



# Children in Need: Special Needs Students in Texas Would Benefit From Education Savings Accounts

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## Key Points

- Recent new stories and reports from parents have suggested that many children with special needs are not being appropriately served in Texas public schools.
- The costs of inappropriate accommodations can be high for students, parents, and school districts.
- Successful Education Savings Account programs in Arizona and Florida provide workable models for Texas.
- An ESA program for all students in special education or with 504 status in Texas would make educational options available for approximately 609,000 students.

## Introduction

Recent news stories and reports from parents have suggested that many children with special needs are not being appropriately served in Texas public schools. As Texas re-evaluates its education offerings to better serve students with special needs, successful programs in other states provide a workable model. Education Savings Accounts (ESAs) for special needs students could form part of a solution by providing meaningful options for Texas parents of children struggling to adapt in their default school environment.

## Children in Need

When Kathy Visser moved to a different school district in Arizona, she asked her new district for special education accommodations for her son Jordan. Jordan has minor cerebral palsy, and his previous school had made adjustments to help him succeed. Kathy, a former teacher herself, recalled through tears the day that, after trying to delay Jordan's admission, the principal "took him by the shoulder and said right in front of him that she would do me the favor . . . of taking my child." She was shocked to find that Jordan's new school chose not to follow his previous Individual Education Plan (IEP). Jordan began having anxiety attacks and hated school. After watching him struggle and begging school administration to change their decision, Kathy began preparing to file a lawsuit against the district even though "I knew that we couldn't afford to pay for all of that" ([EdPolicy](#)).

Before she filed the lawsuit, however, Kathy found another option. She applied for an Empowerment Scholarship Account (Arizona's term for ESAs) under Arizona's ESA program, and he was accepted. Jordan's ESA enabled him to attend a school that focused on special needs students, and subsequently to receive private tutoring in areas that are difficult for him. Now she says, "Jordan is making some really exciting academic progress. . . . We are breezing through concepts that have been very hard to teach. . . . We have done all of this in the last three months. He's not proficient yet, but he understands the concepts" ([Butcher 2015](#)).

Here in Texas, Dana M. discovered her son Christopher had Major Depressive Disorder and ODD at age seven. After pleading with her school district (Clear Creek ISD) for months to provide accommodations appropriate to his disability, she felt compelled to file repeated lawsuits against her district after they only offered one facility that was not appropriate for Christopher. Dana, however, did not have the option that was available to Kathy Visser. Over the next four years, the district expended significant resources fighting an appropriate placement, while Dana says she spent her life savings fighting for placement in a school that had a program to address Christopher's special needs (M. Dana).

Dana prevailed with her son's case, but the cost was significant. Families with disabled children in Arizona and other states have better and more immediate options than Texans. Evidence from

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these programs show that they bring positive results to children's lives. Texas should provide special needs families with the flexibility that ESAs provide.

An education savings account, similar to a health savings account, allocates a portion of a student's dedicated education funding to a separate restricted-use savings account controlled by the student's parent. The funds may be used for eligible education goods and services such as textbooks and private school tuition, as well as specialized tutoring and therapies. Excess funds roll over to the next year and can even be applied toward college savings, so parents have an incentive to spend carefully. The financial impact to the school district would be more favorable than the impact if a child moved to another district, as many special needs families already do in search of better options.

The value of an ESA program to special needs families is obvious. The axiom that "every child is unique" becomes doubly true in light of the vast array of learning challenges disabled children can face. An individualized education and early intervention can help provide a life of opportunity, including college, a career, and a family, rather than living in an institutionalized home. An ESA empowers parents to choose the precise combination of educational options that is right for their child, beyond what services their local school district might be able or willing to provide.

### Special Education in Texas

Over the last few years, the percentage of schoolchildren receiving special education in Texas has been approximately 8.5 percent. There is significant evidence that not all children with special needs are being properly served by their local public schools. The *Houston Chronicle's* Brian Rosenthal, in an investigative project in 2016, has alleged that the chief cause of this underservice is a monitoring system created by the Texas Education Agency (TEA) in 2004. The Performance-Based Monitoring Analysis System (PBMAS) includes an indicator that monitors the percentage of children receiving special services in each district. Whether intended or not, the *Chronicle* claims, the indicator has resulted in districts denying critical services to children who need them in order to bring the district's percentage of special needs students to 8.5 percent or under ([Rosenthal](#)). TEA has stated that indicator is one of four "specifically designed to identify possible over-identification and disproportionate representation in special education programs" and that the indicator does not constitute a cap on special education services ([TEA](#)).

Parental stories show clear dissatisfaction with the options offered to their disabled children by their school districts. "We put our trust in this school," said Jennie Grau, who withdrew her two dyslexic children from elementary school in Conroe ISD after being told they would never receive the services they needed. She said that the school principal told her dyslexia may not be real. "Our children were treated as second-class citizens, and so were we" ([Rosenthal, Part 7](#)).

Jennie and her husband, David, pulled their boys out of public school and rewrote their family life to put them in a private school. David was able to find a job that helps them afford tuition for their sons, but at a significant price: it keeps him away from home five days a week. The move is worth it to the Graus though; after a couple of years in private school, the boys are flourishing and reading at grade level.

Many parents desperately want the same for their children but simply do not have the same options. Paul and Agatha Thibodeaux are facing a struggle similar to the Graus'. Their nine-year-old son, Landon, is on the autism spectrum. After two years of participating in the Preschool Programs for Children with Disabilities (PPCD) at his local schools and two years of kindergarten in Katy ISD, Agatha was told that the best place for Landon going forward would be the Life Skills program. As Agatha explained in her April testimony before the House Public Education Committee, "That was a hard pill to swallow. . . . Landon falls into [a] grey area. We have 21 [private] special needs schools within 25 miles of our ZIP code; All of them have programs for kids just like Landon. They may as well be a million miles away, because of how out of reach they are for us financially." ([Thibodeaux](#))

The greatest cost of inappropriate special needs services, of course, is to the child and his family. But the cost of refusing legally mandated accommodations can also be high for the state. Mimi Swartz of *Texas Monthly* reported on the story of [Cheryl Fries](#), a former teacher whose daughter Claire has cerebral palsy. Wheelchair-bound, Claire was not allowed to access the playground and had trouble using the bathrooms. For five years Cheryl asked for handicap-appropriate accommodations for Claire and eventually filed suit against the district (Eanes ISD). After two years and the intervention of the Office for Civil Rights, she and the district reached a settlement. "Everything my kid needed cost about one hundred thousand dollars, and they ended up having to spend ten to twelve million dollars because I backed them into a corner, and they had to fix every school in the district."

## ESAs: Hope for Children

Special needs students need not suffer due to the lack of access to necessary services. Other states have acknowledged the uniqueness of their disabled schoolchildren and empowered their parents through school choice programs to choose the educational setting that is right for them.

The state of Arizona has the longest-running ESA program in the nation, and special needs students were the first to be given access. In 2015, they comprised 58 percent of the 2,406 Arizona ESA holders ([Butcher 2017](#)). Parent satisfaction with the program is notably high: a survey of over half of participating families in the 2012-2013 school year found that 71 percent were “very satisfied,” 19 percent were “satisfied,” and 10 percent were “somewhat satisfied.” No respondents registered negative or neutral feedback ([Butcher and Bedrick, 2](#)).

Holland Hines, an Arizona mother, uses her autistic son Elias’ ESA to send him to a school that can balance academic work with other prescribed therapies to help him address his autism and hyperlexia. In an interview with the Goldwater Institute, she said, “Nothing about having a special needs child has been easy. But the ESA has been one of the most exciting and rewarding experiences of our family’s journey. The program allows the one person who knows best what their child needs—their parent—to make the most important education decisions for their child” ([Goldwater Institute, 5](#)).

Another program in Florida has seen similar success. Florida has two educational choice programs for special needs children: the Personal Learning Scholarship Account Program (an ESA program, founded in 2014) and the John M. McKay Scholarships for Students with Disabilities Program (a voucher program, founded in 1999). The programs’ mechanisms are slightly different, as the McKay scholarships can only be used at a private school, but their goals are similar—to help disabled students find an appropriate education. Since the McKay program has a longer history, data is more readily available for it.

A survey of current and previous McKay scholarship parents found high levels of parent satisfaction as well. A total of “92.7% of current McKay participants are satisfied or very satisfied with their McKay schools; only 32.7% were similarly satisfied with their public schools.” The researchers also included parents no longer participating in the program to see if dissatisfaction with the program was higher in that group. They found that, “Perhaps the strongest evidence

regarding the McKay program’s performance is that over 90% of parents who have left the program believe it should continue to be available to those who wish to use it” ([Greene and Forster, iii](#)).

EdChoice cites another parent survey in Florida, which found that “almost 90 percent of McKay respondents . . . were satisfied or very satisfied with the school their child attends, whereas only 71.4 percent of public school respondents were satisfied or very satisfied with the school their child attends” ([EdChoice](#)).

Greene’s survey also found that the average class size for participants was halved from “25.1 students per class in public schools to 12.8 students per class in McKay schools.” Students in McKay schools were also drastically less likely to be victimized due to their disability and showed a much lower incidence of behavioral problems than in their previous public schools ([Greene and Forster, iii](#)).

In the 2016-2017 school year, there were 477,281 students identified as needing some form of special education in Texas.<sup>1</sup> This number does not include students with “Section 504 status,” eligible for a set of accommodations such as extended time on tests and seating at the front of the classroom. TEA does not keep state-level records of students with Section 504 status. For the 2011-2012 school year (the most recent year posted), the U.S. Department of Education’s Office for Civil Rights (OCR) recorded 132,078 Texas students served only under Section 504. Texas leads the nation with the most students served under Section 504: the state with the second highest Section 504 population for that year is Florida, with 50,959 students ([Office for Civil Rights](#)).

An ESA program for all students in special education or with 504 status in Texas would make educational options available for approximately 609,000 students. Such a program would be the largest school choice program focused on special needs students in the country (in terms of body of students eligible) and could alleviate the struggles of families statewide. Under legislation proposed in the 85th Texas Legislature, there would be no additional cost to the state and, indeed, a potential savings to the state. Typically, the proposed ESA would provide 90 percent of average state funding to eligible students, and the remaining 10 percent would be returned to the students’ district. These provisions ensure schools wind up with more per-pupil funding than they had to start with.

<sup>1</sup> Data drawn from TEA.

## Barriers to Entry?

Critics of an ESA program assert that such a program would not actually increase options for disabled students. Their concern is that private schools will not accept children with special needs. Fortunately, this is not the case. A recent survey by the Texas Private Schools Association (TPSA) of member schools found that 73 percent of respondent private schools serve at least one student with special needs; 36 percent said they would or probably “would be interested in participating in an ESA program that would serve only students with special needs”; an additional 32 percent said that they might be interested ([Catt, 1-3](#)). As referenced in the family stories above, a number of schools in Texas specialize in teaching children with various special needs, giving children the advantage of specialized programs highly tailored to their needs.

The question has been raised whether the funding provided in an ESA will be sufficient to pay for the full needs of a special education student. Tuition at schools that specialize in disabled children can be expensive. However, this only highlights the need for an ESA program. To begin with, not all disabled students need the kind of schools that charge such high tuition rates. The average private school tuition in Texas in 2015 was \$7,847.98, well within reach of the amount (approximately \$7,800<sup>2</sup>) that would have been provided by an ESA that year ([Barba, et al., 49](#)). An ESA would obviously be a boon to children in such situations.

Not even all special needs schools have exceptionally high tuition. River City Christian School in San Antonio charges approximately \$8,500 in tuition. Ezzard Castillo, the principal, said in a recent phone conversation, “If they could get [\$7-10k] for their child, my parents would be ecstatic. . . . I would have to open another school.”

Should there be a tuition gap outside of the parents’ reach, they are sadly in no worse a situation than they are now without an ESA. Many private schools have scholarship programs for just such cases. Other programs also exist to provide needed assistance: [ACE Scholarships](#), one non-profit that has given tuition scholarships to needy students with great success in other states, is in the midst of opening an office in Houston.

Private school tuition is already out of reach for many families; an ESA at least lowers that barrier. The Thibodeaux, for instance, would be thrilled to have such assistance. In any case, refusing to make some of a student’s funding available

<sup>2</sup> Data drawn from [TEA](#).

to his parents because it may not cover all their education needs is akin to refusing to feed a homeless child one meal because it cannot be three meals.

An open market also has a constructive role to play here. Bedrick and Burke remind us that many resources we now take for granted were first considered luxuries. Special education services are no exception. The more people purchase a product, the faster the product becomes generally available. An ESA program, by freeing up the options parents have when selecting an education for their disabled child, will accelerate that process.

Another concern by some is the fact that, when parents take their disabled child outside of the public school system, they waive their rights under the Individuals with Disabilities Education Act (IDEA) for as long as they are outside that system. At least for some, however, this is an advantage. The contract law system under which private schools operate enables parents to work out with a school exactly what will be provided to their child. Some parents choose a specialized school precisely because it focuses on a certain student profile. As Laura Colangelo, Executive Director of the Texas Private Schools Association, has observed, “it does not take a federal mandate to do what is right for children” ([Colangelo](#)).

In Greene and Forster’s parent survey of the McKay program, they found that “McKay schools also outperformed public schools on our measurement of accountability for services provided. Only 30.2% of current participants say they received all services required under federal law from their public school, while 86.0% report their McKay school has provided all the services they promised to provide” ([iii](#)). They subsequently note, “Rather than the threat of going to court—where schools have an advantage due to the government’s vastly superior resources—McKay schools are motivated by parents’ power to take their children to another school” ([8](#)).

There are financial barriers to suing a school district for deserved services. The legal process can take years, fortitude, and advocacy skills. It is possible that, for many disadvantaged families, these barriers are even greater than the financial barrier of private school tuition. With an ESA program, at least one option for parents is more attainable than before.

Some parents fear that an ESA program will hurt disabled children who stay within the public school system. Nationwide, the overwhelming majority of studies of school choice programs have shown that, when an educational choice

program has an impact on public schools, it tends to be positive; out of 33 studies, 31 found a positive effect on academic performance in public schools. Only one found any negative effect ([Forster, 15-19](#)).

### **Conclusion**

For various reasons, Texas parents of children with special needs are searching for options for their children. Educational choice programs in other states have had marked success in assisting this population. An ESA program for disabled children in Texas would have significant benefits for families who participate and for families who do not. ★

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