

ESA Legislative Deal vs. Protect Education Act

Side-by-side comparison of key provisions

	Proposed deal (legislative statute)	Protect Education Act (ballot initiative)
ELIGIBILITY		
Income cap	None — universal eligibility fully preserved.	\$150,000 annual family income cap for students who enrolled under the 2022 universal expansion. All pre-2022 eligibility categories — including students with disabilities, military families, foster children, and others — are exempt from the cap.
Pre-2022 categories (military, foster, D/F schools, etc.)	Fully preserved, no change.	Exempt from the income cap, but subject to other new requirements including registration, fingerprinting, and spending rules.
SPENDING RULES		
Luxury goods / prohibited items	Explicit prohibited list (jewelry, bounce houses, hot tubs, restaurant dining, etc.). Equivalent to PEA.	Same prohibited list. Equivalent to proposed deal.
Carry-forward balance	Capped at \$50,000 (disability students) / \$24,000 (all others). Existing balances above the caps are grandfathered — no immediate clawback.	All unspent funds recouped by the state each July 1. Disability students only may carry forward one prior year's unspent funds; all other students — including military families — receive no carryforward.
SAFETY AND OVERSIGHT		
Fingerprint clearance cards	Required for school staff and third-party tutors paid with ESA funds. One-year grace period. Does not apply to parents teaching their own children at home.	Same requirement, but no grace period.
School registration with ADE	Required annually, fee charged.	Required annually, fee charged.
ADE administrative funding	Dedicated 0.5% per-student fee to fund oversight — giving the department resources to do the job.	Funded by transfer from the medical marijuana fund.
ENFORCEMENT		
Attorney General authority	AG may act on referral from State Board of Education only — no independent authority.	AG has independent enforcement authority — civil investigative demands, civil suits, restitution — without referral. A partisan AG would have new tools to engage in lawfare against ESA families and schools.
Permanent disqualification for misuse	Not added — existing removal authority retained.	Permanent disqualification from the ESA program for intentional misuse.
PRIVATE SCHOOL AUTONOMY		

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State burden of proof in legal challenges	Retained — the state must prove any regulation is necessary and does not impose an undue burden on qualified schools (Section 15-2404(D)).	Removed — shifts the legal burden away from the state, leaving schools more exposed to regulatory overreach.
Creed, curriculum, admissions policy	Schools cannot be required to alter these to participate as a qualified school.	Same protection stated, but weakened legal backdrop after removal of the burden-of-proof provision.
RULEMAKING AND FUTURE FLEXIBILITY		
Rulemaking process	Normal legislative process — public input, accountability to elected officials.	Eight-month exemption from formal rulemaking requirements — bureaucrats write regulations governing private schools and ESA families with minimal public accountability.
Can the Legislature fix problems?	Yes — it is a statute. Future Legislatures can revisit and revise any provision that proves unworkable.	No — voter-protected under Arizona's Voter Protection Act. Essentially permanent. Cannot be meaningfully changed without another statewide vote.

■ Advantage: proposed deal ■ Concern: Protect Education Act ■ Equivalent