

# ESA Rulemaking Parent Forum

---

OCTOBER 31, 2022



# State Board Staff Introductions

---

Alicia Williams, Executive Director

Katherine Ruiz, ESA Project Director

Lucinda Florez, ESA Administrative Assistant



# 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 2853 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, create 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.

Policy: Administrative Rules and policies

Department of Education is the ***administrative*** arm.

Administration: Day to Day operations



# What is the State Board's rulemaking process?

---

## Administrative Rule Process:

1. Submit draft of conforming Rules to the State Board of Education to “open” ESA Rules (starts the formal rulemaking process) **(September SBE meeting)**
2. Host a meeting with stakeholders to review conforming changes per House Bill 2853 **(Parent Forum)**
3. Hold a public hearing (opportunity for the public to speak on the open rules) **(Nov 17th)**
4. Update the Board on the open rules at a December 9, 2022 Board meeting
5. Hold a second public hearing if material changes are made to open rules **(DATE TBD)**
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. **(EST January 2023 SBE 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 emails, phone calls, meetings, comments etc.



# What are House Bill 2853 Changes?

---

Pursuant to the House Bill 2853:

1. Modifies eligibility requirements as follows:
  - Establishes consistency of AOI hours with in-person instruction hours; and
  - Clarification for Preschool and Kindergarten
  - Redefines “qualified student”
2. Amends the number of days preceding an account suspension/termination
3. Allows ESA funds to be used towards:
  - Transportation, such as a commuter pass
  - Computer hardware and technological devices for educational purposes
4. Allows Account Holders to designate a non-attorney representative to assist in the appeals process
5. Establishes a path for independent third-party evaluations



# What is in the Rule Draft?

---

Makes *only* the conforming changes from HB 2853:

- Amending AOI hours for eligibility to be consistent with in-person instruction time
- Expanded definition of “qualified student”
- **Inclusion of computer hardware and technological devices primarily used for educational purposes\***
- Inclusion of transportation services
- Amendment of 10 days to respond to account issues to 15 days
- Inclusion of non-attorney representation in appeals process





# Computer Hardware & Technological Devices

---

Rule Draft language was corrected to quote the law as follows:

6. Shall not use monies deposited in the qualified student's account for any of the following:
  - a. Computer hardware or other technological devices, except as provided in R7-2-1505(B) **and** **§ 15-2402(B)(4)(p); or**
  - b. Transportation of the pupil, **except for transportation services described A.R.S. § 15-2402(B)(4)(o); or.**
  - c. ~~Consumable educational supplies, including papers, pens or markers.~~



# Former Third Party Evaluation Process

---

Pursuant to Arizona Revised Statute (A.R.S.) § 15-2403(J): The department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services.

- Such a contract has not established by the Department



# Updated Third Party Evaluation Process

---

1. If during any period on or after January 1, 2023 the Department does not enter into a contract with an independent third party:
  - The county superintendent of each county may approve a list of independent third parties within the county whose evaluation may be use to determine whether a student, who resides in their county, is eligible to receive educational therapies or services
2. If the county superintendent does not does not provide a list of approved independent third parties within 90 days:
  - The parent of a student who resides within the county has the right to obtain an independent educational evaluation from a qualified medical examiner to determine whether the student is eligible to receive educational therapies or services



# What is not in the Rule?

---

Administrative functions are not included in the rule

Dictating to the ADE 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.



# Ongoing Conversations on Potential Rule Changes

---

Defining additional terms for users:

- Informal Settlement Conference
- Stay

Deadlines to publish PAC meeting agenda. PAC meetings must be publicly available on demand and recorded to be posted online.

A minimum 30 days' written notice of any account that is being audited: random or otherwise.

Correcting due dates for debit card transaction receipts.

Comments from Members and Account Holders from previous SBE meetings will be considered when updating the Rule ahead of the December 9, 2022 SBE meeting.



# Immediate Next Steps

---

## **Fill Out Survey to Provide Feedback**

**COPY and PASTE link into URL: <https://forms.gle/exjomXT2KiUKpGXL9>**

**Or click on the link provided in the chat box**

**Or visit the website: <https://azsbe.az.gov/empowerment-scholarship-account-esa-program>**



# Subsequent Next Steps

---

## **Monday, November 14th at 12pm**

The survey closes.

The Board staff will review all survey responses.

The Board members will receive all survey responses ahead of the December 9, 2022 meeting.

## **Thursday, November 17th at 12pm**

Public Hearing regarding the ESA rule draft.



# Questions and Discussion

---

Lucinda Florez, ESA Administrative Assistant

Katherine Ruiz, ESA Project Director

Alicia Williams, Executive Director

[esafeedback@azsbe.az.gov](mailto:esafeedback@azsbe.az.gov)

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

