the Arizona Department of Education on how to administer the ESA Program.
 - This includes internal standard operating procedures that drive how ADE administers the Program on a day to day basis.
- Oversight of ADE staff
 - This includes how the staff is organized, how it answers calls or emails and how quickly it does so, etc.



Additional Considerations

- Removing quarterly expenses from the rule. With the transition to ClassWallet parents no longer submit quarterly expense reports.
- Clarifying what "graduation from a postsecondary institution" means when determining if a child must exit the Program. This may need clarification on both "graduation" (associates, bachelor's, master's, etc) and what a "postsecondary institution" means (accredited, in-state, out-of-state, online, etc).
- Additional modifications to the appeals process or expense review and approval process to ensure consistency and clarity.

Immediate Next Steps

Fill Out Survey to Provide Feedback

<https://forms.gle/G8ouZ5i79AqSRAM38>

Survey will close at Noon at Wednesday, September 22, 2021

All feedback from the survey will be provided to the Board



Subsequent Next Steps

Monday, September 27th at 10am

The Board will review the ESA rule draft and survey results.

Thursday, October 21st at 10am

Public Hearing regarding the ESA rule draft.



Questions and Discussion

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<https://azsbe.az.gov/empowerment-scholarship-account-esa-program>

