



Special Education Eligibility and NH Education Freedom Accounts (EFA)

Education Freedom Account (EFA) is an account to which funds are allocated to a parent of an EFA student in order to pay for qualifying education expenses to educate the EFA student.

What is the value of an EFA?

EFAs are equal to the per pupil adequate education grant amount plus any differentiated aid that would have been provided to a public school for that eligible student. This would include differentiated aid for a pupil receiving special education services (RSA 198:40-a, II (a) and (d)).

The specific amounts are determined annually but for example, an EFA could be approved for a student, with a disabling condition, based on the following formula:

$$\begin{aligned} & \$4,100.00 \text{ (base per pupil)} \\ & + \$2,100.00 \text{ (differentiated aid student receiving special education services)} \\ & = \$6,200.00 \text{ (Total EFA)*} \\ & \text{*minus applicable fees} \end{aligned}$$

To qualify for special education differentiated aid under RSA 194-F for the purposes of an EFA, the student shall meet the requirements of a child with a disabling condition, as defined in 34 CFR 300.8¹.

Evidence of a disabling condition, for the purposes of differentiated aid is provided by:

- A determination of eligibility for special education, by an IEP team, in accordance with 34 CFR 300.300-300.311; or
- A determination by a medical professional licensed to practice in any state in the United States.

What is the difference between a child with a disabling condition and a child with a disability?

New Hampshire has chosen to use the definition of a child with a disabling condition solely when determining eligibility for a child enrolled in the EFA program. A child with a disabling condition, as determined by a medical professional licensed in any state in the United States in accordance with Ed 804.01(d)(2), is not considered a child with a disability.

A child with a disability is a child who has gone through the special education process, was determined eligible by the IEP team and could receive special education supports and services while enrolled in a public school.

¹ Intellectual disability, hearing impairment (including deafness), speech or language impairment, visual impairment (including blindness), serious emotional disturbance orthopedic impairment, autism, traumatic brain injury, other health impairment, specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

If the child is participating in the EFA program, do they still qualify for special education services?

If a child is participating in the EFA program, they are considered to be placed by their parent and are not entitled to special education services in connection with their enrollment by their parents in home education or at a non-public school while participating in the State-Funded EFA program. Therefore, they do not qualify for a special education supports and services in accordance with an IEP.

When does a child participating in the EFA program qualify for special education services.

If a child with a disability, participating in the EFA program, uses the EFA funds to attend a public school outside their resident school district, their district of residence remains responsible for meeting the requirements of IDEA. This requirement is similar to the district's responsibility to students with disabilities enrolled in public charter schools.

What are the local education agencies' (LEA) (public schools and school districts) responsibilities regarding a child who qualifies for an EFA enrolled in non-public, non-profit schools?

Local education agencies (LEAs), where non-public elementary schools and secondary schools are located, must ensure that children with disabilities, placed by their parents in non-public, non-profit schools participating in State-funded EFA programs, are included in the group of parentally placed non-public school children with disabilities who are eligible for equitable services, this could include special education and related services from the LEA where non-public, non-profit schools are located. Only children evaluated through an appropriate evaluation, in accordance with 34 CFR 300.304-300.311 are eligible for equitable services. As such, children who are determined to have a disabling condition by a medical professional do not qualify for the equitable services funds pursuant to 34 CFR 300.138.