

DATE:	November 20, 2025
SUBJECT:	Senate Bill 2: Education Savings Accounts and Children with Disabilities
CATEGORY:	Special Education
NEXT STEPS:	Share with appropriate staff

The purpose of this correspondence is to highlight important provisions of [Senate Bill \(SB\) 2](#), 89th Regular Session, regarding children with disabilities who receive – or would be eligible to receive – special education and related services.

Overview of the TEFA Program

SB 2 established the option for parents to obtain Education Savings Accounts (ESAs). The Comptroller of Texas is implementing the legislation by launching the [Texas Education Freedom Accounts program](#) (referred to as TEFA, as the program, and EFAs, as individual accounts) starting in the 2026-2027 school year. Applications are expected to open in early 2026.

When a parent obtains an EFA, they have the option of utilizing funds for private school tuition as well as purchasing educational goods and services for their children from a variety of service providers (including from school districts, should school districts choose to offer fee-for-service offerings for non-enrolled students, as allowed under Texas Education Code (TEC), §29.358(b)(3)). The Comptroller, through a Certified Educational Assistance Organization (CEAO), will manage the establishment and administration of EFAs.

Children identified with disabilities and access to the TEFA Program

Children can be identified with disabilities and determined eligible for special education and related services regardless of whether they attend a public school. For families interested in obtaining an EFA if their child currently attends a private school or is homeschooled, school districts will have three inter-related duties. If a parent believes their child has a disability and the district suspects or has reason to suspect the child has a disability and a possible need for special education and related services, a district must:

- (1) Complete an evaluation and hold an eligibility meeting by the child's admission, review, and dismissal (ARD) committee to determine if the child is eligible to receive special education and related services;
- (2) Via an ARD committee process, establish an EFA individualized education program (IEP) (a TEFA-specific IEP, as further described below) for the child if eligible; and
- (3) Upload the evaluation and EFA IEP information to the Texas Education Agency (TEA) through a secure web portal so the agency can submit funding information to the Comptroller.

Notably, due to new initial special education evaluation funding under House Bill 2, school districts will receive \$1,000 per initial evaluation completed for all children, including those not enrolled in public school.

This correspondence outlines specific considerations as you prepare to implement this new law.

Initial Evaluation Requirements Resulting from Parent Requests

Under the Individuals with Disabilities Education Act (IDEA), students enrolled in public school must be evaluated when a district suspects or has reason to suspect the child has a disability and a possible need for special education and related services. The requirement to conduct an evaluation can also occur when a parent requests a special education evaluation, and the district suspects or has reason to suspect a disability.

Additionally, **IDEA has always required school districts to perform evaluations of students suspected of having a disability who are not enrolled in public school.** Parents with children in private schools or who are homeschooling their children have long held the right to request special education evaluations from their local school district.

However, you may receive more requests for special education evaluations from parents whose children currently attend private school but who are now interested in accessing an EFA and suspect their child has a disability and may be eligible for special education and related services.

Evaluation requirements remain unchanged: When a district receives a request for a special education evaluation from a parent whose child is not enrolled in the district, the district must follow their typical Child Find processes. As is the process for parental requests for students who are enrolled in public school, districts have 15 school days to respond to the request for evaluation if the request was in writing and submitted to a district's special education director or to an administrative employee, such as a campus principal. If the district determines it will conduct the evaluation and has followed all requirements to begin the evaluation process and obtained informed parental consent, the district has 45 school days to complete the evaluation and produce the evaluation report. From that point, the ARD committee must meet within 30 calendar days to determine eligibility for special education and, if the student is eligible, complete the IEP.

A parent who disagrees with the evaluation may request an independent educational evaluation. In addition, if any of these timelines are missed, or if a parent disagrees with the evaluation decision, the parent may use the dispute resolution options available under IDEA.

District of residence and district where eligible private school is located: The school district where a child resides is obligated to conduct the Child Find process when requested. Additionally, when a child is already enrolled in an eligible private school (i.e., non-profit private school that qualifies as an elementary or secondary school as those terms are defined by IDEA and state regulations), a parent may request an evaluation from the district where their child's private school is located (even if that is different than their district of residence), and that district is obligated to conduct the Child Find process. Parents do have the right to request an evaluation from either district.

Districts should be aware that IDEA contemplates initial special education evaluations for a child not enrolled in public school only in relation to the child's district of residence or district where the child's current private school is located. No other district is subject to Child Find obligations for non-public students.

Note: districts have the ability to contract out evaluation services with service providers, SSAs, and other school systems. The funding provided to districts by TEC, [§48.159](#), of \$1,000 for each initial evaluation conducted by a district will include these evaluations conducted for parents seeking an EFA, which could assist districts in dedicating supplemental funds to help pay for contracted evaluations.

[Review the [September 18, 2025, To the Administrator Addressed](#) correspondence for more information about how and when this funding is distributed to districts.]

Children with Disabilities Eligible for Additional Funding under the TEFA Program

Background on TEFA and Children with Disabilities: If a child has been identified as a child with a disability (i.e., has a disability recognized by IDEA and a need for special education and related services) and is receiving those services, the child is eligible to receive through the TEFA program the amount that the school district received in state special education funding for the child for the school year preceding the school year in which the child initially enrolls in the TEFA program. Alternatively, if the child has not been enrolled in public school but is determined to be a child with a disability, the child is eligible to receive the amount the school district *would have received* in the preceding school year from the state special education allotment. These decisions are based on a child's IEP developed by their ARD committee; total funding is limited to \$30,000 per child with a disability, which includes the base amount. If a child is homeschooled, the total amount of funding is limited to \$2,000 per school year.

EFA Enrollment Lottery Priority as a Child with a Disability May be Different than Funding Eligibility

Background on Lottery and Prioritization: Parents who wish to obtain an EFA for their children must apply via a process managed by the Comptroller and the identified CEO. The legislature has set aside a sum-certain amount of funds for the TEFA program. If more parents apply for an EFA than the amount set aside for TEFA program funding, the Comptroller will conduct a lottery to determine which families are ultimately awarded an EFA. If a lottery is required for TEFA program applicants when applicants exceed the allowable number of EFAs, children with disabilities from households at or below 500 percent of the federal poverty guidelines will be prioritized.

The definition of child with a disability may be different for the EFA enrollment preference than for EFA funding: Students who are currently enrolled in public school and who have an IEP are included in the definition of children with disabilities for the purpose of EFA enrollment. Similarly, students who are not enrolled in public school but who are evaluated and determined eligible for special education and related services and have an EFA IEP developed will also be included in the definition. However, for the purposes of enrolling in an EFA, the Comptroller has proposed a rule that allows certifications from licensed physicians or proof of supplemental income due to a disability to also qualify a child as a child with a disability for the purposes of obtaining prioritization in the event of a lottery process to receive an EFA.

Should that rule become final, these additional certifications or proof of supplemental income do not equate to the definition of a child with a disability for purposes of additional EFA funding. Eligibility for additional funding is based on the child being evaluated by a school district and having a current IEP or new EFA IEP.

Given this distinction, there may be some confusion from parents who are attempting to obtain an IEP for the purpose of additional funding under the EFA who have already obtained lottery prioritization for enrollment via the expanded definition of a child with a disability. Despite the potential for an expanded definition for the purposes of enrolling in the EFA, rules applying to how to conduct an evaluation and write an IEP remain unchanged.

Recognizing Outside Documentation for Purposes of Conducting an Evaluation and Developing an IEP

The special education evaluation process for parents of children seeking an EFA is the same as it is for any other child.

Rules related to conducting an evaluation have required school districts to consider outside documentation if presented to the district. For example, sometimes a parent presents to the multidisciplinary team (MDT) an outside evaluation conducted by appropriately certified or licensed professionals as the team is determining the formal or informal measures necessary for the evaluation. In some cases, accepting outside documentation and evaluation data will help avoid duplication of evaluation efforts.

Requests for evaluation from parents who have children enrolled in private schools or who are homeschooled are not new for school districts, and the evaluation process will remain the same for children whose parents wish to access the TEFA program. Because the EFA enrollment lottery process may allow for alternative ways to document disability, however, TEA anticipates it is possible that more parents present outside diagnoses or private evaluations during this process, which, in some circumstances, may help the district's evaluation be completed faster.

EFA IEPs: IEPs Used for TEFA Program Eligibility for Private School Children are Different than IDEA IEPs Used in Public School

To be eligible for additional funding as a child with a disability for the TEFA program, a child must have a current IEP necessary to satisfy TEFA requirements at the time of enrollment in the TEFA program. TEA will propose rulemaking as described below so that the documentation needed to satisfy TEFA requirements will be slightly different than a traditional IEP, insofar as some IEP components are not needed. For this reason, we will refer to an IEP for the purposes of satisfying TEFA requirements as an **EFA IEP**.

If a child was in public school preceding their acceptance into the TEFA program and was receiving special education and related services through the public school, the child's prior IEP will suffice. In most cases, TEA will have the necessary information as it is submitted through the Texas Student Data System/Public Education Information Management System (TSDS/PEIMS) to send to the Comptroller about the student's funding entitlement, so no further action will need to be taken by school districts for parents seeking an EFA that fall in this category.

If a child does not attend public school in the year they apply for an EFA, the child will need an evaluation if there is a suspicion of disability. (For students who were previously evaluated, evaluations remain current if performed within the last three years). Following the evaluation, the child's ARD committee will determine eligibility and, if determined eligible, will create what TEA will refer to as the **EFA IEP**. The EFA IEP will contain some, but not all, parts of an IEP that would be governed by IDEA and state law for the purpose of providing a free appropriate public education (FAPE). It will include the schedule and delivery of services, the accommodations and modifications, and other supplementary aids and services that would be necessary to provide FAPE if the child attended the public school along with the instructional arrangement code or the tiered funding level that is used to calculate the state special education funding allotment. The EFA IEP will not be required to contain the present levels of academic achievement and functional performance, annual IEP goals, or statements about statewide and district assessments and accommodations that would be necessary for those. A district will then submit the EFA IEP and evaluation report to TEA via a secure web portal so that funding information

can be sent to the Comptroller. More information on this submission process will be provided in early 2026.

Please note: For students who return to public school after using an EFA, the EFA IEP and any related evaluation documents previously developed must be considered as part of an ARD committee meeting under 34 CFR 300.324(b) to review and, as needed, revise the student's IEP or as part of any Review of Existing Evaluation Data (REED) process and as part of any reevaluations, if necessary, for those students at the time of re-enrollment.

Review TEA's Guidance Document on SB 2

The agency has published an [initial guidance document](#) on SB 2 as it relates to children with disabilities. As part of the guidance mentions future rulemaking, [drafted rule text](#) has also been provided so districts are able to review and comply with current agency expectations around the implementation of SB 2.

More information and guidance will be shared by TEA in the coming weeks, including a parent video overview of the process, a frequently asked questions (FAQ) document, and other resources. Submit questions to 89th@tea.texas.gov.