



August 2016

# SCHOOL CHOICE

Private School Choice  
Programs Are  
Growing and Can  
Complicate Providing  
Certain Federally  
Funded Services to  
Eligible Students

## Why GAO Did This Study

Voucher and ESA programs fund students' private school education expenses, such as tuition. In school year 2014-15, 22 such school choice programs were operating nationwide, all but one of which was state funded. Under two federal grant programs, one for students with disabilities and one for students from disadvantaged areas, districts are required to spend a proportionate amount of their federal funds to provide equitable services for eligible private school students, and this population includes eligible students in private school choice programs. GAO was asked to review these topics.

This report examines 1) participation in private school choice programs and the characteristics of students, 2) program requirements for participating private schools, and 3) how Education supports districts' efforts to deliver these federally funded services in the context of school choice programs. GAO reviewed relevant federal laws and regulations, surveyed all voucher and ESA programs as of fall 2015, and interviewed Education officials and other stakeholders. GAO also reviewed documents and interviewed state, public school district, and private school officials in a nongeneralizable sample of 10 private school choice programs in four states, selected to include programs with large enrollment and a range of eligibility criteria.

## What GAO Recommends

GAO recommends Education include in its guidance information about providing equitable services in the context of private school choice programs. Education agreed with our recommendation.

View [GAO-16-712](#). For more information, contact Jacqueline M. Nowicki at (617) 788-0580 or [nowickij@gao.gov](mailto:nowickij@gao.gov).

## SCHOOL CHOICE

### Private School Choice Programs Are Growing and Can Complicate Providing Certain Federally Funded Services to Eligible Students

## What GAO Found

Participation in voucher and education savings account (ESA) programs, which fund private school tuition and other educational expenses, has more than doubled in the past 5 years, and available information about the characteristics of participating students varies. From school years 2010-11 through 2014-15, the number of students participating in these private school choice programs—which are regarded as an alternative to public schools—grew from approximately 70,000 to 147,000. During that time period, funds provided for students also increased substantially, from approximately \$400 million to \$859 million, according to GAO's survey of all voucher programs and ESA programs operating in 2015 and related follow-up. This growth reflects both creation of new programs and expansion of existing ones. GAO's survey also found that student eligibility is often based on their disability status or family income. However, the information programs have about student characteristics varies and cannot be compared across all programs because of differing data collection methods or definitions for characteristics like race and ethnicity, disability status, and income.

Voucher and ESA programs generally placed some requirements on participating private schools, according to GAO's review of program documents, survey responses, and interviews with program officials. For example, in GAO's survey, 18 of 20 voucher programs and one of two operating ESAs reported that teachers must meet minimum education requirements, such as having a bachelor's degree. Similarly, 17 voucher programs and one ESA reported requiring schools to measure student performance, for example, with the same tests required for public school students. Fewer private school choice programs reported that they restrict the admissions criteria schools may use for private school choice students. Private school officials GAO interviewed identified students' disciplinary or academic history as common admissions considerations.

Federal laws and regulations for two key federal education grant programs require public school districts to provide "equitable services," which may include speech therapy or reading tutors, to eligible private school students, and the Department of Education (Education) provides general guidance on these requirements. However, Education's guidance does not specifically address providing these services to students participating in private school choice programs. Education officials said they had not received any recent inquiries on the subject, but officials in all four states GAO visited—comprising half of all private choice programs and two-thirds of participating students—said that vouchers and ESAs complicate their efforts to implement these requirements. Further, although Education officials said that a student's participation in private school choice programs does not affect the federal equitable services requirements, officials GAO spoke to in two states expressed confusion about whether a student's participation in these programs changed their eligibility for these services. Providing quality information to clarify requirements and responsibilities—including adapting to emerging trends—is a key federal internal control. Providing such information would help clarify how to implement equitable services requirements in the context of growing private school choice programs.

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**Abbreviations**

Education	U.S. Department of Education
ESEA	Elementary and Secondary Education Act of 1965, as amended
ESA	Education Savings Account
ESSA	Every Student Succeeds Act
FAPE	free appropriate public education
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
ONPE	Office of Non-Public Education

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August 11, 2016

The Honorable Marcia Fudge  
Ranking Member  
Subcommittee on Early Childhood, Elementary and Secondary Education  
Committee on Education and the Workforce  
House of Representatives

The Honorable Gwen S. Moore  
House of Representatives

The Honorable Mark Pocan  
House of Representatives

Voucher and Education Savings Account (ESA) programs are forms of private school choice programs that fund elementary and secondary students' educational expenses in private schools and other non-public settings. In school year 2014-15, there were 20 voucher and two ESA programs operating in the United States.<sup>1</sup> Except for the federally funded District of Columbia voucher program, all of these programs are administered and funded by states.<sup>2</sup> While these programs serve a relatively small number of students nationwide, the benefits and challenges of private school choice are widely debated and some members of Congress have proposed additional federally funded programs.<sup>3</sup> Despite these debates and proposals, there is limited information on the similarities and differences in program requirements

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<sup>1</sup>Other private school choice programs, such as tax credit scholarships and individual tax credits or deductions, are outside the scope of this review.

<sup>2</sup>The D.C. Opportunity Scholarship Program was most recently authorized by the Scholarships for Opportunity and Results (SOAR) Act. Pub. L. No. 112-10, div. C, 125 Stat. 38, 199 (2011). See GAO- K-12 *EDUCATION: Internal Controls for Program Management and Oversight Can Help Ensure the Success of School Choice Programs*, [GAO-16-212T](#) (Washington D.C.: November 2015).

<sup>3</sup>An example of the views of those who advocate for private school choice can be found in: Friedman Foundation for Educational Choice, *The ABCs of School Choice*, 2015 ed. (Indianapolis, IN: 2015). An example of the views for those who generally oppose private school choice programs can be found in: National School Boards Association, *Issue Brief: Private School Vouchers* (Alexandria, VA: 2015).

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nationwide or on the characteristics of participating students and schools across states.

Some private school students, including private school choice students, also receive federally funded services through public school districts. Under two federal grant programs that provide funds to serve students with disabilities and students from disadvantaged areas, districts are required to use a portion of their federal funds to serve eligible private school students—referred to in this report as providing equitable services.<sup>4</sup> State voucher and ESA programs may affect how public school districts work with private schools to provide equitable services to private school students, particularly as the number and scope of these programs grow. You asked us to review private school choice programs and these federally funded services for private school students.

This report examines: 1) the characteristics of private school choice programs and the students who participate in them; 2) the requirements private school choice programs have for participating private schools; and 3) how selected public school districts work with private schools to provide equitable services in the context of private school choice programs and the extent to which the U.S. Department of Education (Education) provides related guidance.

To obtain information for all three objectives, we reviewed relevant federal laws, regulations, and guidance. We also surveyed all 20 voucher programs operating in fall 2015 and all five ESA programs authorized as of fall 2015 to obtain information about program design and requirements. We obtained a 100-percent response rate.<sup>5</sup> For the 20 voucher programs, our web-based survey also included questions about student and school characteristics. Further, from November 2015 to March 2016, we

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<sup>4</sup>These programs are Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and Part B of the Individuals with Disabilities Education Act (IDEA). Other federal programs also have equitable services provisions, including certain other ESEA programs. We did not include those programs because they are significantly smaller in scope.

<sup>5</sup>The five authorized ESAs included two programs that were operating during 2015 and three programs that were authorized but were not operating during some or all of that year, either due to ongoing legal challenges or because they had not yet been implemented.

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reviewed documents and conducted interviews with state, public school district, and private school officials in a non-generalizable sample of 10 private school choice programs in four states (Arizona, Indiana, Ohio, and Wisconsin). We selected programs that collectively served the majority of voucher and ESA students in school year 2014-15 and varied in terms of eligibility criteria and years in operation. In total, these states represented half of all private school choice programs and about two-thirds of all participating students. We interviewed officials at 12 private schools by selecting 3 private schools in each of the four states. Together, these 12 private schools represented a diversity of characteristics in terms of size, grade levels, religious or secular affiliation, and whether the school was specifically designed to serve students with disabilities. Within each of the four states we visited, we also interviewed officials at two public school districts to discuss federally funded services to private school students under our two selected grant programs. We also interviewed officials from Education and private school choice researchers, advocates, and opponents, which we selected to obtain a range of perspectives on private school choice initiatives. We also reviewed guidance and policy documents on federally funded equitable services.<sup>6</sup> For more information about our scope and methodology, see Appendix I.

We conducted this performance audit from June 2015 to August 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>6</sup>This report refers to the participation of private school students in IDEA, Part B and ESEA Title I-A programs as “equitable services.” Equitable services, as that term is used in this report, means the provision of educational and related services under an applicable program by a public school district to eligible private school students. The term includes the consultation process between private school officials and public school district officials to determine, among other things, the public school districts’ processes for determining the appropriate amount of federal funds available for services for private school participants, which eligible children to serve, and the services to provide.



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## Background

Voucher and ESA private school choice programs provide eligible students with funding toward a private education.<sup>7</sup> Vouchers generally provide interested parents with funding for tuition at a religious or secular private school. ESAs are typically designed to fund a broader set of educational expenses, such as private school tuition and fees, online learning programs, private tutoring, education therapies, or higher education expenses. The first voucher program began in 1990, and the first ESA program began more recently in 2011.

The design of private school choice programs may vary in many ways, such as:

- the eligibility criteria for students to participate in the program;
- the funding sources and amounts, including the overall funding level for the program and funding amounts for individual voucher or ESA students; and
- the requirements that apply to private schools or other educational entities these students may attend, such as requirements for teachers.

In addition, ESA programs also lay out which expenses are allowed and what to do with any unused funds. For example, both ESAs operating in school year 2014-15 allowed funds to be used for college savings plans or for a student to enroll in college courses, according to program officials and our review of ESA documents.<sup>8</sup>

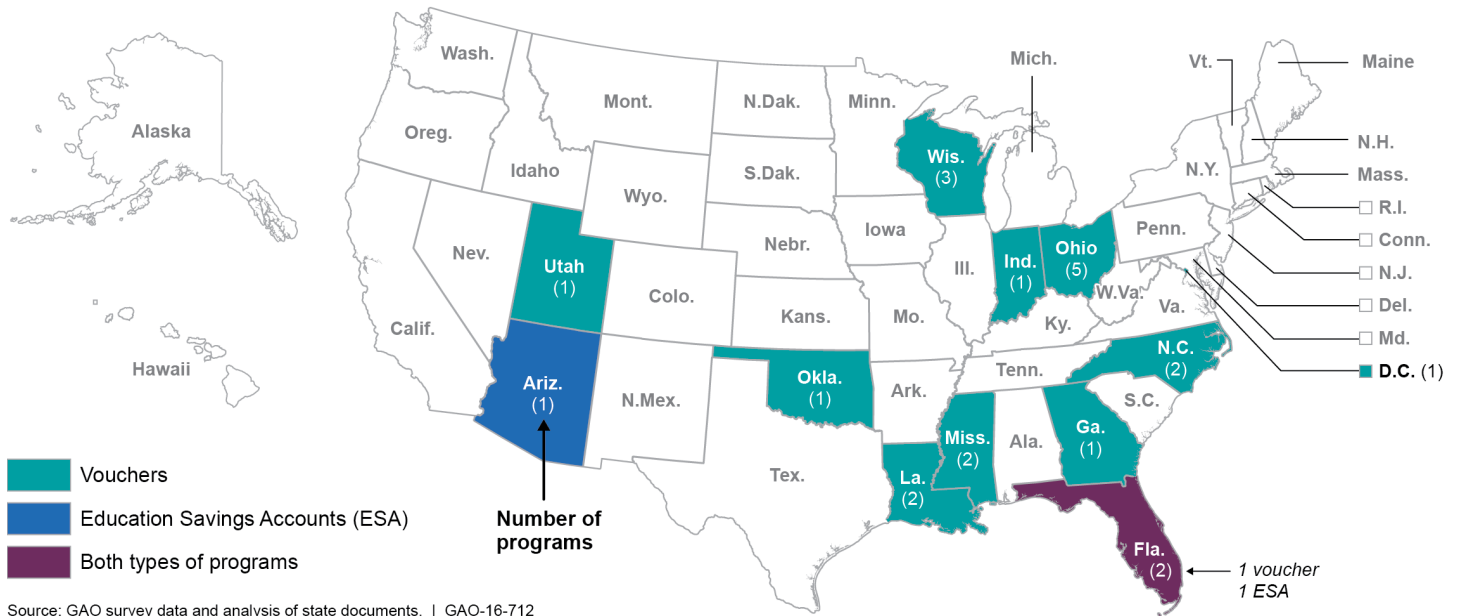
According to our survey, 20 voucher programs operated in 11 states and two ESAs operated in two states during school year 2014-15 (see fig. 1).

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<sup>7</sup>Some of these programs have been subject to legal challenges, including on state constitutional grounds. These legal challenges were beyond the scope of our review.

<sup>8</sup>The three ESAs authorized but not operating for all or part of 2015 also allowed students to use funds for college courses, according to program officials and our review of ESA documents. All five programs allow participants to roll over some unused funds from one year to the next.

**Figure 1: Voucher Programs and Education Savings Account (ESA) Programs Operating in School Year 2014-15, by State**



Source: GAO survey data and analysis of state documents. | GAO-16-712

Note: Two voucher programs (in Arkansas and Colorado) and three ESA programs (in Mississippi, Nevada, and Tennessee) were authorized but not operating for all or part of 2015. Ohio considers EdChoice and EdChoice Expansion to be one program. EdChoice is focused on students in low-performing schools. EdChoice Expansion is focused on low-income students. We are considering them to be two programs because they have different eligibility criteria and Ohio provided us with separate survey responses because the data could not be aggregated.

The size of voucher and ESA programs varies widely. Voucher programs served between 1 and 30,378 students during school year 2014-15 (see table 1). Further, the four largest programs, operating in Florida, Indiana, Ohio, and Wisconsin, served approximately 73 percent of all voucher students nationwide. In each state, the total number of students enrolled in private school choice programs in school year 2014-15 was equivalent to less than 4 percent of the students enrolled in public schools the previous year.<sup>9</sup>

<sup>9</sup>Data on public school enrollment during school year 2013-14 is the most recently available from the National Center for Education Statistics. National Center for Education Statistics, *Selected Statistics from the Public Elementary and Secondary Education Universe: School Year 2013-14*, NCES 2015-151 (Washington, D.C.: July 2015).

**Table 1: Students Receiving Vouchers and Education Savings Accounts (ESA), by Program, for School Year 2014-15**

State	Program	Number of students in program	Percent of total choice students nationwide
AZ	Empowerment Scholarship Account Program (ESA)	1,311	0.9
DC	Opportunity Scholarship Program	1,879	1.3
FL	Gardiner Scholarship Program (ESA)	1,655	1.1
	McKay Scholarship Program for Students with Disabilities	30,378	21.0
GA	Special Needs Scholarship Program	4,408	3.0
IN	Choice Scholarship Program	29,148	20.0
LA	Louisiana Scholarship Program	7,362	5.0
	School Choice Program for Certain Students with Exceptionalities	311	0.2
MS	Dyslexia Therapy Scholarship Program	119	<0.1
	Nate Rogers Scholarship for Students with Disabilities Program	1	<0.1
NC	Opportunity Scholarship Program	1,216	0.8
	Disabilities Grant Program	685	0.5
OH	Autism Scholarship Program	3,221	2.2
	Cleveland Scholarship Program	7,391	5.0
	Educational Choice (EdChoice) Scholarship Program <sup>a</sup>	19,826	13.5
	Educational Choice (EdChoice) Scholarship Program Expansion <sup>a</sup>	3,625	2.5
	Jon Peterson Special Needs Scholarship Program	3,470	2.4
OK	Lindsey Nicole Henry Scholarship Program for Children with Disabilities	373	0.3
UT	Carson Smith Special Needs Scholarship Program	757	0.5
WI	Milwaukee Parental Choice Program	26,868	18.0
	Racine Parental Choice Program	1,733	1.2
	Wisconsin Parental Choice Program	1,008	0.7
<b>Total</b>		<b>146,745</b>	

Source: GAO surveys of voucher and ESA programs | GAO-16-712

<sup>a</sup>Ohio considers EdChoice and EdChoice Expansion to be one program. EdChoice is focused on students in low-performing schools. EdChoice Expansion is focused on low-income students. We are considering them to be two programs because they have different eligibility criteria and Ohio provided us with separate survey responses because the data could not be aggregated.

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## Equitable Services for Students with Disabilities

The Individuals with Disabilities Education Act (IDEA) requires public school districts to provide for the participation of parentally placed private school children with disabilities in programs assisted or carried out under IDEA Part B.<sup>10</sup> Specifically, school districts are required to provide special education and related services—such as speech language therapy or assistive technology—to the extent consistent with the number and location of children with disabilities enrolled by their parents in private schools located in the school district. “Parentally placed” children with disabilities would include those students with disabilities enrolled by their parents in private schools through private school choice programs.

IDEA requires that school districts conduct “child find” activities to identify, locate, and evaluate children with disabilities who need special education and related services and who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district.<sup>11</sup> The district must provide special education or related services for those parentally placed students the district has elected to serve, in light of the services the district has determined (through

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<sup>10</sup>20 U.S.C. § 1412(a)(10)(A); 34 C.F.R. §§ 300.130-300.144. According to Education officials, some students are identified as having disabilities under Section 504 of the Rehabilitation Act of 1973 but are not IDEA-eligible, and there are no Section 504 requirements for public school districts to provide equitable services to these Section 504 students in connection with their parental placement at a private school.

<sup>11</sup>The school district in which the private school is located is responsible for conducting child find activities regardless of where the child lives. The child find process must be designed to ensure the equitable participation and an accurate count of eligible children. The school district is also required to conduct timely and meaningful consultation with representatives of private schools and representatives of parents of parentally placed private school children with disabilities on the child find process; the determination of the proportionate share of funds; the consultation process itself; and the provision of special education and related services, including how, where, and by whom services will be provided, among other things. However, the district is responsible for making the final decisions about the services to be provided to eligible parentally placed private school children with disabilities.

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consultation with private schools and parents) to make available to this population.<sup>12</sup>

Districts are required to spend a proportionate amount of their federal IDEA Part B funds (referred to as “proportionate share”) to provide special education and related services to parentally placed private school students with disabilities.<sup>13</sup> The formula for determining the proportionate share is based on the number of eligible parentally placed children with disabilities attending private schools located in the district, in relation to the total number of eligible public and private school children with disabilities in the district’s jurisdiction. For example, if 10 percent of all the students with disabilities attending public or private schools within a given public school district’s boundaries are parentally placed private students, then 10 percent of the district’s IDEA funds should be used to serve eligible private school students.

According to Education guidance, a district’s obligations to parentally placed private school students with disabilities are not the same as those for students enrolled in public schools or to students with disabilities placed in a private school by a public agency.<sup>14</sup> Under IDEA, no parentally placed private school student with a disability has an individual right to receive some or all of the special education and related services

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<sup>12</sup>Each parentally placed child with a disability who has been designated to receive services must have a services plan that describes the specific special education and related services that the district will provide to the child in light of the services that the district has determined it will make available to parentally placed children with disabilities. Services may be provided directly by the district or through a contract with another entity. The district must always control IDEA funds used to provide these services and hold titles to all materials, equipment, and property purchased with federal funds. Thus, the district may not pay funds for equitable services directly to private schools. In addition, services provided to parentally placed private school children with disabilities must be secular, neutral, and nonideological.

<sup>13</sup>The cost of carrying out child find activities, including individual evaluations, may not be included in this amount.

<sup>14</sup>In addition to parentally placed students, children with disabilities may also be placed in or referred to a private school or facility by a public agency as a means of providing special education and related services under IDEA. When a school district places a student with disabilities in a private school the financial obligations for this placement are the responsibility of the school district, and the student is entitled to all services necessary to provide a free appropriate public education, regardless of the nature or severity of the student’s disability.

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that the child would be entitled to receive if enrolled in a public school. In contrast, public school students and students placed in private schools by a public agency are entitled to all services necessary to ensure a “free appropriate public education” (FAPE).<sup>15</sup>

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### Equitable Services for Students from Disadvantaged Areas

Federal law requires districts to use a portion of their Title I-A federal funds to provide benefits and services, on an equitable basis, to eligible private school students.<sup>16</sup> In general, Title I-A funds are used to provide services to improve the achievement of students who are failing or most at risk of failing to meet challenging academic achievement standards and who reside in public school attendance areas with high concentrations of students from low-income families.

Under Title I-A, participating school districts must, after timely and meaningful consultation with private school officials, provide eligible private school students, their teachers, and their families with Title I services that are equitable in comparison to those services provided to eligible public school students, their teachers, and their families.<sup>17,18</sup> In

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<sup>15</sup>A “free appropriate public education” means special education and related services that (1) have been provided at public expense, under public supervision and direction, and without charge; (2) meet the standards of the state educational agency; (3) include an appropriate preschool, elementary school, or secondary school education in the state involved; and (4) are provided in conformity with an individualized education program required under IDEA. 20 U.S.C. § 1401(9).

<sup>16</sup>20 U.S.C. § 6320; 34 C.F.R. §§ 200.62-200.67. Unless otherwise specified, in this report we describe the provisions of Title I-A of the ESEA as amended by the No Child Left Behind Act of 2001, which was in effect during the period of our review. In December 2015, Congress reauthorized the ESEA, and the new law, known as the Every Student Succeeds Act (ESSA), made various changes to the Title I-A equitable services requirements, such as modifying the process for calculating Title I-A funding amounts and establishing an ombudsman responsible for monitoring and enforcement, while retaining key requirements related to identifying and serving eligible private school students. Pub. L. No. 114-95, § 1011, 129 Stat. 1802, 1871-74 (2015). Changes made by ESSA to the Title I-A equitable services requirements are scheduled to take effect in the 2017-18 school year.

<sup>17</sup>Consultation shall include issues, such as how the children’s needs will be identified; what services will be offered; and how, where, and by whom the services will be provided; among other things.

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general, private school students are eligible for equitable services from a district if they (1) reside in a participating public school attendance area in that district and (2) meet criteria related to educational need.<sup>19</sup> Generally, expenditures for services to private school students must be equal to the expenditures for services to public school students on a per-pupil basis, taking into account the number and educational needs of the children to be served.<sup>20</sup>

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## Role of the U.S. Department of Education

Education is responsible for ensuring that states and districts meet IDEA and Title I-A equitable services requirements. Education's Office of Non-Public Education (ONPE) has a mission to foster maximum participation of nonpublic school students and teachers in federal education programs

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<sup>18</sup>The district in which the eligible child resides is responsible for ensuring equitable services are provided, regardless of whether the private school he or she attends is located in the district. Similar to the equitable services requirements under IDEA, Title I-A services may be provided directly by the district or through a contract with another entity; services, including materials and equipment, must be secular, neutral, and nonideological; and the public agency must retain control of funds and title to materials, equipment, and property.

<sup>19</sup>Specifically, eligible children are those who have been identified as failing, or most at risk of failing, to meet the state's academic achievement standards on the basis of multiple, educationally related, objective criteria. Certain children may be identified as eligible for Title I-A equitable services solely by virtue of their status; for example, homeless children or children who participated in Head Start, Even Start, or Early Reading First within the past 2 years. Children from preschool through grade 2 are selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

<sup>20</sup>Specifically, expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools. Districts may determine the number of children from low-income families who attend private schools each year or every 2 years. One of the required consultation topics is the method or sources of data the district will use to determine the number of private school children from low-income families residing in participating public school attendance areas. Districts are authorized to use one of several methods, including: (1) using the same measure of low income used to count public school children; (2) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable; (3) applying the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area; or (4) using an equated measure of low income correlated with the measure of low income used to count public school children. States and districts may use different methods or criteria to determine income or poverty level for purposes of determining whether children qualify for participation in state private school choice programs.

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and initiatives. This includes issuing guidance and communicating with national, state, and local educational agencies and associations on nonpublic education topics, including the provision of IDEA and Title I-A equitable services. ONPE also provides parents with information regarding education options for their children.<sup>21</sup>

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Private School  
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Comparison of  
Student  
Characteristics  
across Programs

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Participation in Private  
School Choice Programs  
Is Increasing

Participation in private school choice programs has more than doubled in the past 5 years, according to our survey and related follow-up. From school year 2010-11 through school year 2014-15, participation in private school choice programs grew from approximately 70,000 students to

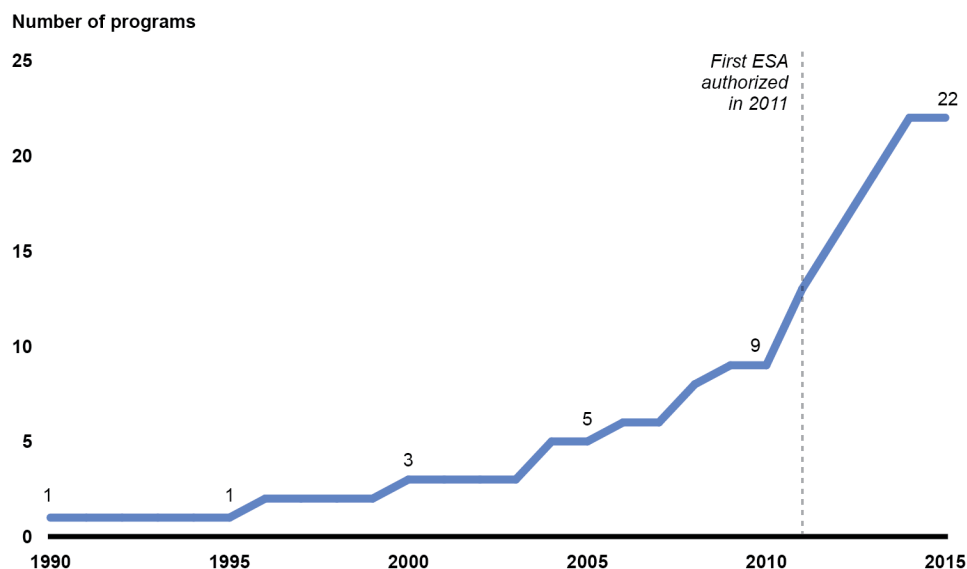
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<sup>21</sup>As part of this work, ONPE issued the report, U.S. Department of Education, Office of Innovation and Improvement, *Education Options in the States: State Programs That Provide Financial Assistance for Attendance at Private Elementary or Secondary Schools* (Washington, D.C.: 2009).



approximately 147,000.<sup>22</sup> Similarly, the funding these programs provided for students increased from approximately \$400 million to \$859 million during that period, according to our survey and follow-up. Since 2010, nine states have started 13 new private school choice programs—seven states started new voucher programs and two states started new ESA programs—contributing to this increase in participation.<sup>23</sup> (See fig. 2.)

**Figure 2: Growth in Voucher and Education Savings Account (ESA) Private School Choice Programs Operating from 1990 to 2015**



Source: GAO surveys of voucher and Education Savings Account (ESA) programs. | GAO-16-712

Note: Figure does not include the two voucher programs and three ESAs that were authorized but not operating during some or all of 2015.

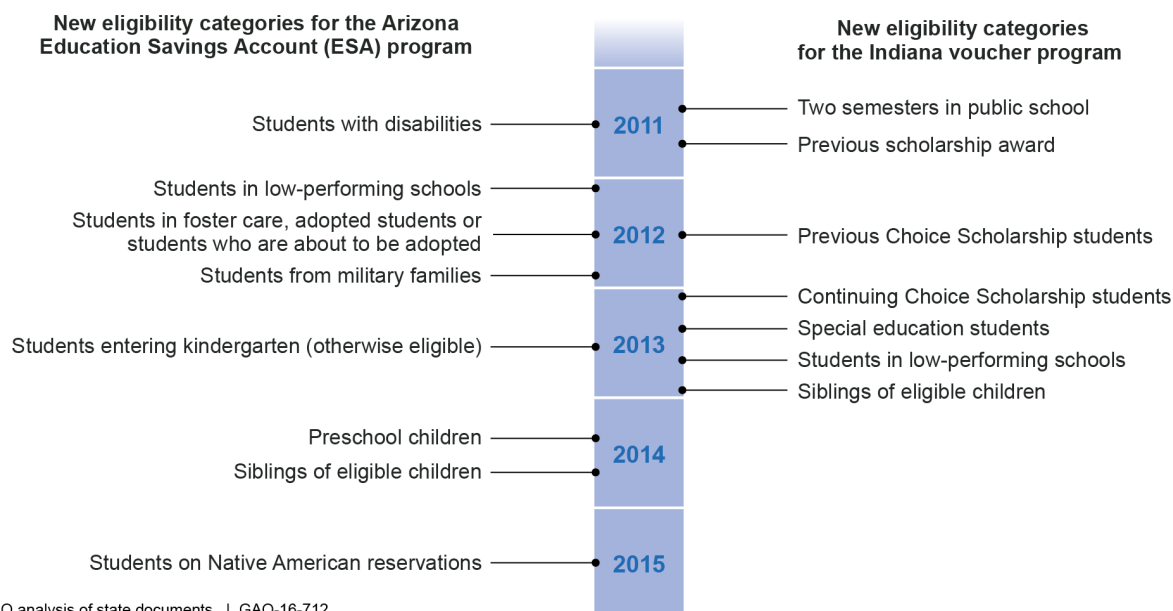
<sup>22</sup>Participation approximations are based on data from state private school choice programs, with the exception of data about Ohio school year 2010-11 participation rates. The school year 2010-11 approximations for Ohio programs are based on data from the Friedman Foundation for Educational Choice because the state did not have data available for that school year.

<sup>23</sup>Ohio considers EdChoice and EdChoice Expansion to be one program. EdChoice is focused on students in low-performing schools. EdChoice Expansion is focused on low-income students. We are considering them to be two programs because they have different eligibility criteria and Ohio provided us with separate survey responses because the data could not be aggregated.

Four of the states that created new programs from 2010 through 2015 already had existing programs. For instance, Wisconsin created the Milwaukee Parental Choice Program—the nation’s first school voucher program—in 1990, added a voucher program for Racine in 2011, and added one for the rest of the state in 2013. Similarly, Ohio launched the Cleveland Scholarship Program in 1996 and has added four programs since then, including programs focused on students with disabilities, students in low-performing schools, and low-income students living outside Cleveland. In addition, Florida’s voucher program began in 2000, and an ESA program began in 2014.

Some states have also increased or lifted enrollment caps or expanded the categories of students eligible to participate in existing private school choice programs, according to program documents we reviewed. For example, figure 3 shows how Arizona’s ESA program and Indiana’s voucher program have expanded program eligibility to new groups of students over time.

**Figure 3: How Arizona’s Education Savings Account (ESA) Program and Indiana’s Voucher Program Have Expanded Eligibility to New Groups of Students**



Source: GAO analysis of state documents. | GAO-16-712

**Student Eligibility Criteria for Private School Choice Programs Include Students' Residence, Disability Status, and Family Income**

School voucher and ESA programs consider various factors when determining whether students are eligible to participate, according to our survey and review of state documents. For example, 7 of the 20 voucher programs are limited to students residing in specific areas, school districts, or who are attending low-performing public schools, while the remaining voucher programs and all ESA programs are open to qualifying students statewide. For instance, Wisconsin has a program specific to Milwaukee and another for Racine, and Ohio's EdChoice Scholarship Program focuses on those students who attend low-performing schools. In contrast, Indiana's Choice Program is open to eligible students across the state.

In addition to students' place of residence, almost all voucher and ESA programs used disability status or family income as eligibility criteria, according to our surveys. See table 2 and Appendix II.

**Table 2: Use of Family Income and Disability Status as Eligibility Criteria for Private School Choice Programs, as of 2015**

<b>Eligibility criterion</b>	<b>Number of voucher programs operating in 2015 that used criterion</b>	<b>Number of education savings account (ESA) programs authorized by 2015 that used criterion</b>
Student's family income is below a certain level	8	0
Student has an identified disability or an Individualized Education Program (IEP)	10	4
Either family income or disability status	1 <sup>a</sup>	0
Neither family income nor disability status	1 <sup>b</sup>	1 <sup>c</sup>

Source: GAO surveys of voucher and ESA programs. | GAO-16-712

Note: Values in the table above indicate the number of programs that responded in our survey that either: "students must always meet this criterion to be eligible" or "this criterion is one of several ways a student may be eligible." Three of the five ESAs included in this table were authorized but not operational at the start of school year 2015-16.

<sup>a</sup>Indiana's Choice Program requires all students to meet income requirements, plus one of seven other characteristics. One of these additional characteristics is disability (i.e., a student requires special education or related services).

<sup>b</sup>Attending a low-performing school is the key eligibility criterion for the Ohio Educational Choice Scholarship Program.

<sup>c</sup>The Nevada Education Savings Account Program is open to all K-12 students in the state provided that they have attended a public school for 100 consecutive days prior to applying.

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Programs vary in how they define eligible disabilities and family income thresholds, according to our review of state documents. For example, some programs that focus on students with disabilities are open to any student with a current IDEA individualized education program (IEP) from their home public school district. Other programs are limited to students with specific disability diagnoses, such as autism, dyslexia, or a speech or language impairment. Programs have different income thresholds as well. For instance, Wisconsin's Milwaukee and Racine programs offer vouchers to eligible students with family incomes at or below 300 percent of the federal poverty level, whereas students from families at or below 200 percent of the federal poverty level are eligible for vouchers through Ohio's EdChoice Expansion Program.<sup>24</sup>

Programs also often reported that they consider prior program participation or prior public school attendance when determining initial student eligibility or continued eligibility in subsequent years. Twelve of the 20 school voucher programs and three of the five ESAs we surveyed consider students' prior participation in their program when determining annual eligibility. For example, in all of Wisconsin's voucher programs the income limits do not apply if the student continues in the program in subsequent years. As a result, students whose family income increases over time can continue in the program as long as they initially met income eligibility requirements. In addition, 11 of the 20 operating school voucher programs and four of the five authorized ESAs we surveyed reported that one eligibility criterion was prior attendance in a public school for a set minimum number of days.<sup>25</sup>

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<sup>24</sup>The "federal poverty guidelines," which are used in determining eligibility or distribution of funding for certain federal programs, are updated by the Department of Health and Human Services each year. In 2015, the federal poverty guideline for a family of four in the 48 contiguous states and the District of Columbia was \$24,250. Annual Update of the Department of Health and Human Services Poverty Guidelines, 80 Fed. Reg. 3236 (Jan. 22, 2015). Non-federal programs may in some cases elect to use the federal guidelines as well.

<sup>25</sup>Seven of the 20 operating voucher programs and three of the five authorized ESAs reported using both minimum prior attendance in public schools and prior participation in the program as eligibility criteria.

## Private School Choice Program Funding Amounts and Sources Vary

Just as student eligibility requirements vary across programs, so too does the funding amount that programs provide for students (see table 3).

**Table 3: Average Voucher Amounts and Total Funds Distributed in School Year 2014-15**

	Minimum	Median	Maximum	Total
<b>Average Voucher Amounts</b>	\$2,200	\$5,500	\$17,200	
<b>Total funds individual programs distributed to students</b>	<b>\$0.6 million</b>		<b>\$205.8 million</b>	<b>\$826 million</b>

Source: GAO survey of voucher programs and documents from program officials |GAO-16-712

Note: These amounts consisted entirely of state funds, with the exception of the federally funded DC voucher program, which provided \$13.95 million for students in school year 2014-15, with an average voucher amount of \$9,222.

The specific voucher amount that a student receives is affected by a student's characteristics or the institution's characteristics in 19 of 20 voucher programs, according to our survey. The most common characteristic affecting the voucher amount is the student's grade level (11 of 20 programs), according to our survey. For instance, some programs reported they have one voucher amount for grades K-8 and another, higher, voucher amount for grades 9-12. Students' disability status also affected voucher amounts in 7 of 20 programs. For example, Ohio's Jon Peterson Scholarship Program has six voucher funding amounts based on a student's type of disability.

About half of programs also consider private school tuition or public school funding when determining voucher amounts for individual students. In our survey, 8 of the 20 voucher programs reported that private school tuition affects the voucher amount, and 6 of 20 voucher programs reported that the amount public schools spend on their students affects the student's voucher amount. For both ESA programs currently operating, the annual amount is approximately 90 percent of the state funding the district would have received had the student attended public school.<sup>26</sup> (See table 4 for more detailed information about factors that affect voucher amounts.)

<sup>26</sup> For example, in Arizona, ESA students receive 90 percent of the state funds that would have gone to their public school district to support their education. For students with disabilities, this amount is generally more than the amount for students without disabilities.

**Table 4: Student and Institutional Characteristics That Affect Students' Annual Voucher Amounts for School Year 2014-15**

State	Program	Student Characteristics				Institutional Characteristics			
		Grade level	Disability	Family income	Household size	Geographic location	Private school tuition	Public school funding	Other factors not related to the student
DC	Opportunity Scholarship Program	✓	—	—	—	—	—	—	✓
FL	McKay Scholarship Program for Students with Disabilities	✓	✓	—	—	✓	✓	✓	—
GA	Special Needs Scholarship Program	—	✓	—	—	—	—	✓	—
IN	Choice Scholarship Program	—	✓	✓	✓	✓	✓	—	—
LA	Louisiana Scholarship Program	✓	✓	—	—	—	✓	✓	—
	School Choice Program for Certain Students with Exceptionalities	—	—	—	—	✓	—	✓	—
MS	Dyslexia Therapy Scholarship Program	✓	—	—	—	—	—	—	✓
	Nate Rogers Scholarship for Students with Disabilities Program	—	—	—	—	—	—	✓	—
NC	Opportunity Scholarship Program	—	—	✓	✓	—	✓	—	—
	Disabilities Grant Program	—	—	—	—	—	✓	—	—
OH	Autism Scholarship Program	—	—	—	—	—	—	—	—
	Cleveland Scholarship Program	✓	—	—	—	✓	—	—	—
	Educational Choice (EdChoice) Scholarship Program <sup>a</sup>	✓	—	—	—	✓	—	—	—
	Educational Choice (EdChoice) Scholarship Program Expansion <sup>a</sup>	—	—	✓	✓	✓	✓	—	—
	Jon Peterson Special Needs Scholarship Program	—	✓	—	—	—	—	—	—
OK	Lindsey Nicole Henry Scholarship Program for Children with Disabilities	✓	✓	—	—	✓	✓	✓	—
UT	Carson Smith Special Needs Scholarship Program	✓	✓	—	—	—	✓	—	—
WI	Milwaukee Parental Choice Program	✓	—	—	—	—	—	—	✓
	Racine Parental Choice Program	✓	—	—	—	—	—	—	✓
	Wisconsin Parental Choice Program	✓	—	—	—	—	—	—	✓
<b>Total</b>		<b>11</b>	<b>7</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>8</b>	<b>6</b>	<b>5</b>

Legend:

✓ = Program officials responded in our survey that a given student or institutional characteristic affected the annual voucher amount for eligible students during school year 2014-15.

— = Program officials responded in our survey that a given student or institutional characteristic did not affect the annual voucher amount for eligible students during school year 2014-15.

Source: GAO survey of voucher programs | GAO-16-712

<sup>a</sup>Ohio considers EdChoice and EdChoice Expansion to be one program. EdChoice is focused on students in low-performing schools. EdChoice Expansion is focused on low-income students. We are

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considering them to be two programs because they have different eligibility criteria and Ohio provided us with separate survey responses because the data could not be aggregated.

With the exception of the federally funded DC Opportunity Scholarship Program, private school choice programs are funded by states. The programs we visited reported using a variety of funding approaches, including different approaches within the same state. For example, in school year 2014-15, Wisconsin funded the Racine and Wisconsin Parental Choice Programs entirely with state general funds. However, it funded the Milwaukee Parental Choice Program with a mix of state general funds and state funds that would have otherwise gone to the Milwaukee Public School District (68 percent and 32 percent, respectively, in 2014-15, according to state officials). According to officials, Milwaukee may levy additional property taxes on city residents to recoup the lost state funds.

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### Variations in Data Availability and Definitions Complicate the Ability to Compare Student Characteristics across Voucher Programs

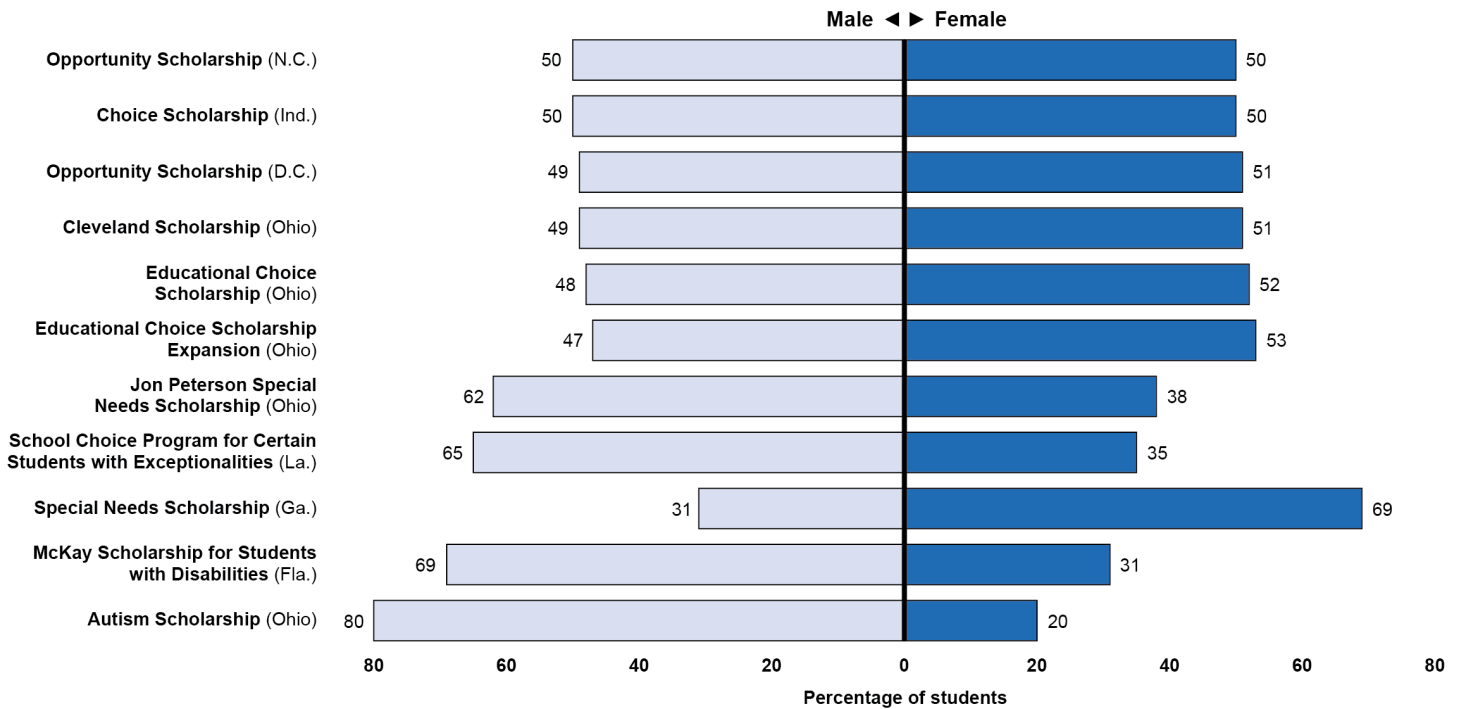
It is difficult to compare the characteristics of voucher students across states because programs vary in the extent to which they collect such data and how they define key categories.<sup>27</sup> For example, according to our survey responses, programs most frequently collected and reported information about students' gender and race and ethnicity, but this information was only collected and reported by about half of the voucher programs. Further, programs collected information about racial and ethnic categories differently, making it difficult to meaningfully compare this information across programs. Fewer than half of the programs reported collecting information about students' disabilities, incomes, or English Learner status in our survey.

*Gender:* Twelve voucher programs—representing approximately 73 percent of voucher students nationwide—collected and reported gender information in our survey (see fig. 4). Half of these programs reported a roughly even distribution of male and female participants. The remaining programs were all specifically for students with disabilities and reported varied distributions of male and female participants.

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<sup>27</sup>GAO did not survey ESA programs about student characteristics, given the small number of operating programs.

**Figure 4: Student Gender Breakdown for School Year 2014-15 among Voucher Programs That Reported Data**



Source: GAO survey of voucher programs. | GAO-16-712

Note: We did not include information on one program because it enrolled fewer than 10 students.

*Race and Ethnicity:* Twelve of the 20 voucher programs, representing approximately 78 percent of voucher students nationwide, collected and reported students' race and ethnicity in our survey.<sup>28</sup> However, these data

<sup>28</sup>Four additional programs in two states responded that they collect information about race and ethnicity, but they could not report the results. For example, one of the states we visited said they request this information in individual student applications, but they do not compile the results for reporting purposes.



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cannot be compared across all programs because the programs collected certain race and ethnicity categories in different ways.<sup>29</sup>

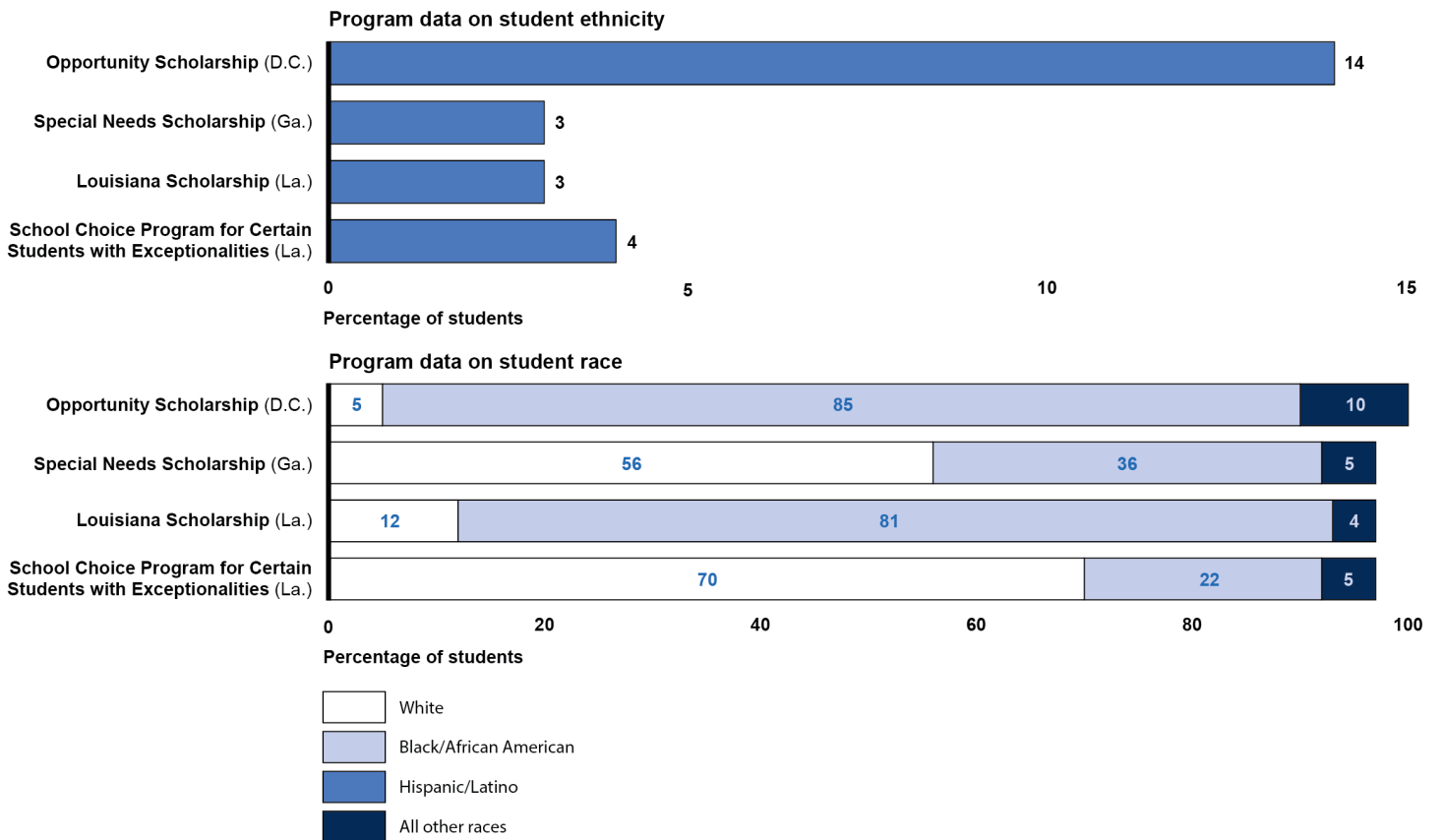
- **Ethnicity.** Four programs reported “Hispanic/ Latino” separately from racial categories such as “White” or “Black/African American”, and the other eight programs collected “Hispanic/Latino” as a racial category. Data with different definitions cannot be meaningfully compared across programs because students who identify as ethnically “Hispanic/Latino” are also asked to identify with a racial category like “White” or “Black/African American” in some programs but not others. (See fig. 5 and fig. 6 for racial and ethnic information by program, grouped by how the program collected information about whether students were “Hispanic/Latino”.)
- **Race.** Programs also aggregated racial categories in inconsistent ways. For example, one large program included students identified as “American Indian/Alaska Native”, “Asian”, “Native Hawaiian/Pacific Islander”, and “race was not reported” into the “other” category in our survey, and another program reported specific numbers for these racial categories.<sup>30</sup>

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<sup>29</sup>A meaningful comparison of the race and ethnicity of private school choice students to their public school counterparts would require capturing the race and ethnicity of the subpopulation of eligible students in the correct geographic area. For example, to meaningfully compare the race and ethnicity of those students in the Georgia Special Needs Scholarship, one would need to know the demographics of those students who were eligible to apply because they had a qualifying disability IEP and met residency or public school attendance requirements. Such analysis was beyond the scope of this study.

<sup>30</sup>Given the variation among programs’ definitions, GAO aggregated the results for such students to provide consistent information.

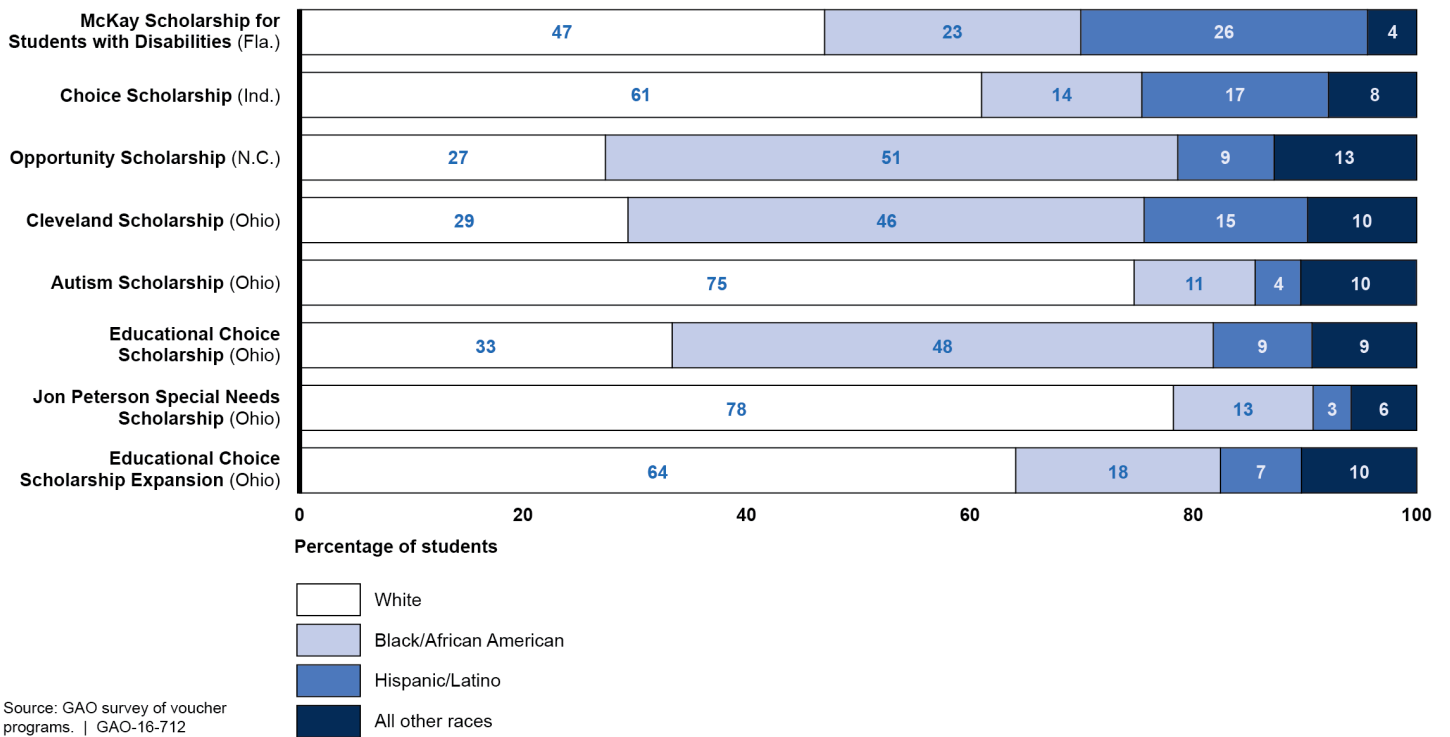
**Figure 5: Racial and Ethnic Makeup of Voucher Students for School Year 2014-15 in the Four Programs That Reported Hispanic or Latino Ethnicity Separately from Race**



Source: GAO survey of voucher programs. | GAO-16-712

Note: Program responses to the second chart do not total 100 percent in cases where programs did not report data on one or more students.

**Figure 6: Racial and Ethnic Makeup of Voucher Students for School Year 2014-15 in the Eight Programs That Reported Hispanic or Latino as a Racial Category**



Source: GAO survey of voucher programs. | GAO-16-712

According to our survey responses, voucher programs less frequently collected information about other student characteristics, and the information collected was more limited:

- **Disability:** About half of the voucher programs designed to serve students with disabilities did not collect information about participating students' disability type, according to our survey.<sup>31,32</sup> This included the

<sup>31</sup> Among the 10 programs specifically for students with disabilities, 3 were for specific disabilities (Dyslexia, Autism, and speech-language disabilities), and 7 were open to students with a range of disabilities. Four of the 7 programs for students with a range of disabilities reported information about disability types in our survey. Indiana was the only program not specifically for students with disabilities that collected information on disability type. This program requires all students to meet income requirements, plus one of seven other characteristics. One of these additional characteristics is disability (i.e. a student requires special education or related services).

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largest program for students with disabilities, which had over 30,000 participants in school year 2014-15. When programs did collect information on students' disability type, the two most common types reported on our survey were "other health impairment" and "specific learning disability".

- *Family Income:* Five programs—representing 30 percent of voucher students—collected and reported that they had data on student family income. Although student family income is frequently used to determine students' eligibility, programs may not always compile or have access to these data. For example, programs may collect income data to determine students' initial eligibility but not compile or analyze those data. Alternatively, programs may rely on an outside party, such as a different state agency or participating private schools, to determine income eligibility.
- *English Learners:* Two programs—representing 24 percent of voucher students—collected and reported data on English Learners. During school year 2014-15, English Learners made up less than 1 percent of participating students in one program and 8 percent in the other.

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## Private School Choice Programs Placed Some Requirements on Participating Private Schools

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<sup>32</sup>Our survey asked how many voucher students had each of the following disabilities in school year 2014-15: autism; deaf-blindness; deafness; developmental delay; emotional disturbance; hearing impairment; intellectual disability, multiple disabilities; orthopedic impairment; other health impairment; specific learning disability; speech or language impairment; traumatic brain injury; visual impairment, including blindness; and other.

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## Most Private School Choice Programs Required Minimum Teacher Qualifications and Student Assessments

During school year 2014-15, the number of participating private schools per voucher program ranged from 1 to 1,301, according to our survey, and almost all programs reported that schools must be accredited or otherwise reviewed before participating.<sup>33</sup> Specifically, 19 of the 20 operating voucher programs and one of the two operating ESAs required schools to be accredited or undergo another review process, according to our survey and subsequent document analysis.<sup>34,35</sup> These review processes typically included steps like reviewing financial and safety information, as well as affirming that the school will follow the requirements of the specific school choice program. For example, participating schools in Indiana must agree to assist students with voucher applications. Some states also required and verified that schools met criteria related to curriculum or student performance, such as student test results.

Eighteen of the 20 voucher programs reported in our survey that private school teachers in participating schools must meet minimum education requirements, such as obtaining a bachelor's degree. Officials described the minimum qualifications as different than those for public school teachers in all but 2 of these programs, often because private school teachers were not required to obtain the state teaching credential typically

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<sup>33</sup>See Appendix III for more information about the number of participating private schools per voucher program and the average number of voucher students per participating private school.

<sup>34</sup>The North Carolina Disabilities Grant Program did not require a review process in school year 2014-15, but it started requiring such a process in school year 2015-16. The Arizona ESA did not require participating private schools to be accredited or otherwise reviewed. All private schools in Arizona are eligible to participate if they are located in the state and do not discriminate on the basis of race, color, or national origin.

<sup>35</sup>In about half the programs, this involved the school receiving accreditation from the state or an external organization, such as a regional or religious accreditation organization. GAO did not assess or verify how each program ensured that accreditation or other types of reviews took place. In the case of the District of Columbia Opportunity Scholarship Program, GAO has previously identified weaknesses in the program's internal controls regarding participating private schools. See GAO, *DISTRICT OF COLUMBIA OPPORTUNITY SCHOLARSHIP PROGRAM: Actions Needed to Address Weaknesses in Administration and Oversight*, [GAO-13-805](#) (Washington, D.C.: September 2013).

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required for public school teachers. One of two operating ESAs required private school teachers to hold bachelor's degrees.<sup>36</sup>

Most voucher programs and one of the two operating ESAs also required schools to measure the academic performance of enrolled private school choice students, albeit in different ways. Specifically, 17 of the 20 voucher programs require schools to measure student performance through one or more methods, according to program officials and documents.<sup>37</sup> Most commonly, voucher programs required the same tests as required for public school students.<sup>38</sup> In about half of these programs with requirements to measure student performance, schools were required to provide parents with written progress reports in addition to, or instead of, providing test results. Officials at some private schools we visited across the country described advantages, disadvantages, or both perspectives on performance testing requirements, citing them as useful to measure students' progress but costly for both the school to administer and for students who lose instructional time.

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### Most Private School Choice Programs Did Not Cap Schools' Tuition or Restrict Their Admissions Policies

Thirteen of the 20 voucher programs and both operating ESAs—representing slightly more than half of voucher and ESA students nationwide—did not cap the tuition amounts schools could charge private school choice students, according to our survey and related follow-up. The 7 programs that did cap tuition for some or all private school choice students were located in Louisiana, Ohio, and Wisconsin and were designed to serve low-income students or those in low-performing

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<sup>36</sup>Both operating ESAs outlined qualifications for other types of educational providers, such as tutors or therapists.

<sup>37</sup>The three voucher programs without performance requirements were for students with disabilities.

<sup>38</sup>This report did not identify how private school choice programs used assessment results or whether they compared results to those for public school students.

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schools.<sup>39</sup> Six voucher programs reported participating private schools' tuition information in our survey, with average tuition rates ranging from \$5,541 to \$26,266 in school year 2014-15. We found a similar range of tuition amounts among the 12 schools we interviewed.<sup>40</sup> In most of these schools, officials described instances where the school covered some or all of students' additional tuition through scholarships or other programs. Some of the schools we interviewed also charged parents fees for a variety of items or services, such as registration, books, technology, or planning for and documenting progress for students with disabilities.

Most private school choice programs also reported allowing participating private schools to set their own admissions policies. Specifically, 16 of the 20 voucher programs and both operating ESAs—covering 75 percent of all voucher and ESA students nationwide—allowed schools to use admission criteria of their choosing, according to program officials and documents. The remaining 4 programs, located in Louisiana and Wisconsin, required private schools to accept all voucher students if space was available or use a lottery if there were more students than available seats.<sup>41</sup> Advocates of private school choice have written that it is important to allow private schools to set their own admissions criteria because it is central to maintaining a school's autonomy and mission. Conversely, others we interviewed cited concerns that admission criteria may limit student access to certain private schools.

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<sup>39</sup>According to program documents and our survey, Louisiana prohibited tuition charges over the voucher amount. Ohio's three voucher programs not specifically for students with disabilities prohibited most tuition charges over the voucher amount for families at or below 200 percent of the poverty level. The Cleveland Scholarship Program does permit high schools to charge low-income families tuition above the scholarship amount. Wisconsin's three voucher programs prohibited tuition charges over the voucher amount for all students in grades 8 or lower and for high school students from families at or below 220 percent of the federal poverty level.

<sup>40</sup>This included both voucher and ESA schools. Of the 12 schools selected, officials at one school were not available to be interviewed and agreed to respond in writing to an abbreviated list of GAO questions.

<sup>41</sup>For example, programs in Wisconsin require private schools to accept all eligible voucher students if space is available at the school or if the number of total voucher students is within program participation limits. If more students applied than there are available seats, students must be accepted on a random basis.

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Officials from many of the schools we interviewed told us that an applicant's disciplinary history and academic achievement were considerations in the admissions process, while religiously affiliated schools varied in their approach to considering students' religion.<sup>42</sup> For example, officials from two schools for students with disabilities said they considered discipline history because aggressive or other inappropriate behavior could adversely affect other students. Once students were enrolled in schools, voucher or ESA programs did not generally set or restrict schools' discipline policies, according to program officials and documents. For example, an Ohio official we spoke with said the state's voucher programs keep schools' policy handbooks on file—including discipline policies and criteria for expulsion—but do not restrict the content of such policies. Wisconsin's three voucher programs prohibit schools from disciplining students due to late payments, but did not restrict schools' disciplinary policies related to student behavior, according to our review of program documents. Religiously affiliated schools we visited varied in whether religion was considered during the admissions process.<sup>43</sup> For example, one school required all students in fourth grade and above to agree to follow a list of religious principles when applying to the school, and officials from another said students with the same religious affiliation as the school received priority during the admissions process. In contrast, officials from four other religiously affiliated schools said religion was not considered during the admissions process, though three of them said most of the student body was affiliated with the school's faith.

There is limited information available about how many private school choice students remained in private schools after they were admitted. In our survey, 6 of the 20 voucher programs—covering 10 percent of voucher students—reported the total number of students who did not

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<sup>42</sup>This does not include the schools in Wisconsin, which are prohibited from applying admissions criteria for private school choice students. The three Wisconsin voucher programs allow parents to opt their children out of participating in religious activities once they were enrolled. Officials we interviewed at two religiously affiliated schools in Wisconsin said students rarely declined to participate in religious classes or religious services.

<sup>43</sup>Four of 20 voucher programs reported in our survey that they track information about schools' religious affiliation. Among these 4 programs, 69 to 88 percent of participating private schools were religiously affiliated.



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complete the 2014-15 school year in the same participating school, with totals that ranged from 0 to 8 percent. Anecdotally, private schools we visited cited instances where students left due to academic or financial challenges, or because the student did not feel the school's culture met their needs. Officials at two schools described scenarios in which enrolled students with disabilities left the school because the student required more services than the school could provide.

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## Providing Federally Funded Equitable Services Can Be Complicated by Private School Choice Programs, and Education Has Not Provided Related Guidance

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### Selected Public School Districts Work with Private Schools and Varied in How They Provide Equitable Services

Districts have flexibility in how they provide IDEA and Title I-A equitable services to private school students, and officials in the eight public school districts we interviewed reported using different approaches. These selected districts also varied in the number of private school students for whom they provided equitable services (see table 5).

**Table 5: Selected Districts Varied in Reported Number of Private Students Who Received IDEA and Title I-A Equitable Services and Amount of Federal Funds Set Aside for Equitable Services, School Year 2014-15**

	Arizona		Indiana		Ohio		Wisconsin	
	Large Urban	Small Rural	Large Urban	Small Rural	Large Urban	Small Rural	Large Urban	Mid-size Suburban
<b>IDEA Equitable Services for Parentally Placed Private School Students with Disabilities</b>								
<b>Number of parentally placed private school students who received IDEA equitable services</b>	38	<10	709	25	413	0	208	115
<b>Total IDEA funds for public and private school students</b>	\$5.33 mil	\$0.33 mil	\$9.04 mil	\$0.60 mil	\$13.42 mil	\$0.63 mil	\$22.54 mil	\$4.82 mil
<b>Percent IDEA funds set aside for private students</b>	0.6%	7.5%	10.3%	7.3%	5.5%	1.6%	4.7%	3.5%
<b>Title I-A Equitable Services for Students from Disadvantaged Areas</b>								
<b>Number of private students who received Title I-A services</b>	31	160	663	0	2,662	16	6,514	799
<b>Total Title I-A funds for public and private school students</b>	\$4.1 mil	\$0.98 mil	\$11.1mil	\$0.28 mil	\$35.0 mil	\$1.5 mil	\$36.0 mil	\$5.0 mil
<b>Percent Title I-A funds generated for services for private students</b>	0.4%	5.3%	9.1%	n/a	7.1%	1.5%	26.9%	8.5%

Source: GAO analysis of district-reported information. | GAO-16-712

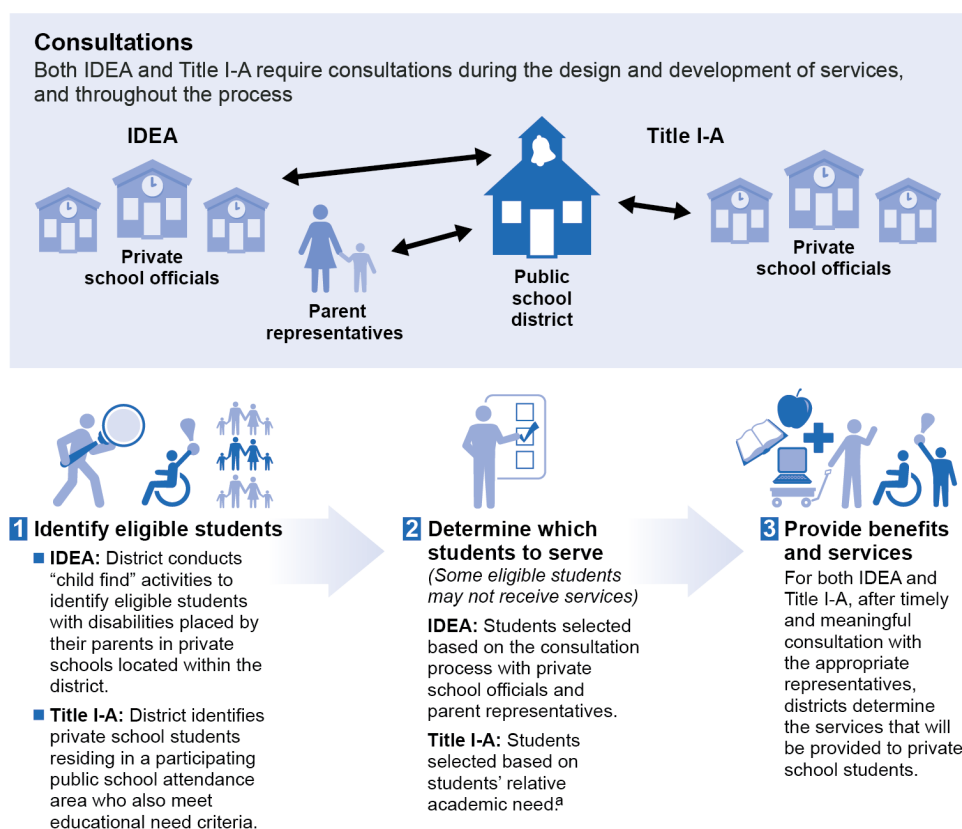
Note: "Title I-A" refers to Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. "IDEA" refers to Part B of the Individuals with Disabilities Education Act.

Once funding amounts have been calculated, districts we visited reported using a variety of approaches, in consultation with private schools, to implement federal IDEA and Title I-A equitable services requirements in three key areas: (1) identifying eligible students, (2) determining which students to serve, and (3) providing services.<sup>44</sup> The processes for

<sup>44</sup>In this report, we focused on selected districts' efforts to deliver equitable services. We did not include information on districts' efforts to comply with other requirements, such as how they calculate the funding amounts to be used for equitable services under each program.

implementing IDEA and Title I-A equitable services requirements are similar, though there are key differences between these federal programs, such as the populations served and the role of parents in the consultation process. See figure 7 for key steps and requirements for providing IDEA and Title I-A equitable services.

**Figure 7: Key Steps in IDEA and Title I-A Requirements for Providing Equitable Services to Private School Students**



Source: Education reports and guidance on the Individuals with Disabilities Education Act (IDEA) and Title I, Part A, of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (Title I-A). | GAO-16-712

<sup>a</sup>In consultation with private school officials, a district must establish multiple, educationally related, objective criteria to determine which private school children are eligible for Title I-A services, and, within the eligible group, which children will be served. To the extent appropriate, the district must select private school children who are in greatest need of educational assistance.

Note: This figure presents a high-level overview of IDEA and Title I-A requirements for providing equitable services to private school students. For clarity purposes, we omitted some steps and requirements, such as the process for calculating the funding amount to be used for equitable services.

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## IDEA Equitable Services for Students with Disabilities

### Identifying, Locating, and Evaluating Eligible Students

In the eight public school districts we selected, identifying private school students eligible for IDEA equitable services—known as child find—included outreach to local private schools and daycares and advertisements to the community, such as fliers, TV and radio ads, and posters, according to district officials. One large urban district used a “neighborhood approach” in which each public school is responsible for child find activities at any nearby private schools. Officials from private schools we interviewed generally reported that they understood how to identify and refer students with disabilities to the district for evaluations. Some private school officials described using tools or guidance, like teacher surveys, to help identify students who may have a disability.

### Determining which Students to Serve

Districts have flexibility in determining which IDEA services to provide to parentally placed students because these students do not have individual entitlements to special education or related services.<sup>45</sup> The districts we visited reported providing IDEA equitable services to between 28 and 100 percent of eligible private school students (see table 6). In these districts, officials reported different ways of determining which IDEA-eligible students to serve, in consultation with private schools and parents. For example, officials from one urban district told us that after consultation they decided to exclusively serve students in the lower grades who had speech therapy needs. Officials at another district described making decisions about the number of students to serve based on the speech therapists’ available caseloads and used a waitlist for the students that exceeded that amount.

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<sup>45</sup>IDEA does not dictate the types or amounts of special education and related services districts must provide to their population of parentally placed children with disabilities in complying with IDEA’s equitable services requirements. Which services the district will provide to this population and the amounts of services parentally placed students with disabilities will receive are discussed in the consultation process and are based on the numbers and needs of the district’s population of parentally placed children with disabilities. However, the district must make the final decisions with respect to the services to be provided to eligible parentally placed children with disabilities. 34 C.F.R. §§ 300.134, 300.137, 300.138.

**Table 6: Reported Proportion of Parentally Placed Private School Students with Disabilities Who Received IDEA Equitable Services in Selected Districts, School Year 2014-15**

	Arizona		Indiana		Ohio		Wisconsin	
	Large Urban	Small Rural	Large Urban	Small Rural	Large Urban	Small Rural	Large Urban	Mid-size Suburban
<b>Percent of Eligible Private Students Receiving IDEA Equitable Services</b>	84	100	81	86	29	n/a	28	97

Source: GAO analysis of district-reported information. | GAO-16-712

Note: N/A indicates that private schools did not have students receiving IDEA equitable services.

## Providing Services

Speech and language therapy was the most common service offered, according to officials in all selected districts. Officials at two private schools also said they received equipment for eligible students, such as iPads or computers. All of the eight districts provided services to students on site at the private schools, using public school staff to deliver the services in some cases and contractors in others. Education guidance states that districts providing on-site services may be less costly and could help eliminate the need to transport children to and from services.<sup>46</sup> One district provided disability services through a consortium with other districts, which they reported created efficiencies in administering these services.

## Title I-A Equitable Services for Students from Disadvantaged Areas

## Identifying Eligible Students

Selected public school districts identified private school students who were eligible to receive services in several ways, using criteria established in consultation with private schools. Districts we visited used information like report card grades, state test scores, or teacher recommendations to determine students with “educational need”.

<sup>46</sup>Education’s guidance states that, to the extent consistent with law, districts are encouraged to provide IDEA equitable services at private schools. If services are not offered on the private school site, the district is responsible for providing transportation to the service site if it is necessary for the student to benefit from or participate in the service. Transportation is not required to be provided between a student’s home and his or her private school. 34 C.F.R. § 300.139.

Determining which Students to Serve

Districts and private schools have flexibility in how they distribute Title I-A services among eligible private school students; some districts provided services to all eligible students while others served a subset of students (see table 7). In cases where services are provided to a subset of students, district officials, in consultation with private school officials, must determine which children will receive services. Officials at districts and private schools we interviewed described various methods for prioritizing potentially eligible students for services. For example, two districts listed all eligible students, ranked by level of academic need, and served those with the greatest academic need first. Officials from another large school district said private school principals were responsible for prioritizing among eligible students, using criteria that were specific to the structure and academic expectations of each particular school.

**Table 7: Reported Proportion of Private School Students Residing in Selected Participating Public School Attendance Areas Who Received Title I-A Services, School Year 2014-15**

	Arizona		Indiana		Ohio		Wisconsin	
	Large Urban	Small Rural	Large Urban	Small Rural	Large Urban	Small Rural	Large Urban	Mid-size Suburban
<b>Percent of Private School Students Residing in Participating Public School Attendance Areas Who Received Title I-A Services</b>	100	100	30	n/a	51	36	31	39

Source: GAO analysis of district information. | GAO-16-712

Note: N/A indicates that no private schools had students who received Title I-A equitable services.

Providing services

Most (seven of eight) of the districts we visited provided math and/or reading tutors who traveled to private schools to provide Title I-A equitable services onsite, according to district officials. Officials we interviewed in two districts reported contracting with a private company to deliver instructional services to private school students. Officials in three other districts described sending public school personnel to private schools, and one district joined a consortium of public school districts to consolidate the administration and provision of equitable services. Not all private schools with children eligible to receive Title I-A equitable services participate in those services. For example, three private schools we visited told us they did not participate in Title I-A equitable services. Officials at these schools told us that after learning about Title I-A equitable services they informed the district that they were not interested

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in participating for various reasons, such as concern about administrative burden.<sup>47</sup>

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**Officials Reported That Private School Choice Programs Can Complicate Providing Equitable Services, and Education Has Not Developed Related Guidance**

Because the eligibility criteria for most private school choice programs are focused on students with disabilities or disadvantaged students, increased participation in private school choice programs may increase the number of private school students who are eligible for and receive federally funded IDEA and Title I-A equitable services. Officials in most public school districts we visited (six of eight) could not quantify the financial implications of the private school choice programs on the district, especially given that such shifts occurred simultaneously with other factors affecting district enrollment and budgets.

However, state and public school district officials we interviewed said providing equitable services in the context of private school choice programs created confusion and made these services more time-consuming to provide. Specifically, some of the state and district officials we interviewed said they were confused about whether participation in private school choice programs changed students' eligibility for federally funded equitable services or changed the public school district's roles and responsibilities in providing these services. For example:

- Officials from two of the districts we visited had questions about whether a student's participation in private school choice programs changed their eligibility or priority for IDEA and Title I-A equitable services. For example, in one state we visited, we found instances in which state and district officials reported conflicting information about whether private school choice students were eligible for IDEA equitable services. Education and state officials told us that private school choice students were considered to be parentally placed private school students, and eligibility for IDEA services would not be affected by being in a choice program. However, officials at one district within the state said these students would not be eligible for

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<sup>47</sup>Education's 2007 report found that the most common reason given by private schools for not having participants in ESEA equitable services programs was a decision not to be involved in federal programs. U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service, *Private School Participants in Federal Programs Under the No Child Left Behind Act and the Individuals with Disabilities Education Act* (Washington, D.C.: 2007).

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IDEA services, even if otherwise qualified. Officials from this state told us they would like more guidance from Education related to participation in private school choice programs and IDEA eligibility. These state officials reported that few district officials understood how to implement equitable services requirements when students are also participating in private school choice programs.

- In two states we visited, officials said private school choice programs contributed to confusion about IDEA equitable service requirements related to disability evaluations and reevaluations. Officials said there were significant increases in requests for disability evaluations because parents wanted to know if their children qualified for private school choice programs that served children with disabilities or that provided larger amounts to students with specific types of disabilities. For example, officials in one state said the private school choice programs have led to more parental requests for districts to re-evaluate students to see if they qualify for an autism spectrum diagnosis, because this diagnosis is associated with a higher private school choice funding amount than other diagnoses. Officials in two states also told us districts had questions related to the frequency of required evaluations and reevaluations under IDEA. Officials in one state reported they clarified the circumstances under which districts were required to conduct evaluations and re-evaluations for one district, but they also said guidance from Education would help clarify requirements for all districts. Officials said this can also pose administrative and financial strains for districts because, under IDEA, districts cannot use equitable services funds to pay for these evaluations.<sup>48</sup>
- Officials in two of the districts we visited said new private schools opened after private school choice programs were enacted and created some confusion and increased workloads as the districts incorporated large numbers of new private schools into their child find and equitable services plans.<sup>49</sup> New private schools may not be aware of their role and the requirements related to equitable services,

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<sup>48</sup>As previously mentioned, the cost of child find, including individual evaluations, may not be considered in determining whether a district has met its obligations related to proportionate share.

<sup>49</sup>Officials reported consulting with between 2 and 112 private schools to provide equitable services in school year 2014-15.



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according to officials from two of the districts we visited. For example, officials in one district said a school requested Title I-A equitable services immediately after opening. The district was unsure how to proceed in this case because in their state districts use private schools' enrollment information from the prior year to determine Title I-A allocations for private school students. Officials from the two districts also noted that providing equitable services at a larger number of schools may involve conducting more consultations and traveling to more locations.

- As more students have taken advantage of expanding voucher and ESA programs, the districts we spoke with said they generally needed to scale up their equitable services programs, and they reported facing challenges in doing so. Specifically, officials from two large districts reported that using more of their federal Title I-A funds for services in private schools has affected the level and nature of the services for public school students. For example, officials in one district also said that because more of its federal Title I-A funds were used to provide services to increasing numbers of private schools students, the district was no longer able to pay for additional services or develop programs for those public school students who were most academically at risk. In addition, officials from two other districts described providing services to students in private schools as less efficient because teachers or tutors spend time traveling from school to school.

The 2015 reauthorization of the Elementary and Secondary Education Act of 1965—the Every Student Succeeds Act (ESSA)—modified the Title I-A equitable services provisions, and in some districts, these changes may increase the proportion of Title I-A funding set aside to serve eligible private school students. Officials from two districts we visited expressed concern about the upcoming changes to the Title I-A equitable services provisions, especially in the context of expanding private school choice programs.<sup>50</sup>

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<sup>50</sup>Other changes made by ESSA to the Title I-A equitable services requirements include, among other things: (1) states must designate an ombudsman responsible for monitoring and enforcement; (2) the statutory list of topics to be included in consultations with private school officials has been expanded; and (3) there are additional requirements for districts to document compliance with the consultation requirements.

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Education is responsible for providing guidance to help states and districts meet IDEA and Title I-A equitable services requirements. Education has provided guidance on equitable services generally, but this guidance has not been specific to equitable services as related to private school choice programs. For example, Education issued a 2011 Question and Answer guidance document on IDEA equitable services and a 2006 Title I-A equitable services toolkit. In 2013, Education developed an IDEA and Title I-A equitable services implementation plan, and officials said they are working to provide more information to stakeholders as part of this plan. In addition, according to officials, as of May 2016, Education was also considering providing guidance related to equitable services provisions in ESSA, and it has sought input from the public.<sup>51</sup> However, Education has not clarified guidance on equitable services requirements in the context of private school choice programs, such as explaining that these programs should not affect students' eligibility for equitable services. Education officials told us that they have not had any recent inquiries or requests for guidance on these issues, and therefore, the agency has no current plans to specifically address private school choice programs in its equitable services guidance. However, in practice, officials in all of the states we visited (which comprise 50 percent of private school choice programs and two-thirds of all participating private school choice students) noted ways that providing equitable services in the context of private school choice programs was confusing or created concerns, especially as the numbers of and participation in private school choice programs increases. Education officials stated that when specific inquiries have been received on other matters, the agency has responded by providing information in the form of Q&A or a "dear colleague" letter and that one of these mechanisms may provide an opportunity to clarify the relationship between equitable services and private school choice programs. Federal internal control standards state that agencies should provide quality information to external stakeholders.<sup>52</sup> This includes providing quality information to clarify requirements and responsibilities and adapt to emerging trends. Providing such guidance would help clarify how to implement equitable services requirements in the context of growing private school choice programs.

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<sup>51</sup>See <http://www2.ed.gov/policy/elsec/leg/essa/index.html>.

<sup>52</sup>See GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

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## Conclusions

In the past decade, the number of students participating in private school choice programs has increased significantly. As more students participate in these programs—which often focus on students with disabilities and those from low-income areas—a greater proportion of districts’ IDEA and Title I-A funding may be used to provide equitable services. Further, as more private schools participate in these programs, school districts and private schools are challenged to work together and navigate a complex environment of federal, state, and district requirements related to serving some of our nation’s most vulnerable children. In addition, recent legislative changes have led Education to consider revising its guidance to address potential for confusion about new equitable services requirements under Title I-A. These circumstances provide an opportunity for Education to support those states and districts implementing private school choice programs by clarifying equitable services provisions in the context of these programs. Absent such guidance, states and districts are likely to continue to be confused about how to implement equitable services in the context of these programs and may risk incorrectly or inefficiently implementing equitable service provisions. Taking steps to develop quality information to help ensure states and districts are accurately and appropriately implementing equitable services requirements for eligible private school students, especially within the context of private school choice, is a key component of Education’s commitment to improving educational outcomes for all students.

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## Recommendation for Executive Action

Given the growing number of private school choice programs, we recommend that the Secretary of Education incorporate information about providing equitable services in the context of private school choice programs into guidance.

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## Agency Comments and Our Evaluation

We provided a draft of this report to Education for its review and comment. Education’s written comments are reproduced in appendix IV. Education also provided technical comments. We incorporated changes based on their comments into the report, as appropriate.

Education agreed with our recommendation to provide information about providing equitable services in the context of private school choice programs. Specifically, Education stated they would consider appropriate guidance regarding states’ and districts’ responsibilities to ensure that IDEA’s equitable services provisions are applied to students with disabilities whose parents enroll them in private schools under choice programs, and that it would include information about ESEA Title I-A

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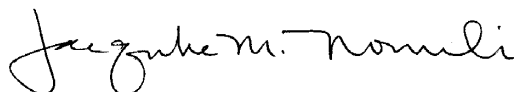
equitable services at an upcoming conference of private school representatives, as well as other future conferences, as appropriate.

In its written comments, Education also suggested that we describe equitable services as “federally funded” services rather than “federally required” services to avoid the misimpression that every eligible student is required to receive services. We agree with this suggestion and have changed the report language accordingly. Education also correctly noted that our report’s discussion of equitable services for students with disabilities relates to students who are eligible for IDEA services, as opposed to students identified as having disabilities under Section 504 of the Rehabilitation Act of 1973 who are not IDEA-eligible. We added language to the report to clarify this distinction.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to interested congressional committees and to the Department of Education. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (617) 788-0580 or [nowickij@gao.gov](mailto:nowickij@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in Appendix V.



Jacqueline M. Nowicki, Director  
Education, Workforce and Income Security Issues

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# Appendix I: Objectives, Scope, and Methodology

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The objectives of this study were to examine: (1) the characteristics of private school choice programs and the students who participate in them; (2) the requirements private school choice programs have for participating private schools; and (3) how select public school districts work with private schools to provide equitable services in the context of private school choice programs and the extent to which the U.S. Department of Education (Education) provides related guidance.

We used a variety of methods to examine all three objectives. We reviewed relevant federal laws and regulations and federal internal controls standards, including relevant requirements related to federally funded equitable services. We also conducted web-based surveys of the 20 voucher programs operating in fall 2015 and the five Education Savings Account (ESA) programs authorized in fall 2015 (see below for more information about these surveys). In addition, we conducted site visits to four states that administer a total of 10 private school choice programs. In each of these states we interviewed officials from state program administration offices; state offices responsible for implementing the equitable services requirements of the Individuals with Disabilities Education Act (IDEA) and Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA); officials from 3 private schools, and officials in 2 public school districts (see below for more information about these case study interviews, including our selection criteria). Lastly, we reviewed documents and conducted interviews with Education officials and a wide range of stakeholders, including private school choice researchers, as well as proponents and opponents of school choice. We provided relevant portions of the draft to state officials in our site visit states for review and technical comment, and we incorporated their comments as appropriate.

We conducted this performance audit from June 2015 to August 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Surveys of Voucher and ESA programs

We developed and administered one survey for all 20 voucher programs operating in fall 2015 and another survey for all five ESAs authorized in fall 2015. The ESA survey included two programs that were operating during that year and three programs that were authorized but not

operating. We achieved a 100-percent response rate for both surveys. Both the voucher and ESA surveys asked questions about program operations and requirements; the voucher survey also collected more detailed information about student and private school characteristics.

The surveys were administered from December 2015 to March 2016 using self-administered, electronic questionnaires that were posted on the Internet. We sent the survey to the state officials responsible for administering each voucher or ESA program and requested that this person consult with other officials, if needed, to provide an official state response. We reviewed state responses and followed up with select states for additional clarification and obtained corrected information, as appropriate, for our final survey analysis.

The quality of survey data can be affected by nonsampling error. Nonsampling error includes variations in how respondents interpret questions, respondents' willingness to offer accurate responses, and data collection and processing errors. We included steps in developing the surveys—and while collecting, editing, and analyzing survey data—to minimize such nonsampling error. In developing the web-based surveys, we pretested draft versions of the voucher survey with state officials in two states and draft versions of the ESA survey with state officials in one state to check the clarity of the questions and the flow and layout of the survey. We also obtained comments on both surveys from a school choice researcher. Based on the pretests, we made revisions to the surveys, as appropriate. Further, using web-based surveys helped limit data collection errors. By allowing state officials to enter their responses directly into an electronic instrument, this automatically created a record for each state official in a data file and eliminated the errors associated with a manual data entry process. In addition, the program used to analyze the survey data was independently verified to ensure the accuracy of this work.

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## Site Visit Programs

To obtain more detailed information about how voucher and ESA programs are designed and administered, we visited 10 private school choice programs in four states from November 2015 through March 2016 and reviewed related documents. This included a non-generalizable sample of nine voucher programs located in Indiana, Ohio, and Wisconsin as well as one ESA program located in Arizona. We selected programs that collectively served approximately two-thirds of voucher and ESA students in school year 2014-15 and varied in terms of eligibility criteria and years in operation. We also interviewed a non-generalizable sample

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of 12 private schools and eight public school districts across these four states, which also allowed us to gather information on how private school choice programs and federally funded equitable services are implemented. This included three private schools and two public school districts from each state. We selected private schools that collectively represented a diversity of characteristics in terms of size, grade level, religious or secular affiliation, and whether they were specifically designed to serve students with disabilities. We selected public school districts that represented a range of enrollment sizes and included those located in the same place as district-specific voucher programs

# Appendix II: Private School Choice Programs' Use of Disability Status and Family Income to Determine Student Eligibility, as of School Year 2014-15

**Table 8: School Voucher Programs' Use of Disability Status and Family Income to Determine Student Eligibility, as of School Year 2014-15**

State	School Voucher Program	Family income	Disability Status
DC	Opportunity Scholarship Program	✓	—
FL	McKay Scholarship Program for Students with Disabilities	—	✓
GA	Special Needs Scholarship Program	—	✓
IN	Choice Scholarship Program <sup>a</sup>	✓	✓
	Louisiana Scholarship Program	✓	—
LA	School Choice Program for Certain Students with Exceptionalities	—	✓
	Dyslexia Therapy Scholarship Program	—	✓
MS	Nate Rogers Scholarship for Students with Disabilities Program	—	✓
	Opportunity Scholarship Program	✓	—
NC	Disabilities Grant Program	—	✓
	Autism Scholarship Program	—	✓
	Cleveland Scholarship Program	✓	—
	Educational Choice (EdChoice) Scholarship Program <sup>b</sup>	—	—
	Educational Choice (EdChoice) Scholarship Program Expansion <sup>b</sup>	✓	—
OH	Jon Peterson Special Needs Scholarship Program	—	✓
OK	Lindsey Nicole Henry Scholarship Program for Children with Disabilities	—	✓
UT	Carson Smith Special Needs Scholarship Program	—	✓
	Milwaukee Parental Choice Program	✓	—
	Racine Parental Choice Program	✓	—
WI	Wisconsin Parental Choice Program	✓	—
<b>Total number of voucher programs that consider the criterion</b>		<b>9</b>	<b>11</b>
<b>Percentage of total voucher students represented</b>		<b>55.8 %</b>	<b>50.7 %</b>

Legend:

✓ = Programs that responded in our survey that either: "students must always meet this criterion to be eligible" or "this criterion is one of several ways a student may be eligible."

— = Programs that responded in our survey that "this criterion is never a factor for determining eligibility."

Source: GAO analysis of voucher program survey data. | GAO-16-712

<sup>a</sup>All students in Indiana's Choice Program must meet income requirements, but after doing so there are several eligibility categories students may fall into that would qualify them to receive a voucher, including having a recognized disability (i.e., a student requires special education or related services).

<sup>b</sup>Ohio considers EdChoice and EdChoice Expansion to be one program. EdChoice is focused on students in low-performing schools. EdChoice Expansion is focused on low-income students. We are considering them to be two programs because they have different eligibility criteria and Ohio provided us with separate survey responses because the data could not be aggregated.



**Appendix II: Private School Choice Programs'  
Use of Disability Status and Family Income to  
Determine Student Eligibility, as of School  
Year 2014-15**


**Table 9: Education Savings Account (ESA) Programs' Use of Disability Status and Family Income to Determine Student Eligibility, as of School Year 2014-15**

State	ESA Program	Family income	Disability status
AZ	Empowerment Scholarship Account Program	—	✓
FL	Gardiner Scholarship Program	—	✓
MS	Education Scholarship Account Program	—	✓
NV	Education Savings Accounts Program	Open to all students who have attended public school for at least 100 days <sup>a</sup>	
TN	Individualized Education Account Program	—	✓
<b>Total number of ESA programs that consider the criterion:</b>		<b>0</b>	<b>4</b>

Legend:

✓ = Programs that responded in our survey that either: "students must always meet this criterion to be eligible" or "this criterion is one of several ways a student may be eligible."

— = Programs that responded in our survey that "this criterion is never a factor for determining eligibility."

 = Programs in grey rows were not operating during some or all of 2015.

Source: GAO analysis of ESA program survey data. | GAO-16-712

<sup>a</sup>Nevada's program requirements state that "Students between the ages of 5 to 18 years old are eligible to apply for Nevada's ESA as long as they are Nevada residents and have attended a Nevada public school for 100 days immediately prior to applying."

# Appendix III: Private Schools Participating in Voucher Programs

**Table 10: Number of Private Schools That Enrolled One or More Voucher Students and Average Number of Voucher Students per Private School during School Year (SY) 2014-15, by Voucher Program**

State	Program	Schools that enrolled one or more voucher students in SY 2014-15	Average students per school in SY 2014-15
DC	Opportunity Scholarship Program	48	30
FL	McKay Scholarship Program for Students with Disabilities	1301	17
GA	Special Needs Scholarship Program	220	17
IN	Choice Scholarship Program	314	93
LA	Louisiana Scholarship Program	131	56
	School Choice Program for Certain Students with Exceptionalities	20	15
MS	Dyslexia Therapy Scholarship Program	3	39
	Nate Rogers Scholarship for Students with Disabilities Program	1	<10
NC	Opportunity Scholarship Program	224	<10
	Disabilities Grant Program	168	—
	Autism Scholarship Program	240	106
	Cleveland Scholarship Program	34	588
	Educational Choice (EdChoice) Scholarship Program <sup>a</sup>	299	185
	Educational Choice (EdChoice) Scholarship Program Expansion	374	27
OH	Jon Peterson Special needs Scholarship Program	239	94
OK	Lindsey Nicole Henry Scholarship Program for Children with Disabilities	43	—
UT	Carson Smith Special Needs Scholarship Program	43	—
	Milwaukee Parental Choice Program	112	238
	Racine Parental Choice Program	15	116
WI	Wisconsin Parental Choice Program	31	33

Source: GAO survey of voucher programs | GAO-16-712

Note: The number of voucher schools participating per state and the average number of voucher students per state cannot be determined for states with multiple programs because schools may participate in more than one program.

<sup>a</sup>Ohio considers EdChoice and EdChoice Expansion to be one program. EdChoice is focused on students in low-performing schools. EdChoice Expansion is focused on low-income students. We are considering them to be two programs because they have different eligibility criteria and Ohio provided us with separate survey responses because the data could not be aggregated.

# Appendix IV: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

WASHINGTON, D.C. 20202

THE ASSISTANT SECRETARY

AUG 1 2016

Ms. Jacqueline M. Nowicki  
Director, Education, Workforce, and Income Security  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Nowicki:

Thank you for providing the U.S. Department of Education (Department) with the opportunity to review and comment on the U.S. Government Accountability Office's (GAO's) draft report entitled, "School Choice: Private School Choice Programs are Growing and Can Complicate Providing Certain Federally Required Services to Eligible Students" (GAO-16-712). This performance audit was undertaken in response to a Congressional request to study State voucher and education savings account (ESA) programs and Federally funded services for private school students. The review included multiple methods of collecting information and data, including a document review, a review of 20 voucher programs and five ESA programs operating in fall 2015, interviews with Department staff across multiple offices, and interviews with officials in select State educational agencies (SEAs), local educational agencies (LEAs), and private schools. This letter is in response to the opportunity to review and comment on the draft report. We appreciate the information in the report, and discuss the recommendation below.

**GAO's recommendation** – *Given the growing number of private school choice programs, we recommend that the Secretary of Education incorporate information about providing equitable services in the context of private school choice programs into guidance.*

As the Department noted in conversations with GAO regarding the eligibility for services under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) and Part B of the Individuals with Disabilities Education Act (IDEA), the reason for a student's parental placement in a private school does not affect the student's eligibility for equitable services under these programs. Whether a student is enrolled by his or her parents in a private school under a State voucher or ESA program, or for some other reason, has no impact on the Federal program requirements mentioned above, that an LEA provide equitable services to eligible students enrolled by their parents in private schools. The Department has provided considerable guidance and technical assistance on the equitable services provisions under Title I, Part A and IDEA to SEAs, LEAs, private school officials, and parents of children with disabilities over the years. However, the recent

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passage of the reauthorization of the ESEA, the Every Student Succeeds Act (ESSA), includes some changes related to the equitable services requirements under Title I, Part A of the ESEA and other programs.

With respect to the ESSA, we note that over the past seven months, the Department has held two public meetings and over 200 meetings with stakeholders across the country to gather input from all types of constituencies to help inform our development of regulations and guidance and our prioritization of their development and release. We published a Federal Register notice in December 2015, asking for input in general and also asked for topic areas of the ESSA that need guidance from the Department to aid implementation. The Department also held an annual meeting with private school representatives from around the country, including from States that have private school voucher or private school choice laws, just before the ESSA was enacted. The recommendations we have received thus far have not focused on the type of guidance GAO is recommending. But we appreciate the input provided in the GAO draft report, and we will provide guidance on this and related topics at an upcoming conference of private school representatives and other appropriate future conferences. As part of its development of guidance to help in the implementation of the ESSA, the Department will continue its outreach efforts to determine the need for further guidance for ESSA.

While the ESSA did not amend the equitable services provisions in IDEA section 612(a)(10)(A), the Department's Office of Special Education and Rehabilitative Services will consider guidance about the responsibilities of SEAs and LEAs to ensure that IDEA's equitable services provisions are applied to students with disabilities enrolled by their parents in private schools under State voucher and ESA programs.

In addition, we encourage GAO to change the title of its report and similar references throughout (see, *e.g.*, pp. 3, 5) from "Federally required" to "Federally funded." The phrase "Federally required" implies that under Title I, Part A and IDEA Part B, every eligible student is required to receive services, which is incorrect. For example, while LEAs are responsible under both Title I, Part A and IDEA for providing equitable services to their populations of eligible private school students as a group, they are not required to provide such services to all eligible private school students. The title of the report may also be misleading as State voucher and ESA programs do not, by themselves, cause complications in the provision of Federally funded services.

Finally, we note that, throughout this report, the discussion of students with disabilities participating in private schools through State voucher or ESA programs appears to have been confined to the IDEA context and students with individualized education programs or students identified as children with disabilities after enrollment in the voucher or ESA program through IDEA's child find and evaluation procedures. (Note that under IDEA, students with disabilities enrolled in private schools by their parents under voucher and ESA programs who have been designated to receive equitable services have services plans that describe the specific special education and related services that the LEA will provide to the child in light of the services that the LEA makes available to parentally placed children with disabilities.) However, additional students are identified as having

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**Appendix IV: Comments from the Department  
of Education**

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disabilities under Section 504 of the Rehabilitation Act of 1973, but who are not IDEA-eligible students, and these students are commonly referred to as “504-only students.” There are no Section 504 requirements for LEAs to provide equitable services to Section 504 students in connection with their parental placement at a private school.

Thank you for considering our comments. We are also submitting recommendations for “technical changes” to the draft report that are enclosed. Should you have additional questions or need additional information, we remain available to assist you. We look forward to receiving the final report.

Sincerely,



Ann Whalen  
Senior Advisor to the Secretary  
Delegated the Duties of Assistant Secretary  
for Elementary and Secondary Education

Enclosure

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# Appendix V: GAO Contact and Staff Acknowledgments

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## GAO Contacts

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## Staff Acknowledgments

In addition to the contact named above, Nagla'a El-Hodiri (Assistant Director); Jamila Jones Kennedy and Barbara Steel-Lowney (Analysts in Charge), Julie DeVault, Alison Gerry Grantham, and Jonathan Munetz made key contributions to this report. Also contributing to this report were: Susan Aschoff, James Bennett, Deborah K. Bland, Sarah C. Cornetto, Ashley L. McCall, Sheila McCoy, Jean L. McSween, Michelle A. Sager, S. Andrew Stavisky, Christine C. San, Linda L. Siegel, and Amber Yancey-Carroll.

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