COUNCIL OF PARENT ATTORNEYS AND ADVOCATES, INC.

FACT SHEET & FREQUENTLY ASKED QUESTIONS

Federal Scholarship Tax Credit Program

What Parents of Children with Disabilities Need to Know

WHAT THIS GUIDE COVERS

• Program basics • State Participation • Scholarship-Granting Organizations • "Special Needs Services" • IDEA and Section 504 Rights • Questions for Families

Uniting Advocates. Protecting Rights. Changing Lives.

Prepared by COPAA | November 17, 2026

AT A GLANCE

Key dates and figures identified in this fact sheet

JAN 1, 2027	FEB 15, 2027	DEC 1, 2026
Advance state election due to Treasury/IRS	Proposed SGO list due to IRS from States	IRS public comments deadline noted in guide

PROGRAM SNAPSHOT

31 States	Tax Credit of up to $1,700
listed as participating in the program FSTC	individual tax credit; $3,400 if married filing jointly

PARTICIPATING STATES (31)
AL, AK, AR, CO, FL, GA, ID, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, NV, NH, NY, NC, ND, OH, OK, SC, SD, TN, TX, UT, WV, WY.

CONSIDERING / PENDING (15)
CA, CT, DE, HI, IL, ME, MD, MA, MI, NJ, NM, OR, PA, RI, WA.

GOVERNORS VETOED PARTICIPATION
AZ and WI.

GOVERNORS DECLINED PARTICIPATION
MN, OR, VA.

IMPORTANT DISTINCTION

Scholarship-funded K-12 supplemental services are different from the special education and related services a public school must provide under a student's IEP or Section 504 plan.

IRS REGULATION

Temporary regulations establish the administrative framework through October 1, 2029. The IRS may update the regulations in 2027 after reviewing comments; separate guidance on eligible supplemental educational expenses and services was still being developed.

Signed into law under the One Big Beautiful Bill Act in 2025 (HR 1), the Federal Scholarship Tax Credit (FSTC) program is scheduled for implementation in 2027. To prepare States that have opted into the new Federal voucher program, temporary and proposed Department of Treasury/Internal Revenue Service (IRS) regulations are now in place to guide its initial rollout.

COPAA has prepared this Fact Sheet and Frequently Asked Questions to:

- Provide COPAA members with essential information about the program, including whether your State has opted in or out, or is still deciding.
- Explain how the Federal regulations include and discuss students who require "special needs services."
- Outline key questions about the new Federal education tax credit program - as currently laid out by the regulations provided by the IRS - including timing, implementation, and access for families of K-12 students.
- Provide ways to Take Action by submitting comments to the IRS by December 1, 2026 and to communicate with your Governor if your State has not yet opted into the program.

Federal Regulations that Govern the New FSTC program

While the current temporary regulations (rule) govern the program's administrative framework through October 1, 2029, the IRS is actively seeking public comments on this rule through December 1. Once they review the comments, the IRS has indicated they may refine and update the Federal regulations sometime in 2027. COPAA has prepared template comments for you to consider submitting by December 1, 2026.

Note: The IRS is also developing separate guidance for States to officially clarify which specific supplemental educational expenses and/or services will be eligible for reimbursement to families under the program. We explain this in greater detail below.

Frequently Asked Questions

What is the Federal Scholarship Tax Credit (FSTC) program?

Established under H.R.1 in 2025, the new Federal voucher-like program beings in 2027. . It enables individual taxpayers to claim a dollar-for-dollar Federal tax credit of up to $1,700 ($3,400 if married/filing jointly) for contributions to qualified scholarship-granting organizations (SGOs). The SGOs - which will be approved by the IRS in States that have opted into the program - may keep up to 10 percent of the donations and must distribute at least 90 percent through educational scholarships to qualifying K-12 students.

What is an SGO?

An SGO (as defined by H.R. 1 and interpreted by the new regulation) is a private, 501(c)(3) non-profit entity that collects tax-credited private donations and distributes them as scholarships to eligible K–12 students.

Under the Federal program, SGOs:

- Act as intermediaries between taxpayers receiving Federal income tax credits and private schools or service providers.
- Establish their own application schedules, selection procedures, and distribution rules, as long as they direct at least 90% of their revenue to qualifying K–12 educational expenses.
- May operate in a single State, or in multiple States.
- May use up to 10% of the funds they receive in each State for administrative costs.
- Are not required to measure the outcomes or impact of the use of the funds in any State, or to account for the use of the Federal funding.

What is the role of the State when a Governor has opted into the FSTC?

The role of the State is very limited under the Federal program as the SGO(s) operating in the State will oversee and administer the program. Additionally, the regulations clarify:

- Each Governor must submit to the IRS the name and application of each SGO interested in administering the program. The IRS determines if the SGO is an eligible 501(c)(3), which is the requirement to administer a State program.
- Governors and States are prohibited from selecting SGOs based on quality, ethics, or operational standards.
- Neither the Governor nor the State can establish any requirements or accountability measures to determine the effectiveness of the use of the funds, their impact on student outcomes, nor whether public funds are used to discriminate against students and their families in the State.

By design, the Federal framework delegates decisions directly to private, unregulated SGOs while stripping States of their ability to develop and enforce local protections, create mechanisms for public accountability, or provide civil rights oversight.

If a student with a disability experiences discrimination, inadequate instruction, or arbitrary expulsion at an SGO-funded program, the State has no authority to intervene, discipline the SGO, or require corrective action.

Which families are eligible for scholarships under the new program and how much funding will be available?

Any student who is eligible to enroll in a K–12 elementary or secondary school in a participating State, and whose household income does not exceed 300% of the Area Median Gross Income, will be eligible.

The IRS has estimated that over $24 billion in education funding could be generated nationally each year, and that over 96% of families applying *may* qualify for some level of support in a participating state. Under the program, SGOs:

- Determine the funding level awarded to each student, based on the funds available in a participating State.
- Are not required to limit the award level to $1700/$3400 respectively; however, the level of funding available each year will determine both the number of awards and the amount of each.
- Must award scholarships to at least 10 qualifying students in multiple schools.

Can families whose child attends a public school or homeschool also benefit from the program, or does the program only apply to those attending private schools?

All students, regardless of the type of school they attend, may potentially be eligible for the program depending on whether their State opts-in and whether they meet the eligibility criteria described above. That said, students attending private schools are expected to be the primary beneficiary of the funds, and many questions remain about how students attending public schools can participate in the program.

Who decides how the funds are awarded—including the use of safe harbors which includes qualifying students who require "special needs services"?

Under the program framework, individual SGOs hold full authority in States opting into the program to:

- Select scholarship recipients.
- Set award amounts.
- Determine which qualifying students to serve.
- Provide scholarships to at least 10 students who do not all attend the same school.

IRS regulations also establish specific safe harbors that streamline operations and income verification for certain students:

- **Automatic Household Eligibility**: To ease administrative burden, SGOs can use a safe harbor to verify student eligibility automatically through existing participation in public assistance programs (such as SNAP, TANF, WIC, Section 8 housing, or SSI) or through verified foster child status.
- **Low-Income Area and "Special Needs Services:"** A specialized safe harbor allows SGOs to direct scholarships for academic tutoring or for "special needs services" to students attending schools located in low-income areas where 80% of students reside in low-income areas (as defined by the U.S. Department of Housing and Urban Development).

- **Operational Safe Harbor**: This applies to the 90% spending rule for single-state SGOs. The regulation says that if at least 85% of a single-state SGO's total activities consist of direct scholarship-granting activities (including supporting administrative, fundraising, compliance, and outreach tasks), the SGO does not have to measure the 90% spending requirement against its entire organization-wide gross income.

Which educational services will be allowed for reimbursement?

The IRS has not finalized the list of allowable services and has indicated it is developing separate guidance for States and SGOs on this topic. Guidance is expected this year.

There is some baseline understanding of allowable uses of voucher funds because H.R. 1 directly refers to an existing tax provision known as the Coverdell Education Savings Account (Coverdell). Coverdell defines "qualified elementary and secondary education expenses" as:

> *(A)The term "qualified elementary and secondary education expenses" means—*
>
> *(i) expenses for tuition, fees, academic tutoring, special needs services in the case of a special needs beneficiary, books, supplies, and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school,*
>
> *(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance, and*
>
> *(iii) expenses for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is in school. (See: 26 U.S.C. § 530(b)(3)(A))*

What does the reference to "special needs services" mean in H.R.1 and the regulations, and who qualifies?

It is not completely clear. Since the passage of Coverdell in 2001, the IRS has not formalized a definition for who qualifies as a student requiring "special needs services" and has relied upon Congress' intent when Coverdell education savings accounts were placed into tax law. In the related Congressional Committee report from 2001, Congress noted that students requiring "special needs services" are those who "require additional time to complete his or her education because of a physical, mental, or emotional condition including a learning disability". (See: H.R. Conf. Rep. No. 107-84, at 169–170 (2001)).

Who is a "special needs beneficiary"?

The current regulation is silent on this, however, to guide taxpayers in the use of Coverdell education savings accounts, the IRS has consistently directed the public to a Joint Agreement developed by Congress in 2001 where the Congressional Committee said,

> *The conferees intend that Treasury regulations will define a special needs beneficiary to include an individual who, because of a physical, mental, or emotional condition (including learning disability) requires additional time to complete his or her education. (See: H.R. Conf. Rep. No. 107-84, at 169–170 (2001))*

COPAA will encourage the IRS to define the term "special needs beneficiary" and "special needs services" in our comments on the regulations.

How does this impact a child with an Individualized Education Program (IEP) or 504 plan?

The terms "special needs services" or "special needs beneficiary" are not directly tied to a child's status under IDEA or Section 504, nor are they legally equivalent to the special education and related services mandated under a child's IEP or 504 plan.

While an IEP or 504 plan provides legally binding rights and enforceable safeguards to a Free Appropriate Public Education (FAPE) delivered at public expense, Coverdell/Section 530 simply permits tax-favored reimbursement for privately procured, supplemental educational services without granting any underlying legal protections, progress monitoring standards, or administrative recourse under Federal civil rights laws like IDEA. Additionally, Congress rejected additions to H.R.1 that would have protected access to IDEA and 504 in this program. Also of note is that neither H.R.1 nor its implementing regulations require that the child make any educational progress.

While the Coverdell provision describes these services as supplemental, we believe that without clarifying guidance from the IRS to States and SGOs, families may confuse this loosely framed language with the established requirements under an IEP or Section 504 plan. This vagueness creates the misleading impression that scholarship-funded private options or external service providers may offer standard special education services and can be reimbursed to provide them. This would directly conflict with a family's carefully negotiated IEP or 504 plan that school districts must honor as part of that agreement.

COPAA and its partners are working to ensure that the IRS clarifies the important distinction in the pending guidance and that funds awarded through these vouchers may only reimburse for supplemental services that go beyond what a student's existing IEP or 504 plan covers. We have asked the IRS to clarify that:

- States remain responsible for ensuring that districts conduct Child Find to identify students with disabilities, provide students with disabilities FAPE in the least restrictive environment, and ensure every eligible child receives the early intervention, programs, services, supports and accommodations required under IDEA, Title II of the Americans with Disabilities Act, and Section 504.
- No scholarship funds should be used for any services to which a student is entitled under applicable Federal or State law, including those required by a student's IEP or 504 plan.
- Program awards may not be considered when determining which programs, services, interventions, accommodations, assistive technology (and related training), therapies, or other supports that may be required by an IEP/504 plan or be used to pay for such services.

COPAA is concerned that until the IRS clarifies that SGO-funded services are indeed supplemental, some SGOs may approve tuition reimbursement, unverified therapies, or other private-run programs without the parent understanding that none of these attaches to IDEA's protections and entitlements rights. This concern extends to the potential for public schools - whether intentionally or unintentionally - to blur the lines between which allowable expenses are truly supplemental and intended for all students (e.g. academic tutoring, general school technology, after school programs, etc.) and which services and/or technology/equipment etc. are required for students with disabilities to access a FAPE.

What are the main concerns with Federal tax credit program?

While the Federal tax credit program and similar state voucher and voucher-like programs are presented as giving families more choices, the reality may be for some students that few choices exist because most private schools will not admit students with disabilities and may actively discriminate

against them. Parents may also struggle to find tutors or supplementary service providers who will accept students with disabilities and are caught unaware when services are reduced or extra fees apply.

Our research in State-funded voucher and Educational Savings Accounts (ESA) programs indicates that:

- Depending on where a family lives and the nature of their child's disability, families may have few or no options for sending their child to a private school.
- Private schools often deny admission, counsel out, or expel students on the basis of their disability.
- Families are too often drawn to a private school believing that the services all their child receives from the school district under IDEA will also be provided by the new private school when, in fact, only a subset of services, or no services at all, may be offered.
- The hidden costs of attending a private school can also surprise parents when they are required to pay out of pocket for school activity fees, transportation, meals, assistive technology/technology, or educational programming that school districts may provide to a child with a disability as part of an IEP.

In addition, the new program diverts essential public funds toward private schools by funneling resources into vouchers and voucher-like systems which creates financial and operational strain on public school districts, the very system that is legally obligated to serve every child with a disability.

Finally, COPAA is concerned about the limits the new program will place on families whose children have overlapping identities including the significance of their disability, zip code, race or ethnicity, and/or LGBTQ+ status.

Why is COPAA taking a stand against this program if some families with disabilities use vouchers?

Some families use ESAs and voucher-like programs fully understanding they may lose their rights under IDEA or have access to limited services. These families do so out of deep frustration with their current school situation. These families can find a private program or services that meets their family's needs. However, many families enter these arrangements without realizing they are sacrificing fundamental legal protections that come through IDEA.

COPAA opposes the Federal program:

- Because of the outright loss of civil and educational rights.
- Because there is a lack of accountability for student outcomes and use of Federal funding.
- Because the program perpetuates systemic inequity and leaves students vulnerable to losing services or being pushed out entirely.

Will my child keep their IEP and rights under IDEA if we use a voucher to attend a private school?

No. Using a scholarship provided under this program to attend a private school is generally legally classified as a "voluntary parental placement." By opting out of the public school, you lose key Federal protections that a public school district must provide including:

- **Enforceable IEP**: Private schools are generally not required to implement your child's public school IEP or provide specialized instruction/related services.

- **Guarantee of FAPE**: Private schools do not have a legal obligation to provide a FAPE under IDEA or Section 504.
- **Procedural Safeguards**: You give up access to formal due process hearings, State administrative complaints, and other legal recourse if services are not provided.

Are private schools held to the same civil rights and non-discrimination standards as public schools?

No. Public schools must comply with Federal disability laws because they accept Federal funding. When funding flows through a parent via a voucher, that direct civil rights mandate is broken. Private schools are generally not bound by Section 504 or IDEA protections regarding disability discrimination in admissions, service delivery, or discipline. Private schools are also not required to participate in statewide assessments for reading, math, and science, nor is any of their student outcome data required to be publicly reported.

Do vouchers cover the full cost of private school tuition and therapies?

Rarely. Vouchers often only cover a portion of private school tuition. Families must pay the remaining balance out-of-pocket, which creates an unfair economic barrier for lower-income families. Furthermore, it remains unclear which external therapy or support services qualify for awards, or how receiving non-IEP services outside of the public school system impacts a student's legal standing.

Can a private school turn my child away or discipline them differently?

Yes. Private schools reserve the right to deny admission, counsel out students, or expel them without the manifestation determination reviews or disciplinary protections required under IDEA or 504 in public schools. Reports show students are often bounced between private schools or left without any educational placement, sometimes for years, before returning to public school—where they must start the lengthy special education eligibility evaluation process all over again.

How do tax credit and voucher-like programs impact local public schools?

In States with expansive state-funded private choice systems (such as Arizona and Florida), declining public-school enrollment directly tied to private choice expansion has led to budget shortfalls and public-school closures. There are also widespread reports of misuse and abuse of funds with no accountability for student progress and/or known uses of public funds. This undermines the local educational infrastructure relied upon by more than 90% of the nation's students. Because this is a new Federal program, it is unclear what the severity of the impact will be on public school districts.

Special education in public school hasn't worked for my child. Why shouldn't I try the new Federal tax credit program?

Frustration and fear regarding a child's education are completely understandable, and the public special education system needs State and district-led reform and improved monitoring and enforcement. However, abandoning public education weakens the system serving over 9 million students with disabilities under IDEA and Section 504. Historically, before public education mandates existed and civil rights were provided by law, students with disabilities were routinely excluded from school entirely. Without a public school system, legal rights for students with disabilities cease to exist.

COPAA encourages every family to become fully informed about the loss of rights, the options available to you in your State, and the history of those programs serving students with disabilities.

What is COPAA doing to address the flaws of the program's regulations and pending guidance from the IRS?

COPAA wants to help our members understand how the program is designed to work so that we can protect public education funding as well as every student's civil rights.

Ongoing: COPAA is actively advocating against the program and is encouraging our members to communicate with governors and state legislators about the harms of the program - urging those who have not opted in to stay out of the program.

For States that have opted in, COPAA will work with advocates in those states to do all we can to monitor access to and the impacts on students with disabilities and their families.

By December 1, 2026: We are also preparing to submit formal comments on the current and proposed regulations and will request to participate in a public hearing announced by the IRS. We urge you to join us and submit comments by December 1, 2026.

As noted, COPAA and partners have also preemptively written the IRS to strongly recommend that the pending guidance clarify that any use of voucher funds for "special needs services" are strictly supplemental and are not to be used for services agreed to and as part of a child's IEP or 504 plan. Read that letter here.

Checklist for Families Considering SGO-Funded Vouchers

If you live in a State which has opted into the program, COPAA wants you to be prepared to make an informed decision about participation.

Before utilizing an award through the FSTC, we encourage you to consider and discuss these questions:

SGO-Related Questions: Learn if one or more SGOs will participate in and implement the program in your State and ask:

- Which students will receive funds and what is the timeline for determining those eligible?
- What is the scholarship amount and which services will it cover?
- For "special needs services" (supplemental-not IEP or 504 specific): Which services will the award cover (e.g., tutoring, extra education supports, technology (not IEP or 504-related assistive technology), etc.)?
- For private school tuition, will it cover all the expenses of the private school? If not, you will need to calculate what you will need to spend out of pocket.
- For public school allowable expenses, how will the SGO ensure equity in access for every child receiving an award? (e.g., in the case that a child requiring "special needs services" is given an award, how will the SGO guarantee the child can participate with full support in light of their circumstances).

Private School-Related Questions: Learn about and ask the private school:

- Will you commit to fully implementing my child's current IEP?
- What formal due process rights or grievance options do I have if services are reduced or denied?
- Are all services, technology (including assistive technology), accommodations, and other supports my child needs included in the tuition, or will there be out-of-pocket costs?
- What outcomes do you assess and monitor to ensure my child is making progress consistent with state academic standards and/or other requirements (e.g., high school graduation with a regular diploma)?
- What is your policy on discipline, suspension, and expulsion for behavior related to a child's disability?

Supplementary Services For Public and Private School Students: Learn about and ask the supplementary service provider:

- What are the enrollment requirements for the program (e.g., tutoring, after school/summer, digital education, or another educational program)?
- Will you ensure my child has access to the accommodations they need including assistive technology or other support necessary to fully participate?
- Will you ensure that the service(s) does not interfere or conflict with my child's IEP or 504 services?
- What is your policy on discipline, suspension, and expulsion for behavior related to a child's disability?

If you live in a State that has not opted into the Federal tax credit program, COPAA is asking you to urge your Governor to opt-out of the program.

Sources

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