



November 2017

PRIVATE SCHOOL CHOICE

Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities

Accessible Version

Why GAO Did This Study

Growth of voucher and ESA programs has drawn attention to the ways states ensure accountability and transparency to the public and prospective parents. With over half of voucher and ESA programs specifically designed for students with disabilities, there is interest in the information parents receive about special education services and rights when enrolling in a choice program. GAO was asked to examine these topics in more depth.

This report examines (1) academic, administrative, and financial accountability mechanisms in private choice programs; (2) information available to the public and families on private choice programs and participating schools; and (3) how parents of students with disabilities are informed about changes in rights when enrolling in private choice programs. GAO analyzed information from all voucher and ESA programs operating in January 2017 and interviewed officials from Education, national groups, and six of the largest private choice programs. GAO reviewed websites of a nationally representative sample of private voucher schools, and worked with private choice groups and national organizations to contact families that recently interacted with a choice program. GAO interviewed all 17 families that responded.

What GAO Recommends

Congress should consider requiring states to notify parents/guardians about changes in federal special education rights when a parent moves a child from public to private school. In addition, GAO recommends Education review and correct inaccurate IDEA-related information provided by states. Education generally agreed with our recommendation.

View [GAO-18-94](#). For more information, contact Jacqueline M. Nowicki at (617) 788-0580 or nowickij@gao.gov.

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What GAO Found

States include different academic, administrative, and financial accountability mechanisms in their voucher and education savings account (ESA) programs—programs that use public funds for private school educational expenses (see figure). Of the 27 programs operating in January 2017, most had academic and administrative accountability mechanisms for participating schools, such as academic testing requirements (18 of 27) or health and safety requirements (25 of 27). In addition, 15 of 27 programs required schools to demonstrate financial soundness and 8 of 27 programs required annual financial audits.

Key Academic, Administrative, and Financial Accountability Mechanisms in Private School Choice Programs



Source: GAO analysis of information from private school choice reports and national stakeholders. | GAO-18-94

Academic mechanisms	Administrative mechanisms	Financial mechanisms
<ul style="list-style-type: none"> • Testing • Core subjects • Accreditation 	<ul style="list-style-type: none"> • Health and safety • Staff background checks • Staff qualifications • Site visits 	<ul style="list-style-type: none"> • Annual audit • Proof of school's fiscal soundness

Almost all of the 27 private school choice program websites provide a directory of participating schools and some provide guidance on selecting schools. However, GAO estimates that no more than half of all schools participating in any type of voucher program mention students with disabilities anywhere on their websites, according to GAO's review of a nationally generalizable sample of websites of private schools in voucher programs. Further, GAO estimates that no more than 53 percent of private schools in voucher programs designed for students with disabilities provide disability-related information on their websites.

GAO found private school choice programs inconsistently provide information on changes in rights and protections under the Individuals with Disabilities Education Act (IDEA) when parents move a child with a disability from public to private school. In 2001, the U.S. Department of Education (Education) strongly encouraged states and school districts to notify parents of these changes, but according to Education, IDEA does not provide it with statutory authority to require this notification. According to GAO's review of information provided by private school choice programs, and as confirmed by program officials, in school year 2016-17, 83 percent of students enrolled in a program designed specifically for students with disabilities were in a program that provided either no information about changes in IDEA rights or provided information that Education

confirmed contained inaccuracies about these changes. Officials from national stakeholder groups, private choice programs, and Education told GAO that some parents do not understand that certain key IDEA rights and protections—such as discipline procedures and least restrictive environment requirements—change when parents move their child from public to private school. Ensuring that quality information is communicated consistently and accurately to parents can help address potential misunderstanding about changes in federal special education rights.

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Abbreviations

Education	U.S. Department of Education
ESA	education savings account
FAPE	free appropriate public education
IDEA	Individuals with Disabilities Education Act
IEP	individualized education program
ONPE	Office of Non-Public Education
OSERS	Office of Special Education and Rehabilitative Services

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November 16, 2017

The Honorable Marcia L. Fudge
House of Representatives

The Honorable Gwen S. Moore
House of Representatives

The Honorable Mark Pocan
House of Representatives

In the past decade, the number of private school voucher and education savings account (ESA) programs—collectively referred to as private school choice programs—has more than quadrupled from six programs in 2006 to 27 in 2016.¹ Private school choice programs use public funds to pay elementary and secondary students' educational expenses in private schools and other non-public settings. In school year 2016-17, there were 23 voucher and four ESA programs operating in 14 states and Washington, D.C. Except for the federally funded District of Columbia Opportunity Scholarship Program, all of these private school choice programs are administered and funded by states.² This growth has drawn attention to the role of academic, administrative, and financial accountability mechanisms in these programs. Further, as more than half of these programs are specifically for students with disabilities, there is interest in the information families receive about special education and disability-related supports when enrolling in a choice program. The U.S. Department of Education (Education) administers the Individuals with Disabilities Education Act (IDEA) and provides states, school districts, parents, and the public with information about the rights of students with disabilities under IDEA.³ You asked us to examine accountability and

¹Other private school choice programs, such as tax credit scholarships and individual tax credits or deductions, are outside the scope of this review. In this report, we refer to voucher and ESA programs as "private school choice programs" or "choice programs."

²The D.C. Opportunity Scholarship Program was most recently authorized by the Scholarships for Opportunity and Results Reauthorization Act. Pub. L. No. 115-31, div. E, tit. IX, 131 Stat. 135 (2017). See GAO, *School Choice: Private School Choice Programs Are Growing and Can Complicate Providing Certain Federally Funded Services to Eligible Students*, [GAO-16-712](#) (Washington, D.C.: Aug. 11, 2016).

³20 U.S.C. § 1400 *et seq.*

transparency in private school choice programs, including the information provided to families of students with disabilities.

This report examines (1) the academic, administrative, and financial accountability mechanisms in private school choice programs; (2) the information available to the public and prospective parents on private school choice programs and participating private schools; and (3) how parents of students with disabilities are informed about any changes in their rights under federal law when enrolling in private school choice programs, including how the U.S. Department of Education provides information about these rights.

To obtain information for all three objectives, we reviewed relevant federal laws, regulations, and guidance, including IDEA and related guidance and information from Education.

To determine key program characteristics, including which accountability mechanisms these programs had in place and the type of information they provided publicly, we reviewed publically available documents from all 23 voucher programs and all four ESA programs operating in the United States as of January 2017.⁴ Further, we reviewed documents and conducted interviews with program officials in six private school choice programs in five states (Arizona, Florida, Indiana, Ohio, and Wisconsin). These voucher and ESA programs are among the largest, and collectively served more than two-thirds of all voucher and ESA students in school year 2016-17. Selecting these programs also enabled us to examine programs with varying requirements and accountability mechanisms.

To describe information that participating private schools make available to the public and prospective families, we reviewed a nationally representative, stratified random sample of 344 websites of private schools participating in a voucher program.⁵ In addition, we interviewed officials from Education, as well as from national stakeholder groups and

⁴The information in this report about program requirements was gathered from our review of program documents and confirmed by program officials. We did not do an independent review of state laws and regulations. For more information on our methodology, see appendix I.

⁵Families considering private school choice options may use many sources of information to guide their decision-making. Reports and interviews from private school choice stakeholders suggest that the internet, including schools' websites, is one of several sources of information important to families.

private school choice researchers, which we selected to obtain a range of perspectives on private school choice initiatives. To provide examples of how individual schools and programs make information available to the public and families, we also visited and interviewed officials at two private school choice programs, three private schools, and one school district in Florida.⁶ Finally, we held three discussion groups and conducted interviews with a total of 17 families who chose to speak to us about their recent experiences with private school choice programs. We worked with private school choice organizations and national stakeholder groups to contact families who had recently interacted with private school choice programs. We interviewed all of the families who responded to our interview request, individually or in a group, and these families had at least one child with a disability. These interviews and discussions are intended to provide illustrative examples of the sources, types, and usefulness of information parents may rely on as they make school choice decisions for their children. For more information about our scope and methodology, see appendix I.

We conducted this performance audit from August 2016 to November 2017 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.

Background

States operate and administer several types of private school choice programs. This report focuses exclusively on vouchers and ESAs.⁷

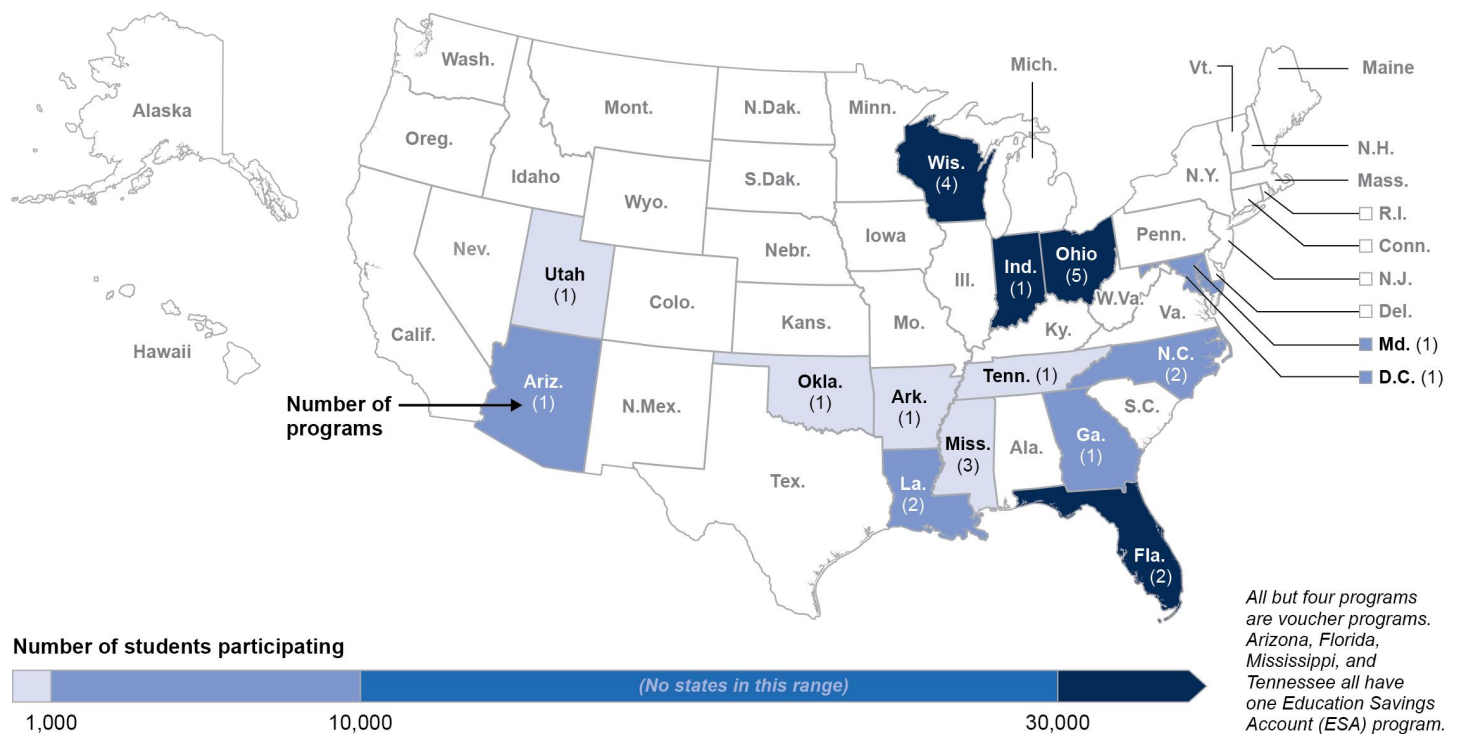
⁶In our prior work on private school choice, we visited with state, district, and school choice program officials in Arizona, Indiana, Ohio, and Wisconsin. See [GAO-16-712](#).

⁷Some states have tax credit programs related to private school choice. Tax credit scholarships allow eligible individual or business taxpayers to receive full or partial state tax credits when they donate to nonprofits that provide private school scholarships. The first tax credit scholarship began in 1997. Individual tax credits allow parents to receive state income tax relief for approved educational expenses, which can include private school tuition, books, supplies, computers, tutors, and transportation. The first individual tax credit began in 1987.

- **Vouchers:** These programs generally provide interested parents with funds for tuition at a participating private school.⁸ The first voucher program began in 1990.
- **ESAs:** These programs are typically designed to fund a broader set of educational expenses, such as online learning programs, private tutoring, or education therapies. The first ESA program began in 2011.

The size of voucher and ESA programs varies widely (see fig. 1 and appendix II for more details). In school year 2016-17, student participation in individual programs ranged from fewer than 10 to more than 34,000, for a total of 181,624 students across all programs.

Figure 1: Private School Choice Programs by State, Operating in School Year 2016-17



Source: GAO summary of information provided by private school choice program officials. | GAO-18-94

⁸In this report, we use the term “participating private school” to mean a school that is eligible to receive students through a private school choice program. Not all participating private schools currently have students enrolled using a voucher or ESA.

Note: Except for the federally funded D.C. program, all private school choice programs are funded and administered by states. This figure includes voucher and ESA programs; tax credit programs related to private school choice are not shown.

Design of Private School Choice Programs

States establish the eligibility criteria for students to participate in choice programs as well as any accountability requirements for participating private schools. As noted in our prior work, these requirements can vary considerably across states.⁹

- **Eligibility criteria:** Almost all private school choice programs use a student’s disability status or family income as eligibility criteria (see table 1).¹⁰

Table 1: Use of Disability Status and Family Income as Primary Eligibility Criteria in Private School Choice Programs, Operating in School Year 2016-17	
Primary Eligibility Criterion	Number of Private School Choice Programs
Student has a disability	15
Student’s family income is below a certain level	10 ^a
Other	2 ^b

Source: GAO summary of information provided by private school choice program officials. | GAO-18-94

^aIndiana’s Choice Scholarship Program requires all students to meet income requirements, plus one of seven other characteristics. One of these additional characteristics is having a disability.




^bAttending a low-performing school is the key criterion for Ohio’s Educational Choice Scholarship Program. In 2017, Arizona’s Empowerment Scholarship Account Program (ESA) had multiple eligibility pathways.

⁹In our prior work on private school choice programs, we surveyed all voucher and ESA programs operating in fall 2015 and asked about program operations and requirements. [GAO-16-712](#).

¹⁰For the purposes of this report, our use of “disability programs” refers to private school choice programs designed for students with disabilities that require a student to have a disability to participate. Students with disabilities sometimes enroll in programs that do not have disability as an eligibility criterion. It is not possible to know how many students with disabilities participate across all private school choice programs because many programs do not collect this information. See [GAO-16-712](#).

- **Accountability mechanisms:** For purposes of this report, we define accountability mechanisms as requirements that private school choice programs place on private schools as a condition for participation.¹¹ These mechanisms act as minimum participation requirements for private schools (see fig. 2). See appendix II for more details on accountability mechanisms by program.

Figure 2: Key Academic, Administrative, and Financial Accountability Mechanisms That May Be Used in Private School Choice Programs for Participating Private Schools

 Academic mechanisms	 Administrative mechanisms	 Financial mechanisms
<p><i>Some programs require:</i></p> <p>Testing</p> <ul style="list-style-type: none"> Schools to administer tests Schools to administer state standardized or norm-referenced test Test results to be reported publicly <p>Core subjects</p> <ul style="list-style-type: none"> Schools to teach core academic subjects <p>Accreditation</p> <ul style="list-style-type: none"> Schools to be accredited Schools to be accredited by an agency approved by the state 	<p><i>Some programs require:</i></p> <p>Health and safety</p> <ul style="list-style-type: none"> Schools to follow state and local health and safety codes <p>Background checks</p> <ul style="list-style-type: none"> Schools to conduct background checks on all employees <p>Teacher qualifications</p> <ul style="list-style-type: none"> Schools to hire teachers with minimum qualifications Schools to hire teachers with degrees or state teaching licenses <p>Paraprofessional qualifications</p> <ul style="list-style-type: none"> Schools to hire paraprofessionals or specialists with minimum qualifications <p>Site visits</p> <ul style="list-style-type: none"> Schools to submit to site visits by program officials 	<p><i>Some programs require:</i></p> <p>Annual audit</p> <ul style="list-style-type: none"> Schools to conduct annual audits or independent financial reviews <p>Proof of fiscal soundness</p> <ul style="list-style-type: none"> Schools to provide proof of fiscal soundness or financial viability

Source: GAO analysis of information from private school choice reports and national stakeholders. | GAO-18-94

¹¹Several previous research studies analyzed private school choice accountability mechanisms using similar categories of requirements. These studies include EdChoice, *The ABCs of School Choice: The Comprehensive Guide to Every Private School Choice Program in America, 2017 Edition* (Indianapolis, IN: 2017); and American Federation for Children and American Federation for Children Growth Fund, *Report Card: 2016/17 Private School Choice Program Ranking* (Washington, D.C.: 2016). For the purposes of this report, teacher and paraprofessional qualifications are listed as administrative mechanisms because hiring and vetting teachers would fall under a school's administrative procedures.

Individuals with Disabilities Education Act

IDEA Part B requires each state to ensure that a free appropriate public education (FAPE) is made available to all eligible children with disabilities.¹² An eligible child with a disability in a public school setting, or placed in a private school by a public agency as a means of providing special education and related services, is entitled to FAPE.¹³ FAPE means special education and related services that (1) have been provided at public expense, under public supervision, and without charge; (2) meet the standards of the state educational agency, including the requirements of IDEA; (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 (IEP).¹⁴

When a parent of a child with a disability chooses to enroll their child in a private elementary or secondary school, whether or not through a private school choice program, that child is considered a “parentally placed” private school child under IDEA.¹⁵ A school district’s obligations to parentally placed private school children with disabilities are not as extensive as those for children enrolled in public schools or for children with disabilities placed in a private school by a public agency, according to Education documents. Under IDEA, a child with a disability who is parentally placed in a private school does not have a right to FAPE, or an individual right to receive some or all of the special education and related

¹²20 U.S.C. § 1412(a)(1) and 34 C.F.R. § 300.101(a). Other federal laws may apply to states, districts, and private schools that enroll students with disabilities, including section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA). Since our focus was on IDEA, a review of these other laws was beyond the scope of our review.

¹³A state or school district may place an eligible child with a disability in private school for the purpose of providing special education and related services under IDEA. In these circumstances, the financial obligations for that placement are the responsibility of the public agency, and the child is entitled to all the rights the child would have if he or she were in a public school, including the right to FAPE. 20 U.S.C. § 1412(a)(10)(B).

¹⁴20 U.S.C. § 1401(9) and 34 C.F.R. § 300.17. An IEP is a written statement for each child with a disability that is developed, reviewed, and revised in accordance with IDEA requirements, and that includes, among other things, a statement of the child’s present levels of academic achievement and functional performance, a statement of measurable annual goals, and a statement of the special education and related services to be provided to the child. 20 U.S.C. §§ 1412(a)(4), 1414(d) and 34 C.F.R. §§ 300.320-300.324.

¹⁵34 C.F.R. § 300.130.

services that the child would be entitled to receive if enrolled in a public school.¹⁶ However, parentally placed children must be included in the population whose needs are considered for services under IDEA's "equitable services" provisions.¹⁷ See table 2 for a summary of key differences in rights under IDEA for children with disabilities in public school and private school.

Table 2: Differences in Key Provisions in the Individuals with Disabilities Education Act (IDEA) for Eligible Children with Disabilities in Public and Private Schools

Key Provisions in IDEA	Enrolled in Public School or Placed in Private School by the School District	Parentally Placed in Private School
Free appropriate public education (FAPE)	<ul style="list-style-type: none"> FAPE must be made available to eligible children with disabilities. This includes special education and related services provided in conformity with an individualized education program (IEP) that meets IDEA requirements. Special education is specially designed instruction to meet the unique needs of the child with a disability. Special education and related services are provided at no cost to the parent. 	<ul style="list-style-type: none"> No individual entitlement to FAPE or to receive some or all of the special education and related services that the child would receive if enrolled in public school. A child may receive "equitable services." Each school district determines the equitable services it will provide to its population of parentally placed private school students, through consultation with private schools and parents. If a child is designated to receive equitable services, they are provided in conformity with a services plan and at no cost to parents.
Special education teacher certification requirements	<ul style="list-style-type: none"> Public elementary, middle, and secondary school special education teachers must meet the special education teacher certification requirements in the law and regulations.^a 	N/A

¹⁶20 U.S.C. § 1412(a)(10)(C)(i) and 34 C.F.R. § 300.137(a). In general, IDEA does not require school districts to pay for the cost of special education and related services of a child with a disability at a private school if the district made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

¹⁷20 U.S.C. § 1412(a)(10)(A) and 34 C.F.R. §§ 300.130-300.144. Under the equitable services provisions of IDEA, school districts are required to spend a proportionate amount of their federal IDEA Part B funds to provide special education and related services to parentally placed children with disabilities in private schools located within the district. School districts are required to conduct "child find" activities to identify, locate, and evaluate parentally placed children with disabilities enrolled in private elementary and secondary schools located in the school district. The school district is also required to conduct timely and meaningful consultation with private schools and parents on the provision of special education and related services, including how, where, and by whom services will be provided, among other things.

Key Provisions in IDEA	Enrolled in Public School or Placed in Private School by the School District	Parentally Placed in Private School
Least restrictive environment requirements	<ul style="list-style-type: none"> Children with disabilities must be educated with their nondisabled peers, to the maximum extent appropriate. 	N/A
Discipline procedures	<ul style="list-style-type: none"> Students with disabilities are entitled to certain protections related to IDEA's disciplinary procedures. 	N/A
Due process rights	<ul style="list-style-type: none"> Parents may request a due process hearing if they have a dispute related to the identification, evaluation, educational placement of a child with a disability, the provision of FAPE, or the implementation of IDEA's disciplinary procedures. This could include disputes regarding the development or implementation of an IEP and the location where services will be provided. 	<ul style="list-style-type: none"> Due process rights of parentally placed private school children and their parents are limited to a school district's failure to comply with the child find requirements, including the evaluation requirements^b

Source: Key provisions in IDEA identified by U.S. Department of Education. | GAO-18-94

^aSpecial education teacher certification requirements do not apply to private school teachers of a child with a disability placed in a private school by a public agency.

^bStates are required to have policies and procedures to ensure that all children with disabilities residing in the state, who are in need of special education and related services, are identified, located, and evaluated (referred to as "child find"). School districts are required to conduct "child find" activities to identify, locate, and evaluate parentally placed children with disabilities enrolled in private schools located in the school district.

The Role of the U.S. Department of Education

Education has two offices that can address questions and provide information related to parentally placed private school children with disabilities, including those in private school choice programs.

- Education's Office of Special Education and Rehabilitative Services (OSERS) administers IDEA in all of its aspects. It also supports programs that help educate children and youth with disabilities, including developing and distributing evidence-based products, publications, and resources to help states, local school district personnel, and families improve results for children with disabilities.
- Education's Office of Non-Public Education (ONPE) fosters maximum participation of nonpublic school students and teachers in federal education programs and initiatives. ONPE's activities include providing parents with information regarding education options for their children, and providing technical assistance, workshops, and publications to states, school districts, private schools, and other education stakeholders.

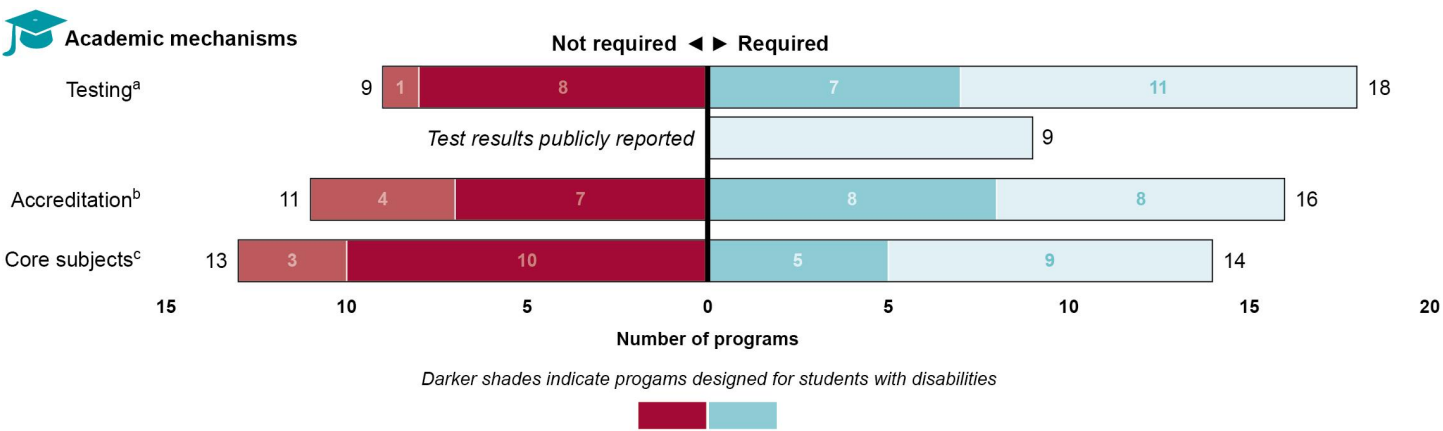
State Private School Choice Programs Emphasize Different Accountability Mechanisms and Approaches to Monitoring

Most Programs Have Academic and Administrative Accountability Mechanisms; Fewer Have Financial Accountability Mechanisms

Academic Accountability Mechanisms

Most private school choice programs have academic accountability mechanisms, which can include requirements for participating private schools to administer tests, report testing results, obtain accreditation, and teach core subjects, according to our analysis of information from program documents and officials.¹⁸ (See fig. 3.)

Figure 3: Academic Accountability Mechanisms in 27 Voucher and Education Savings Account (ESA) Private School Choice Programs, Operating in School Year 2016-17



Source: GAO summary of private school choice program documentation, as confirmed by program officials. | GAO-18-94

^aTesting is defined as a program requirement that all participating private schools must administer tests;

¹⁸The information in this report about program accountability mechanisms was gathered from our review of program documents and confirmed by program officials. We did not do an independent review of state laws and regulations. For more information on our methodology, see appendix I.

^bAccreditation is defined as a program requirement that all participating private schools must be accredited;

^cCore subjects is defined as a program requirement that all participating private schools teach specific academic subjects.

We found that testing is the most common academic accountability mechanism in private choice programs, and that programs design this requirement in different ways. Academic testing and reporting requirements can help the public compare the academic achievement of private school choice students with students in public schools. Two-thirds of private choice programs (18 of 27)—which represented 78 percent of all students participating in voucher and ESA programs in school year 2016-17—require private schools to test voucher or ESA students.¹⁹ Of the 18 programs that require testing, nine programs require participating schools to administer their state's standardized test and six require schools to administer some type of norm-referenced test.²⁰ See appendix II for more information on testing requirements by program.

Private schools appeared to have mixed experiences implementing the testing requirements in private school choice programs. For example, officials from four of the six programs we examined in depth noted that most private schools in their programs did not experience challenges administering the testing requirements, and said that many private schools had testing practices in place before joining the programs. However, officials in two programs also said that some private schools were unfamiliar with or unequipped to administer standardized tests. Officials from several state and national private school choice organizations also told us that smaller private schools sometimes lack the staff and budgets to administer standardized tests.

One-third (9 of 27) of programs require that schools publicly report test results, including three of the four largest voucher programs—Wisconsin's Milwaukee Parental Choice Program, Indiana's Choice Scholarship Program, and Ohio's EdChoice Scholarship Program—which publicly

¹⁹Some programs require that participating private schools test all students, including voucher and ESA recipients, and some make this requirement conditional to the number of voucher and ESA recipients in the school.

²⁰Norm-referenced tests are standardized tests designed to compare and rank test takers in relation to one another.

report test results via online systems.²¹ However, in our interviews, officials from two voucher programs noted some private schools experienced challenges administering standardized tests or providing the program offices with data. For example, according to officials in one program, most private schools did not have systems for administering the state's standardized tests electronically. Officials in another program also noted that protecting student privacy in small private schools can be challenging.

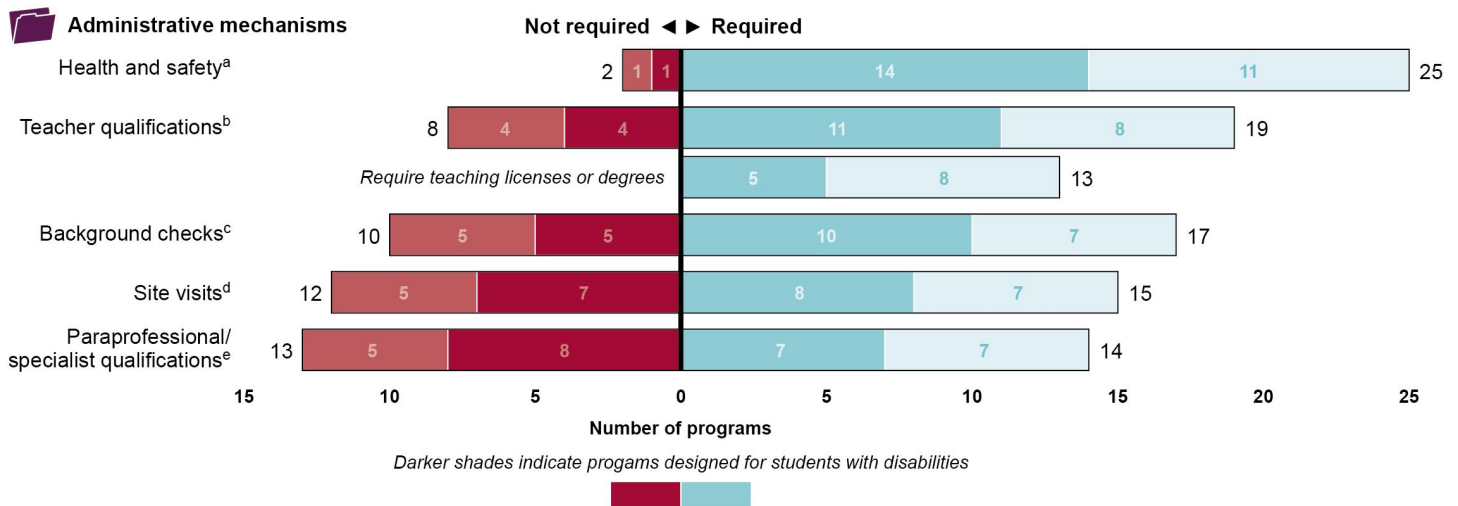
Few of the 15 choice programs that are designed specifically for students with disabilities have accountability mechanisms related to special education and related services. For example, Arkansas's Succeed Scholarship Program requires schools to meet accreditation requirements for providing services to severely disabled individuals. Mississippi's Dyslexia Therapy Scholarship for Students with Dyslexia Program requires schools to provide a specific learning environment for dyslexia therapy; and Louisiana's School Choice Program for Certain Students with Exceptionalities requires schools to provide special education services for at least 2 years prior to joining the program.

Administrative Accountability Mechanisms

Most private school choice programs have some administrative accountability mechanisms, and these varied across programs, according to our analysis of information from program documents and officials. Administrative accountability mechanisms include requirements that participating private schools employ teachers, paraprofessionals, and/or specialists who have minimum qualifications, conduct background checks on employees, comply with state and local health and safety standards, and comply with site visits by program officials. (See fig. 4.)

²¹Wisconsin's Milwaukee Parental Choice Program, Indiana's Choice Scholarship Program, and Ohio's EdChoice Scholarship Program were among our selected programs. The other selected programs do not require reporting of test results. Florida's Gardiner Scholarship Program (ESA) requires testing but does not require public reporting of results. Florida's John M. McKay Scholarships for Students with Disabilities Program and Arizona's Empowerment Scholarship Account Program (ESA) did not require testing during the 2016-17 school year.

Figure 4: Administrative Accountability Mechanisms in 27 Voucher and Education Savings Account (ESA) Private School Choice Programs, Operating in School Year 2016-17



Source: GAO summary of private school choice program documentation, as confirmed by program officials. | GAO-18-94

^aHealth and safety is defined as a program requirement that all participating private schools must follow state and local health and safety codes;

^bTeacher qualifications is defined as a program requirement that all private school teachers at a participating school must have specified qualifications and/or certifications;

^cBackground checks is defined as a program requirement that all participating private schools' employees, or all employees with direct unsupervised contact with children, undergo criminal background checks;

^dSite visits is defined as a program requirement that all participating private schools submit to site visits by program officials;

^eParaprofessional/specialist qualifications is defined as a program requirement that paraprofessionals and/or specialists at a participating school must have specified qualifications and/or certifications.

Most programs (25 of 27) require participating private schools to comply with state and local health and safety standards. Eight of the 25 programs rely on other state agencies to oversee the safety of school facilities rather than impose separate health and safety requirements on participating schools. In addition, about half of all voucher and ESA programs (17 of 27)—including three of the largest programs, which represented 73 percent of all students participating in voucher and ESA programs in school year 2016-17—require participating private schools to conduct background checks on all employees, or all employees with direct and unsupervised contact with children.

About two-thirds (19 of 27) of programs require participating private schools to employ teachers and other staff with specific qualifications or credentials. For example, 13 programs require teachers to have a degree and/or state teaching license. Other programs, such as Florida's John M.

McKay Scholarships for Students with Disabilities Program, require private schools to employ teachers with either a bachelor's degree, three years of experience, or specific credentials or special skills, knowledge, or expertise to provide instruction in certain subjects. Similarly, about half (14 of 27) of programs require schools to hire paraprofessionals and/or specialists with specific qualifications or credentials.²²

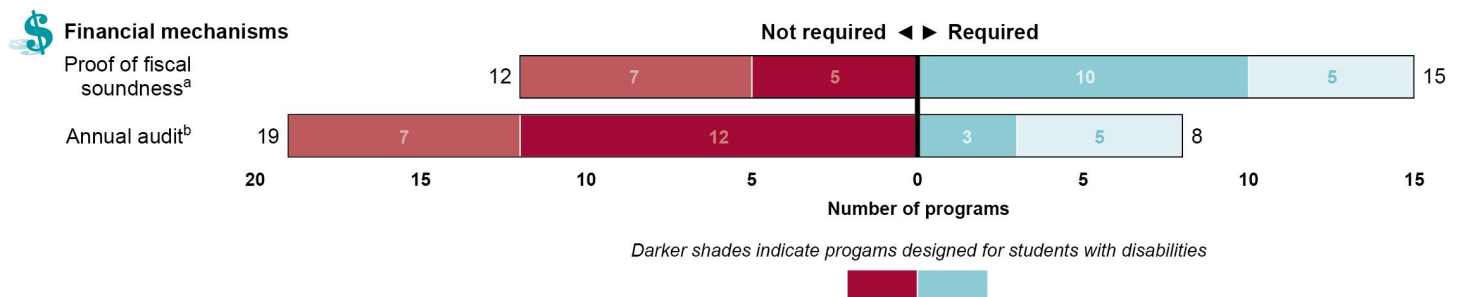
More than half (15 of 27) of programs require site visits to participating private schools, and program officials we interviewed described various ways of implementing this requirement. For example, officials in three programs told us they conduct site visits to verify information submitted by participating private schools. Officials in one program noted that site visits are routine for entities that receive state funds; officials coordinate with the school beforehand, meet with the principal and staff, and perform spot checks on student files. Some program officials told us they also monitor participating schools using risk-based school reviews, requesting graduation rates, or by requiring schools to meet an attendance rate benchmark.

Financial Accountability Mechanisms

Although financial accountability mechanisms are the least common mechanisms used by private choice programs, more than half of programs had at least one such requirement. (See fig. 5.)

²²Paraprofessionals are individuals employed in a preschool, elementary school, or secondary school under supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education. At least three programs designed for students with disabilities have requirements that some members of private school staff have disability certifications and training.

Figure 5: Financial Accountability Mechanisms in 27 Voucher and Education Savings Account (ESA) Private School Choice Programs, Operating in School Year 2016-17



Source: GAO summary of private school choice program documentation, as confirmed by program officials. | GAO-18-94

^aProof of fiscal soundness is defined as a program requirement that all participating private schools must provide some type of proof of fiscal soundness or evidence of financial viability;

^bAnnual audit is defined as a program requirement that all participating private schools must conduct an unconditional annual audit or independent financial review.

Just over half (15 of 27) of programs require private schools to provide proof of fiscal soundness in order to participate. Most of these programs give private schools two options: schools must either submit proof they have been in operation for a specified length of time (ranging from 1 to 5 years) or provide a surety bond to the state to insure against any losses. For example, in Florida's John M. McKay Scholarships for Students with Disabilities Program, schools must have been operating for at least 3 years or provide the Florida Department of Education with a surety bond or letter of credit equal to the amount of voucher funds the private school receives quarterly.²³

Less than a third (8 of 27) of programs—which represented fewer than a quarter of all students participating in voucher and ESA programs in school year 2016-17—require participating schools to provide annual audits. Officials in two programs we examined in depth described concerns about the limited financial accountability provisions in their programs' statutes. In one program with no financial accountability mechanisms, program officials said they would prefer to have the authority to remove private schools with financial issues from the program. Similarly, officials in the other program stated that they had some concerns about the financial stability of some of their participating

²³Other fiscal soundness mechanisms used by programs include a statement by a certified public accountant verifying a school's viability, existence of financial systems and controls, evidence of insurance, or fiscal management training for administrators.

schools but do not have authority to deny participation in the program based on financial criteria.

In addition, all ESA programs, which generally provide funds directly to eligible individuals, have financial accountability mechanisms for parents. For example, Florida's Gardiner Scholarship Program is administered by two organizations that review parents' expenditures for compliance with program requirements and reimburse parents accordingly. Certain categories of purchases are pre-approved, but generally approvals are made on a case-by-case basis. In contrast, Arizona's ESA program provides parents with a debit card for educational purchases. Parents are expected to use the debit card appropriately and retroactively submit itemized expense reports to the program each quarter. If program staff reviewing expenditures find any that do not meet statutory requirements, families are directed to reimburse the program.

Private Choice Programs Described Various Approaches to Monitoring Participating Schools

The six private choice programs we examined in depth took various approaches to monitoring participating schools' compliance with their programs' academic, administrative, and financial accountability requirements. Officials from several of these programs also described coordinating with accrediting agencies, other state departments, and independent auditors to help monitor private schools and ensure quality and safety. For example, officials in one program told us they received a number of complaints about a lack of adult supervision at a participating private school and asked local Child Protective Services to intervene. Program officials in two states said they use their state's private school accreditation process to help enforce program accountability requirements because private schools must be accredited to participate.²⁴

Programs often require participating schools to attest to meeting accountability requirements, although some program officials said they have limited resources to independently verify this information. For example, program officials in one state said they have limited resources

²⁴Some officials in selected programs reported giving noncompliant schools a period of time to improve or adhere to accountability requirements. For example, in the Milwaukee Parental Choice Program, schools that are determined not financially viable have 5 years to improve.

to independently verify the information submitted by schools in their annual applications because processing voucher payments takes priority. Program officials in another state said financial constraints prevented them from visiting all of the schools that were flagged for not complying with program requirements last year.

Finally, some program officials we spoke to told us that their states provide programs with limited authority to intervene with participating private schools when there are concerns. For example, officials in one program described being concerned that a particular school's buildings were unsafe. However, they said that the choice program's statute does not contain requirements related to the safety of participating schools, and the city must issue a safety notice before program staff could remove the school from the program.

Private School Choice Programs and Participating Schools Provide a Range of Information to the Public and Prospective Families

Most Private School Choice Programs Provide Directories of Participating Schools, Which Include Varying Information

Almost all private school choice programs provide a directory of participating private schools for the public and prospective families, although the information included—and the way it is provided—varies. For example, 21 of 27 programs provide contact information, and 20 programs provide information on grades served. Far fewer programs provide information on school accreditation status (6 programs), student race and ethnicity data (5 programs), and graduation rates (4 programs). (See fig. 6.)

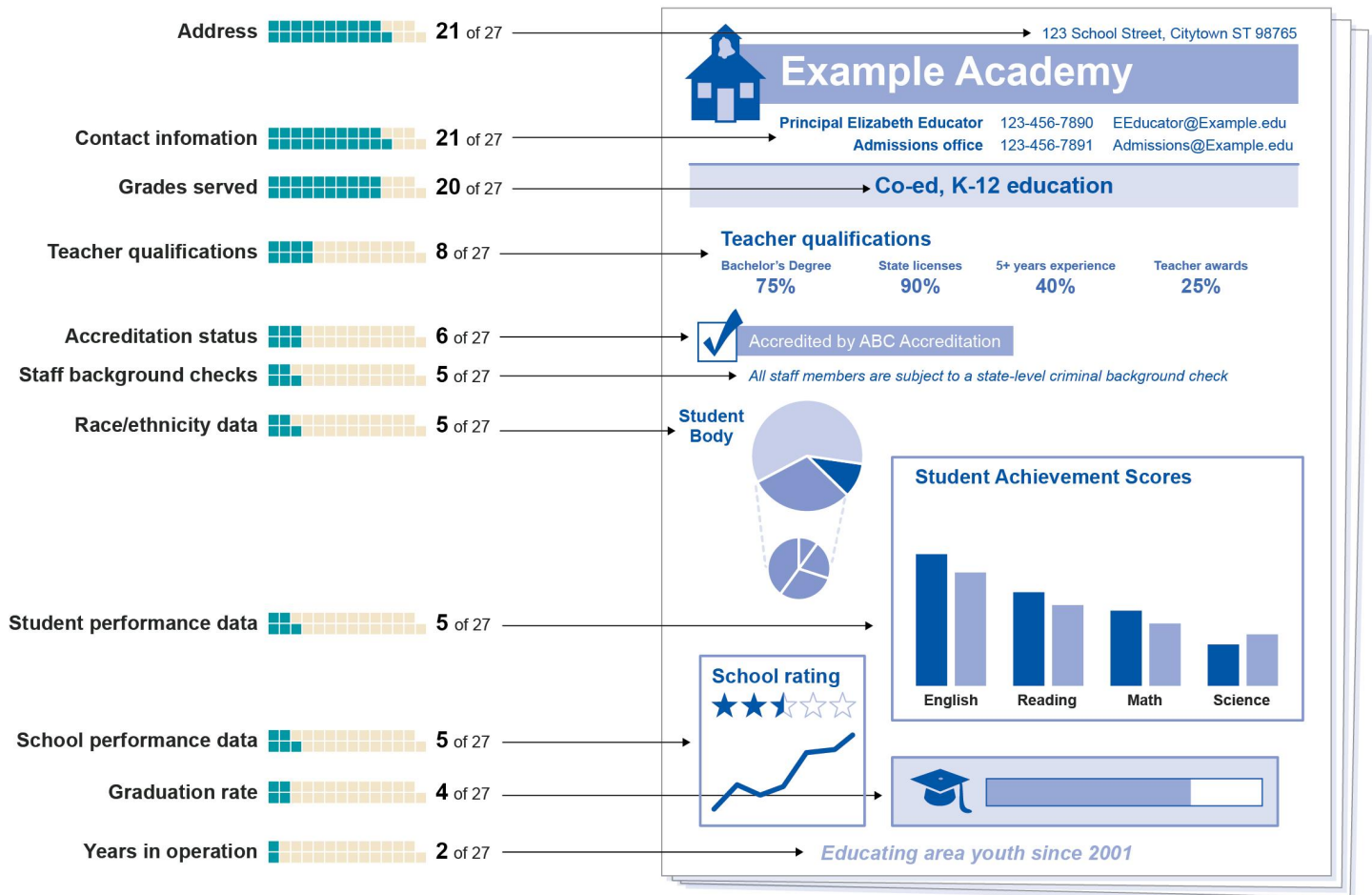
Quotes from families

"The [voucher] program website had a great list of schools and information available."

—*Parent with child in a voucher program*

Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

Figure 6: Number of Private School Choice Programs Providing Different Types of Information on Participating Schools, as of April 2017



Source: GAO analysis of program documents. | GAO-18-94

Note: This figure includes information available on the websites of the 27 private school choice programs (voucher and ESAs) operating as of January 2017.

Quotes from families

"I wish they had a list of the private schools and the type of disabilities the children that went there had. Also what type of program the school had to make sure the school was a good fit for my granddaughter."

—Guardian of a student who has experience with both a voucher and ESA program

"Researching schools on the internet, I found [a private school] and applied. Family members also informed [me] of the [voucher] program."

—Parent of voucher program student

Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

Parents we interviewed had mixed responses about the information provided by private school choice programs and reported using other sources of information as well. Some parents mentioned using private choice program websites as key sources of information to identify and narrow their school choice options, while other parents said they wished that the programs would provide more information to help them consider potential schools. Parents also reported consulting family, friends, and other trusted community members or advisers and conducting internet searches when making school decisions.

Along with directories, some private school choice programs provide additional guidance for parents on their websites. Just over one-third (10 of 27) of private school choice programs—serving 65 percent of students in choice programs—provide guidance to parents on how to choose a school. For example, the Ohio Department of Education Scholarship program office and Indiana Department of Education provide a checklist of questions parents might ask potential schools.²⁵ These suggested questions include admission requirements, tuition and other costs, and discipline policies.

We also found that one state—Florida—provides a link on its website to a federally-created decision tool on choosing schools.²⁶ This tool, developed by Education, is designed to help families navigate the process of choosing a school, and includes questions that parents may want to ask as well as a discussion of school choice options. However, the document was last updated in 2007 and does not reference the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act.²⁷ It also has few questions tailored to parents of students with disabilities or about special education/disability services and accommodations in educational settings. During the course of our review, Education officials said they were in the process of reviewing and determining whether to update existing guidance, including this document. As part of this review, Education officials said they plan to

²⁵Ohio recommends that parents take a copy of the checklist with them when visiting prospective schools.

²⁶U.S. Department of Education, Office of Innovation and Improvement, *Choosing a School for Your Child* (Washington, D.C.: 2007). This document includes guidance related to both public and private schools.

²⁷The Every Student Succeeds Act was enacted in December 2015. Pub. L. No. 114-95, 129 Stat. 1802 (2015).

issue an updated version of the document in 2018 and may consider including additional questions for parents of students with disabilities.

We found that only 3 of the 15 programs designed for students with disabilities provide guidance on their websites on making informed school choice decisions that is specifically tailored to these families. For example, Georgia's guidance recommends families ask how a school will accommodate their child's needs and Tennessee's guidance advises parents to consider whether the school provides inclusive educational settings.

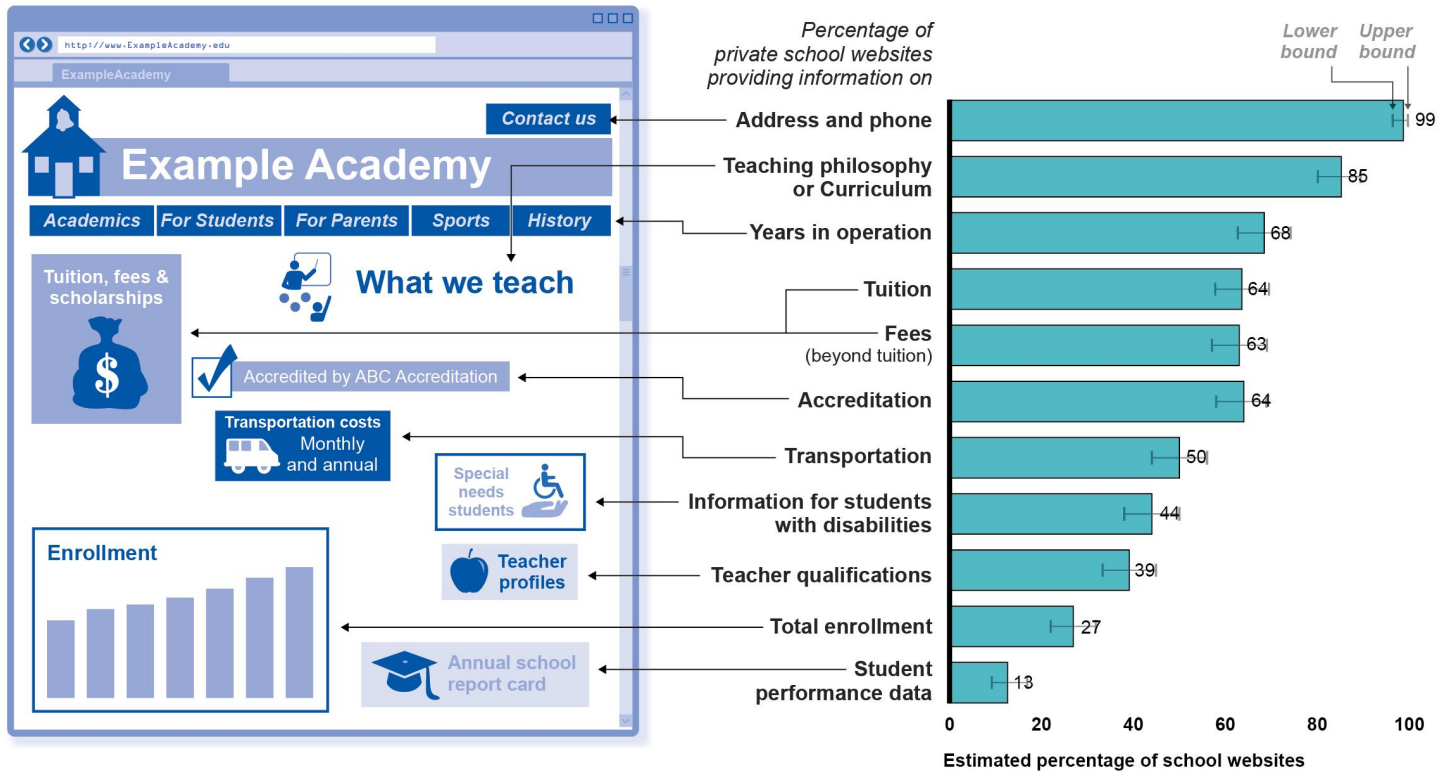
Private Schools Participating in Voucher Programs Provide Varying Information on Their Websites; Most Websites Do Not Have Information Related to Special Education Services

Much like the private school choice programs in which they participate, private schools vary in the information they provide to the public and prospective families on their websites. In our review of a nationally representative sample of 344 websites of private schools participating in the 23 voucher programs operating as of January 2017, we found notable differences in the type and amount of information on the sites (see fig. 7).²⁸ For example, we estimate that 85 percent of participating private schools describe their curriculum or teaching philosophy on their websites; 68 percent indicate how long the school has been in operation; 27 percent provide information on the number of students attending the school; and 13 percent provide information on student performance on standardized tests.²⁹ (See fig. 7.)

²⁸Our review was conducted in April 2017 and was limited to schools participating in a private school choice voucher program—we did not include the four ESA programs. We selected a generalizable stratified random sample of participating private school websites for review. The estimates are weighted to reflect the sample design, and confidence intervals around the estimates are provided. Please refer to appendix I for more details on the sample design and statistical methodology.

²⁹The 95 percent confidence interval for the percentage of participating schools describing their curriculum is between 80 and 89 percent. The 95 percent confidence interval for the percentage of participating schools indicating how long the school has been in operation is between 63 and 74 percent. The 95 percent confidence interval for the percentage of participating schools providing information on the number of students is between 22 and 32 percent. The 95 percent confidence interval for the percentage of participating schools providing testing data is between 9 and 17 percent.

Figure 7: Estimated Percentage of Private Voucher Schools Providing Information on Their Websites, as of April 2017



Source: GAO analysis of a nationally representative sample of websites of private schools participating in voucher programs. | GAO-18-94

Quotes from families

"[I wish schools] would be upfront about which disabilities they serve."

—Parent with child enrolled in ESA program

"I wish I knew more private school programs who have [specific] reading programs as part of their core curriculum."

—Parent considering school choice options for child with a learning disability

Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

In our nationally representative review of websites of private schools participating in voucher programs during the 2016-17 school year, we found limited information related to students with disabilities. We estimate that no more than half of all schools participating in any type of voucher program mention students with disabilities anywhere on their website, including in the admissions, services, or academic sections.³⁰ When we looked specifically at the subset of private schools participating in a voucher program specifically designed for students with disabilities,³¹ this pattern still held. We estimate that no more than 53 percent of private schools in voucher programs for students with disabilities mention

³⁰We considered a website as mentioning students with disabilities if the words "disability" or "special needs" appeared anywhere on the website. The 95 percent confidence interval for the percentage of participating schools mentioning students with disabilities anywhere on their website is between 38 and 50 percent.

³¹There were 2,663 private schools participating in voucher programs for students with disabilities as of April 2017.

Quotes from families

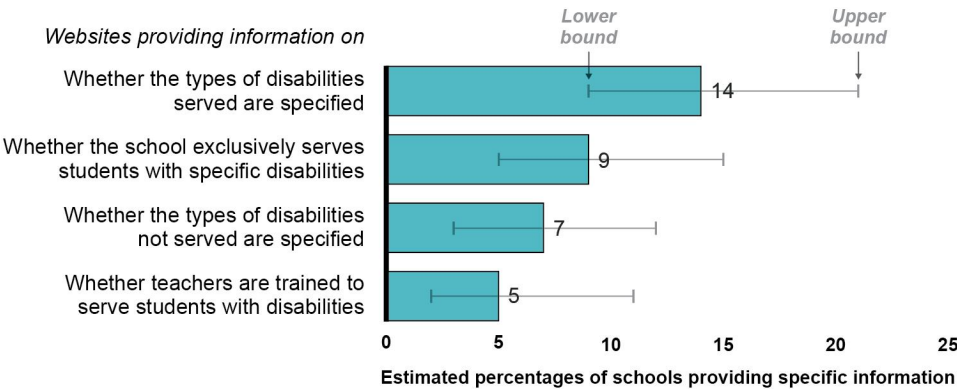
"All schools are different and have different expectations/programs available to the students. Some say they are flexible and willing to work with special needs students but are not really, when it comes down to it."

—Parent of a voucher program student

Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

students with disabilities or special education services anywhere on their websites.³² In addition, we estimate that no more than 21 percent of private schools participating in a voucher program specifically designed for students with disabilities provide certain types of special education/disability-related information on their websites that might be of interest to prospective families choosing a school for their student with a disability.³³ (See fig. 8.)

Figure 8: Estimates of Private Schools in Disability Voucher Programs Providing Special Education/Disability-Related Information Online, as of April 2017



Source: GAO analysis of a nationally representative sample of websites of private schools participating in voucher programs. | GAO-18-94

Quotes from families

"Many private schools refuse admittance of my child because of [child's dyslexia]."

—Parent considering school choice options for her child

Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

Our discussion groups and interviews with 17 families of students with disabilities provide illustrative examples of their experiences with finding a private school that met their child's needs. Fifteen of the 17 families we spoke with had students enrolled in a private school choice program at the time of our discussions, and a number of families expressed satisfaction with the private schools their students currently attended. However, multiple families described challenges in getting information about whether a particular school could meet their child's needs. For example, parents told us that they needed more information on the types of disabilities schools served as well as the disability-related services

³²The 95 percent confidence interval for the percentage of schools participating in a disability voucher program that mention students with disabilities anywhere on their website is between 36 and 53 percent.

³³For example, we estimate that between 9 to 21 percent of the websites of private schools in voucher programs for students with disabilities provide information about which types of disabilities are served.

Quotes from families

"My son struggled in school with learning. He was bullied at school. [I] did a lot of research for support for his needs."

—Parent of ESA program student

"I was too overwhelmed with [public] school officials saying the things [my child] needed were not possible because of funding. I wish I had known about the ESA sooner and how easy it was once we got my daughter's learning disabilities identified."

—Parent of child enrolled in ESA program

Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

schools offer. Parents described attempts to enroll their student with disabilities in multiple schools before finding one that would admit their child or that was the right fit for their child's needs. Several parents described the process of finding the right school for their children as trial and error.

Lack of information can result in parents discovering key information about a school only after enrolling their child. For example, a family who has a student currently enrolled in a private school choice program told us they wished they had known that they would be charged for some of the special education services the private school was providing to their child. One family told us they were surprised to learn that teachers providing special education services to their child were not trained to provide those services, and another parent described changing schools because they learned aspects of their child's disability could not be accommodated only after enrolling their child in a school.

Private Choice Programs Do Not Provide Consistent Information about Changes in IDEA Rights When a Parent Moves a Child from Public to Private School, and IDEA Does Not Require That Parents Be Notified

Parents of Students with Disabilities May Not Be Consistently or Correctly Notified about IDEA Rights upon Enrolling in Choice Programs

When a parent moves a child with a disability from public school to a private school, the child's rights under IDEA change. Specifically, when a child with a disability is enrolled in a private school by his or her parents or guardians (i.e., a parentally placed private school student), regardless of participation in a private school choice program, the child is no longer

entitled to FAPE and other key rights and protections under IDEA.³⁴ There is no requirement under IDEA or in Education's regulations that parents be told about this change in rights to services when enrolling their children in private schools.

Quotes from families

"The [state] Department of Education has limited information in its online parent handbook about the effect on a student's [disability] rights."

—Parent of child with physical and learning disabilities who considered enrolling in an ESA program and decided against it

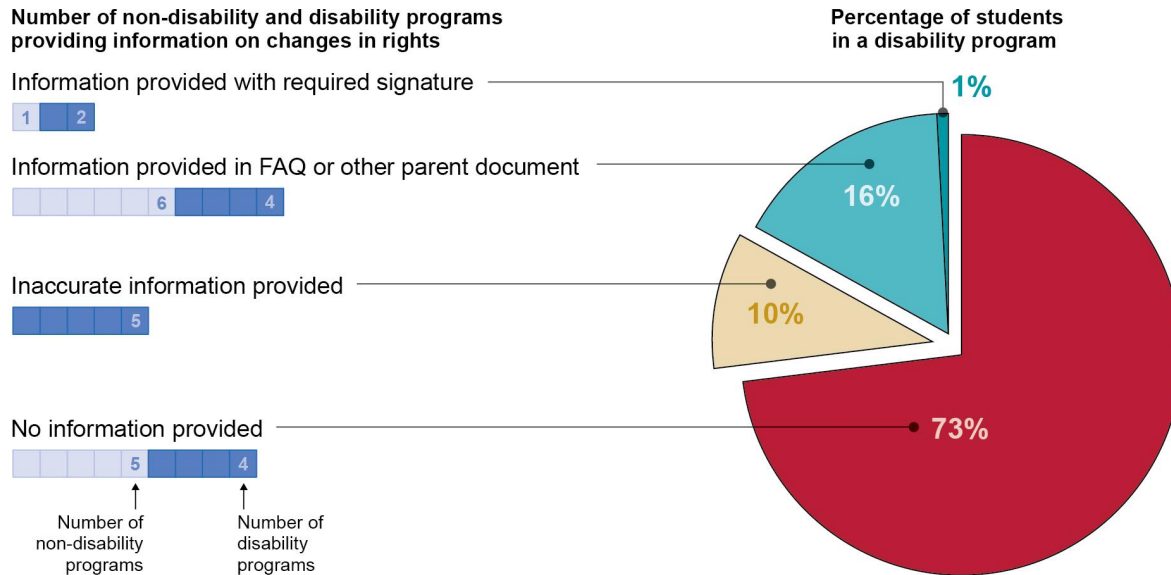
Source: Parent responses to GAO questionnaires (for illustrative purposes). | GAO-18-94

Private school choice programs are not consistently providing information on changes in rights under IDEA when a child with a disability moves from public to private school, and some programs are providing incorrect information. Specifically, in our review of information provided by all 27 private school choice programs in operation as of January 2017, we found that 9 of the 27 programs did not provide any information about these changes in rights. Moreover, among the 15 programs specifically for students with disabilities, we found that 4 programs provided no information about changes in rights under IDEA when a child with a disability moves from public to private school. As shown in figure 9, these 4 programs enrolled the majority of students participating in disability choice programs in school year 2016-17 (73 percent). Another 5 of these programs—which enrolled 10 percent of students participating in disability choice programs in school year 2016-17—provided information that included inaccurate statements about rights under IDEA, as confirmed by Education officials. Some of these inaccuracies were related to IDEA's "equitable services" provisions, under which parentally placed private school students with disabilities may be eligible to receive federally funded equitable services.³⁵

³⁴Parentally placed children with disabilities may be eligible to be considered for some special education and related services provided by the public school district, referred to as equitable services. Specifically, 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. School districts are required to provide equitable 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. See [GAO-16-712](#).

³⁵We did not conduct a comprehensive legal review of the information that programs made available. During our review of documents provided on program websites, we identified statements in the information provided by five programs that appeared to be potentially inconsistent with IDEA. We then provided the relevant five excerpts from these documents to Education. Education officials confirmed that some of the statements in the five excerpts incorrectly or inaccurately described rights under IDEA. We did not identify the source of the statements when we provided them to Education officials.

Figure 9: Number of Private School Choice Programs for Students with Disabilities Providing Information on Changes in Rights under IDEA When Moving from Public to Private School and Percentage of Children Enrolled in These Programs in School Year 2016-17



Source: GAO summary of information provided by private school choice programs. | GAO-18-94

Note: During our review of documents provided on program websites, we identified statements in the information provided by five programs that appeared to be potentially inconsistent with IDEA. We then provided the relevant five excerpts from these documents to Education. Education officials confirmed that some of the statements in the five excerpts incorrectly or inaccurately described rights under IDEA. We did not conduct a comprehensive legal review of the information that programs made available.

Education officials reiterated that IDEA does not require states to provide notification about changes in disability rights when a parent moves a child from a public school to a private school. However, federal internal control standards state that agencies should provide quality information to external stakeholders.³⁶ In addition, Education officials stated that, in the past, when the agency has been aware of cases where states are providing inconsistent or inaccurate information, the agency has worked with states to correct the information in order to avoid further dissemination of inaccurate information.

³⁶See GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

Education Recommends but Does Not Require That Parents Be Notified of Changes in Rights

Education does not require states or districts to notify parents of key changes in disability rights³⁷ when a parent moves their child from public to private school, but the agency has recommended that states and districts notify parents of these changes. Specifically, in 2001, Education issued a document—which Education refers to as a policy letter—stating that “in order to avoid parental misunderstanding, the Department strongly recommends that the state and local educational agency notify parents who choose private school placement under [a private school choice program] that the students may retain certain rights under Section 504 and Title II of the ADA, although the student will not be entitled to a free appropriate public education under IDEA, while enrolled in the private school.”³⁸

In addition, while Education has issued guidance documents explaining the obligations of states and school districts under IDEA to ensure the equitable participation of parentally placed private school children with disabilities, Education has not developed guidance or other documents that could serve as specific notification to parents of changes in IDEA rights when a parent moves a child with a disability from public to private school. When we asked Education officials about this issue, they reiterated that IDEA does not require such notification, and referred us to two publications by ONPE and OSERS regarding the equitable participation requirements in IDEA that apply to parentally placed private school children. The first is a 2011 ONPE document, titled *The Individuals with Disabilities Education Act: Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools*.³⁹ The second is a 2011 OSERS document, titled *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*

³⁷For purposes of this report, we use the term “special education rights” and “disability rights” to refer to the rights and other protections provided to students with disabilities under IDEA.

³⁸Policy letters are a type of informal guidance, provided in the form of a letter from Education to a specific requester answering a question about a particular situation.

³⁹U.S. Department of Education, Office of Innovation and Improvement, Office of Non-Public Education, *The Individuals with Disabilities Education Act (IDEA): Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools* (Washington, D.C.: March 2011).

(revised April 2011).⁴⁰ While these documents explain how children's rights under IDEA are affected when parents place their child in a private school, they do not specifically address key IDEA rights and protections—such as discipline procedures and the least restrictive environment requirements—that do not apply when a student with a disability is moved from a public school to a private school by their parent. Further, these documents do not include the agency's prior recommendation on parental notification, or provide sample language that stakeholders could use to notify parents of these changes in rights. Education also noted that under IDEA and its regulations, a notice of IDEA procedural safeguards must be provided to parents at least once a year and at other specified times, but also is not required to notify parents that if a child is parentally placed in a private school, the child is not entitled to FAPE and that these key rights and protections no longer apply.⁴¹

A wide variety of stakeholders, including officials from national school choice and disability organizations, private school choice programs, and Education told us that parents in private choice programs do not always understand that they will not have all of the same IDEA rights and protections when moving their children from public to private school. For example, some stakeholders said that confusion arises because parents are under the impression that since school choice programs are operated and funded by the state, and are often designed for students with disabilities, their children will have similar protections to those ensured to public school children under IDEA. Other stakeholders told us that because private schools sometimes request a copy of a student's IEP, parents can mistakenly assume that the private school will provide the services and accommodations outlined in the document.

Among the 17 families we interviewed, their views ranged from not being concerned about possible changes in rights—because they felt their students were not being served well in public schools—to echoing the stakeholder concerns described above. These 17 families also had

⁴⁰U.S. Department of Education, Office of Special Education and Rehabilitative Services, *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools* (Washington, D.C.: April 2011).

⁴¹See 20 U.S.C. § 1415(d), 34 C.F.R. § 300.504. However, according to Education, the notice is required to include a statement that IDEA does not require a school district to pay for the cost of a child's education at a private school, including special education and related services, if the school district made FAPE available to the child and the parents elected to place their child in a private school.

differing understandings of the change in disability rights when enrolling their students in private school choice programs. For example, some families we interviewed said they were not aware that some of the disability services and therapies provided at private schools came at additional costs, because these services at public schools were provided free of charge. Parents of children with physical disabilities said they were surprised that some private schools, including schools for students with disabilities, were not accessible for children with physical disabilities.

Education officials told us that IDEA does not provide it with statutory authority to require states and school districts to give parents notice that IDEA rights and protections—such as discipline procedures and least restrictive environment requirements—do not apply when a student with a disability is moved from public to private school by a parent. Absent a requirement that states notify parents about changes in key federal special education rights when a child is moved from public to private school by their parents, states may inconsistently provide information, contributing to confusion about the change in key federal disability rights and protections.

Conclusions

In the past decade, school choice options, including private school choice programs, have expanded across the country, providing more education alternatives for students and families, and this trend is expected to continue. School choice places more responsibility and decision making in the hands of parents, increasing the importance of high quality information to help parents make informed decisions. As more than half of the current private school choice programs are designed specifically for students with disabilities, it is critical that parents have access to quality information about changes in special education rights when they are considering moving their child from public to private school. Although Education has strongly recommended that states and districts notify parents that IDEA rights change when they move their parentally placed child from public to private school, in 2016-17, more than 80 percent of students in private choice programs designed for students with disabilities were enrolled in a program that either provided no information about changes in IDEA rights or provided some inaccurate information about these changes. Absent a requirement in IDEA that states notify parents of such changes, states are unlikely to begin providing parents with consistent and accurate information about changes that affect some of our nation's most vulnerable children.

Matter for Congressional Consideration

Congress should consider requiring that states notify parents/guardians of changes in students' federal special education rights when a student with a disability is moved from public to private school by their parent.

Recommendation for Executive Action

The Assistant Secretary for Special Education and Rehabilitative Services should review information provided by states related to changes in federal special education rights when a parent places a student with a disability in a private school and work with states to correct inaccurate information.

Agency Comments and Our Evaluation

We provided a draft of this report to Education for review and comment. Education's comments are reproduced in appendix III. Education also provided technical comments, which we incorporated as appropriate.

Education generally agreed with our recommendation to correct inaccurate information provided by states related to changes in federal special education rights when a parent places a student with a disability in a private school. During the course of our review, Education confirmed that five private school choice programs provided information that included inaccurate statements about rights under IDEA. However, Education stated that the department believes it is necessary to review the full documents containing information provided by states, so that it can determine the context in which the information was presented. We will coordinate with Education as appropriate to facilitate such a review. Reviewing and evaluating the information provided by states are important first steps. However, we continue to believe that it is critical that Education take the next step to work with states to correct any inaccurate information about the rights of students with disabilities under IDEA being provided by private school choice programs.

Our draft report also included a recommendation for Education to require states to notify parents/guardians of changes in students' federal special education rights, including that key IDEA rights and protections do not apply when a student with a disability is moved from public to private school by their parent. In response, Education stated that IDEA does not

include statutory authority to require such notice, and suggested that the department instead encourage states to notify parents. However, as noted in our draft report, Education already strongly encourages states and school districts to provide such notice. Despite these efforts, we found that in 2016-17, more than 80 percent of students nationwide who are enrolled in private choice programs designed for students with disabilities were enrolled in a program that either provided no information about changes in IDEA rights, or provided some inaccurate information about these changes. We therefore continue to believe that states should be required, not merely encouraged, to notify parents/guardians about key changes in federal special education rights when a parent moves a child with a disability from public to private school. To this end, we have converted our recommendation into a Matter for Congressional Consideration to require such notice.

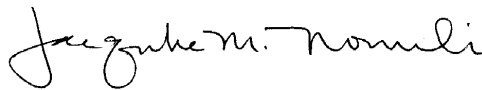
In its comments, Education stated that the draft report title could be improved. Because, in the final report, we issued the Matter for Congressional Consideration discussed above, we have revised the title to reflect that federal actions are needed to ensure parents are notified about key changes in rights for students with disabilities.

Education also inaccurately asserted that statements in the draft report about the availability of information for parents are based on limited reviews and small samples. As stated in the draft report, our findings about the information for parents are derived from two sources: private school choice programs and private schools participating in these programs. Our findings about information provided by private school choice programs are based on a comprehensive review of all 27 voucher and educational savings account programs operating in the United States during the 2016-17 school year. In addition, as noted in the draft report, we verified these findings with officials from each of these programs. Our findings about information participating private schools make available are based on a nationally representative, generalizable sample of websites from 344 private schools participating in voucher programs during the 2016-17 school year. Finally, contrary to Education's assessment that we based findings on a small sample of 17 families, as stated in the draft report, our discussion groups and interviews with these families provided illustrative examples of the types of information families used when making private school choice decisions. These illustrative examples were not the basis of any findings. We have clarified the language in the final report as appropriate.

Further, Education commented that the draft report did not address factors that often lead parents to enroll their children in private schools in state choice programs. These factors were not addressed because they are beyond the scope of our objectives for this report. Finally, Education noted that parents may believe that educational benefits or services provided by private schools to their children with disabilities outweigh any rights conferred by IDEA or services provided by public schools. This is an important point, and this perspective was included in the draft Education reviewed. For example, in the draft Education reviewed, we stated that some families with whom we spoke were not concerned about any changes in rights because they felt their students were not being well served in public schools.

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. 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 IV.



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

Appendix I: Objectives, Scope, and Methodology

This report examines (1) the academic, administrative, and financial accountability mechanisms in private school choice programs; (2) the information available to the public and prospective families on private school choice programs and participating private schools; and (3) how families of students with disabilities are informed about any changes in their rights under federal law when enrolling in private school choice programs, and how the U.S. Department of Education provides information to families about these rights.

Overall Methodology

To obtain information for all three objectives, we reviewed relevant federal laws, regulations, and guidance. To determine key program characteristics, including accountability mechanisms these programs had in place and the type of information they provided publicly, we reviewed publically available documents from all 23 voucher programs and four education savings account (ESA) programs, referred to in this report as private school choice programs, operating in the United States as of January 2017 to obtain information about program design and requirements. We confirmed this information with each program. In addition, we reviewed documents and conducted interviews with program officials in six private school choice programs in five states (Arizona, Florida, Indiana, Ohio, and Wisconsin). We also interviewed officials from the U.S. Department of Education (Education) as well as national stakeholder groups and private school choice researchers, which we selected to obtain a range of perspectives on private school choice initiatives. To describe information that participating private schools make available to the public, we conducted a review of a nationally representative stratified random sample of 344 private schools participating in one of the voucher programs to identify information provided on school websites to parents and the public.¹ To obtain

¹Families considering private school choice options may use many different sources of information to guide their decision making. Reports and interviews from private school choice stakeholders suggest that the internet, including schools' websites, is one of several sources of information important to families.

information on how parents are informed about changes in their child's rights under federal law, we reviewed Education guidance and policy documents on the Individuals with Disabilities Education Act (IDEA) and parentally placed private school students. To provide examples of how individual schools and programs make information available to the public and families, we also visited and interviewed officials at two private school choice programs, three private schools, and one school district in Florida.² Additionally, we spoke with 17 families who had recently interacted with private school choice programs.

We conducted this performance audit from August 2016 to November 2017 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.

Analysis of Private School Choice Programs' Accountability Mechanisms

We defined "accountability mechanisms" as requirements that private school choice programs place on participating private schools. These requirements are intended to set minimum standards that private schools must meet to participate in the choice program. We compiled our list of mechanisms based on research conducted by national school choice organizations and other organizations, interviews with private school choice researchers, and our previous audit work. The list includes mechanisms likely to be used by multiple programs and is not meant to be exhaustive. We confirmed the appropriateness of our list of selected mechanisms during subsequent interviews with private school choice researchers and national stakeholder groups who confirmed that the mechanisms were common elements in program statutes, and/or standard mechanisms for establishing accountability in education. To identify the presence of each of the mechanisms in a choice program, we

²In our prior work on private school choice, we visited with state, district, and school choice program officials in Arizona, Indiana, Ohio, and Wisconsin. See GAO, *School Choice: Private School Choice Programs Are Growing and Can Complicate Providing Certain Federally Funded Services to Eligible Students*, [GAO-16-712](#) (Washington, D.C.: Aug. 11, 2016).

reviewed publicly available documents on the program's website. We also reviewed documents linked to the program's website. To confirm our assessment of each school choice program, we sent our analysis to the program's administrators for verification. All programs responded and any changes are reflected in the report. We did not independently verify these requirements in state laws or regulations.

Interviews in Selected Private School Choice Programs

To obtain a richer understanding of accountability and transparency decisions, and challenges facing private school choice programs, we selected a non-generalizable sample of six private school choice programs in five states (Arizona, Florida, Indiana, Ohio, and Wisconsin) for a more in-depth review. These selected programs collectively served the majority of voucher and ESA students in school year 2016-17. In total, these programs represented about two-thirds of all participating students. For the selected programs, we reviewed program documents, and conducted interviews with programs officials and school choice organizations.

In addition, we conducted a site visit to Florida in March 2017.³ Florida has the second largest school voucher program (the John M. McKay Scholarships for Students with Disabilities Program), and the largest ESA program (the Gardiner Scholarship Program). Collectively the two programs served approximately one-fifth (22 percent) of voucher and ESA students nationwide in school year 2016-17. To gather information on all three objectives, we interviewed officials from program administration offices for both programs. To obtain schools' perspective on all three objectives, we interviewed officials at three private schools that participate in both school choice programs, and officials at a public school district. To obtain information on how families of students with disabilities are informed about any changes in their rights under federal law when enrolling in private school choice programs and families' understanding of these changes, we conducted a series of interviews with families of students with disabilities.

³In our prior work on private school choice programs, we conducted site visits to states and districts associated with the four other selected private school choice programs. See [GAO-16-712](#).

Private Schools' Websites Review

To determine the extent to which participating private schools provided information to prospective families and the public, we reviewed websites from a nationally representative sample of 344 private schools eligible to participate in one of the 23 voucher programs in operation as of January 2017. We limited our review to voucher school programs because we were unable to determine the universe of schools participating in all of the four ESA programs operating at the time of our review.

Our sampling frame consisted of all schools eligible for participation in a private school choice voucher program. To create the frame, we downloaded the most currently available list of eligible schools as of April 3, 2017, from each program's website.⁴ We identified 4,011 schools eligible to participate in at least one of the private school choice voucher programs covered by this review. Ohio's Jon Peterson Special Needs Scholarship Program and Autism Scholarship Program allow multiple types of providers to receive voucher funds. As such, the lists for these programs included public schools, private companies, individual specialists, chartered private schools, and unchartered private schools. A chartered private school is a private school that has been approved by Ohio's State Board of Education, according to program officials. As program officials told us, chartering is Ohio's version of state accreditation. Because chartered schools were the only readily identifiable type of provider included in the downloaded lists from the program's website, we decided to limit our list to chartered private schools and drop other providers from our schools list.

Because web addresses were not always included in programs' lists of schools, we used information provided in the lists to conduct internet searches to locate school websites. This enabled us to produce an estimate on the number of participating schools without a website. In order to review comparable information across the sampled schools' websites, we developed a standardized web-based data collection instrument which we used to examine each website for academic,

⁴Some programs' lists contained schools eligible to participate during the 2016-17 school year. Others listed schools eligible for participation during the 2017-18 school year. Mississippi's Nate Rogers Scholarship for Students with Disabilities Program did not have a downloadable schools list because only one school is eligible for participation in the program. We called program officials to obtain the school's name and added the school to our compilation.

administrative, and financial information and information related to students with disabilities. We used a combination of information from our audit work on identifying accountability mechanisms, Education guidance on choosing a school,⁵ and our interviews to develop the questions included in the data collection instrument. We reviewed all websites from April 19 through 27, 2017. An analyst recorded information in the data collection instrument. The information was then checked for completeness by another analyst. We then analyzed the information across schools.

We stratified the population using two design variables—one for whether or not the school participated in programs with eligibility limited to students with disabilities, and one for whether or not the school participated in one of the largest four voucher programs. This resulted in four sampling strata. The resulting sample of 344 schools allowed us to make national estimates about the availability of school information by program type.⁶ Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval (e.g., plus or minus 6 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. Confidence intervals are provided along with each sample estimate in the report. All website review results presented in the body of this report are generalizable to the estimated population except where otherwise noted.

Parent Interviews and Questionnaires

To obtain information from parents on both our second and third objectives, we conducted interviews with 17 families who had recent experiences with private school choice programs. We also created a short questionnaire that included questions on the type of information families want and use when making private school choice decisions for their

⁵U.S. Department of Education, Office of Innovation and Improvement, *Choosing a School for Your Child* (Washington, D.C.: 2007).

⁶Two of the original 346 schools in the sample from the lists provided on program websites were no longer in operation and were treated as out of scope for a final sample of 344 school websites.

children. The questionnaire also included questions on how families of students with disabilities are informed about any changes in their rights under federal law when enrolling in private school choice programs and their understanding of those changes. We worked with private school choice organizations and national stakeholder groups that directly communicate with parents to contact parents on our behalf to answer the questionnaire and be interviewed. The questionnaire was given to each parent we interviewed or who participated in each of the discussion groups conducted during our Florida site visit. Parents completing the questionnaire had at least one child with a disability and either participated or considered participating in a private school choice program designed for students with disabilities.

Appendix II: Key Information about Private School Choice Programs, School Year 2016-17

Table 3: Key Information about Private School Choice Programs, School Year 2016-17

State/Program	Key Information	Accountability Mechanisms									
		Testing ^a	Core subjects ^b	Accreditation ^c	Health and safety ^d	Background checks ^e	Teacher qualifications ^f	Paraprofessional/ Specialist qualifications ^g	Site visits ^h	Fiscal soundness ⁱ	Annual audit ^j
Arkansas/ Succeed Scholarship Program	Participating students: 59 Participating private schools: 27 Student eligibility primarily based on: Disability	Yes	-	Yes	Yes	-	Yes	Yes	-	Yes	-
Arizona/ Empowerment Scholarship Account Program (ESA)	Participating students: 3,354 Participating private schools: n/a (All non-discriminatory private schools serving students with disabilities in the state are eligible) Student eligibility primarily based on: Multiple criteria, including disability	-	Yes	-	-	-	-	Yes	-	-	-
District of Columbia/ Opportunity Scholarship Program	Participating students: 1,154 Participating private schools: 46 Student eligibility primarily based on: Family income, residency	Yes	-	Yes	Yes	Yes	Yes	-	Yes	Yes	Yes
Florida/ Gardiner Scholarship Program (ESA)	Participating students: 8,109 Participating private schools: 1,379 Student eligibility primarily based on: Disability	Yes	-	-	Yes	Yes	Yes	Yes	-	Yes	-
Florida/ John M. McKay Scholarships for Students with Disabilities Program	Participating students: 31,499 Participating private schools: 1,780 Student eligibility primarily based on: Disability	-	-	-	Yes	Yes	Yes	-	Yes	Yes	-
Georgia/ Special Needs Scholarship Program	Participating students: 4,185 Participating private schools: 293 Student eligibility primarily based on: Disability	Yes	Yes	Yes	Yes	-	Yes	-	Yes	Yes	-

**Appendix II: Key Information about Private
School Choice Programs, School Year 2016-17**

State/Program	Key Information	Accountability Mechanisms									
		Testing ^a	Core subjects ^b	Accreditation ^c	Health and safety ^d	Background checks ^e	Teacher qualifications ^f	Paraprofessional/ Specialist qualifications ^g	Site visits ^h	Fiscal soundness ⁱ	Annual audit ^j
Indiana/ Choice Scholarship Program	Participating students: 34,299 Participating private schools: 313 Student eligibility primarily based on: Family income and other pathways	Yes	Yes	Yes	Yes	Yes	-	-	Yes	-	-
Louisiana/ Louisiana Scholarship Program	Participating students: 7,110 Participating private schools: 129 Student eligibility primarily based on: Family income; attended a C, D, F or T school; attending Kindergarten for the first time	Yes	Yes	-	Yes	Yes	Yes	-	Yes	Yes	Yes
Louisiana/ School Choice Program for Certain Students with Exceptionalities	Participating students: 372 Participating private schools: 23 Student eligibility primarily based on: Disability	-	-	-	Yes	Yes	Yes	-	Yes	Yes	-
Maryland/ Broadening Options and Opportunities for Students Today (BOOST) Program	Participating students: 2,405 Participating private schools: 151 Student eligibility primarily based on: Family income	Yes	-	-	Yes	Yes	-	-	Yes	-	-
Mississippi/ Dyslexia Therapy Scholarship for Students with Dyslexia Program	Participating students: 165 Participating private schools: 5 Student eligibility primarily based on: Disability	-	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes
Mississippi/ Nate Rogers Scholarship for Students with Disabilities Program	Participating students: 0 Participating private schools: 1 Student eligibility primarily based on: Disability	-	-	Yes	-	-	-	Yes	-	-	-
Mississippi/ Education Scholarship Account (ESA)	Participating students: 425 Participating private schools: 29 Student eligibility primarily based on: Disability	-	Yes	Yes	Yes	Yes	-	-	-	-	-
North Carolina/ Opportunity Scholarship Program	Participating students: 5,624 Participating private schools: 437 Student eligibility primarily based on: Family income	Yes	-	-	Yes	-	-	-	-	-	-

**Appendix II: Key Information about Private
School Choice Programs, School Year 2016-17**

State/Program	Key Information	Accountability Mechanisms									
		Testing ^a	Core subjects ^b	Accreditation ^c	Health and safety ^d	Background checks ^e	Teacher qualifications ^f	Paraprofessional/ Specialist qualifications ^g	Site visits ^h	Fiscal soundness ⁱ	Annual audit ^j
North Carolina/ Special Education Grants for Children with Disabilities	Participating students: 828 Participating private schools: 238 Student eligibility primarily based on: Disability	Yes	-	-	Yes	-	-	-	-	-	-
Ohio/ Autism Scholarship Program	Participating students: 3,325 Participating private schools: 285 Student eligibility primarily based on: Disability	-	-	-	Yes	Yes	Yes	Yes	Yes	Yes	-
Ohio/ Cleveland Scholarship and Tutoring Program	Participating students: 8,088 Participating private schools: 40 Student eligibility primarily based on: Family income, residency	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-
Ohio/ Educational Choice Scholarship Program (EdChoice)	Participating students: 22,892 Participating private schools: 450 Student eligibility primarily based on: Attending failing public school	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-
Ohio/ Educational Choice Scholarship Expansion Program (EdChoice)	Participating students: 7,840 Participating private schools: 450 Student eligibility primarily based on: Family income	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-
Ohio/ Jon Peterson Special Needs Scholarship Program	Participating students: 4,635 Participating private schools: 302 Student eligibility primarily based on: Disability	Yes	-	-	Yes	Yes	Yes	Yes	Yes	Yes	-
Oklahoma/ Lindsey Nicole Henry Scholarship Program for Children with Disabilities	Participating students: 542 Participating private schools: 56 Student eligibility primarily based on: Disability	-	-	Yes	Yes	-	Yes	-	-	Yes	-
Tennessee/ Individualized Education Account Program (ESA)	Participating students: 34 Participating private schools: 9 Student eligibility primarily based on: Disability	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-
Utah/ Carson Smith Special Needs Scholarship Program	Participating students: 905 Participating private schools: 49 Student eligibility primarily based on: Disability	Yes	-	-	Yes	Yes	Yes	-	Yes	-	Yes

**Appendix II: Key Information about Private
School Choice Programs, School Year 2016-17**

State/Program	Key Information	Accountability Mechanisms									
		Testing ^a	Core subjects ^b	Accreditation ^c	Health and safety ^d	Background checks ^e	Teacher qualifications ^f	Paraprofessional/ Specialist qualifications ^g	Site visits ^h	Fiscal soundness ⁱ	Annual audit ^j
Wisconsin/ Milwaukee Parental Choice Program	Participating students: 27,982 Participating private schools: 121 Student eligibility primarily based on: Family income, residency	Yes	Yes	Yes	Yes	-	Yes	Yes	-	Yes	Yes
Wisconsin/ Racine Parental Choice Program	Participating students: 2,531 Participating private schools: 19 Student eligibility primarily based on: Family income, residency	Yes	Yes	Yes	Yes	-	Yes	Yes	-	Yes	Yes
Wisconsin/ Special Needs Scholarship Program	Participating students: 205 Participating private schools: 26 Student eligibility primarily based on: Disability	-	Yes	Yes	Yes	Yes	-	-	-	Yes	Yes
Wisconsin/ Wisconsin Parental Choice Program	Participating students: 3,057 Participating private schools: 121 Student eligibility primarily based on: Family income	Yes	Yes	Yes	Yes	-	Yes	Yes	-	Yes	Yes

Legend: ✓ = Program has mechanism.

Source: GAO summary of information provided by private school choice program officials. | GAO-18-94

Note: The information in this table about program requirements was gathered from our review of program documents, and confirmed by program officials. We did not conduct an independent review of state laws and regulations. For more information on our methodology, see appendix I.

^aTesting is defined as a program requirement that all participating private schools must administer tests.

^bAccreditation is defined as a program requirement that all participating private schools must be accredited.

^cCore subjects is defined as a program requirement that all participating private schools teach specific academic subjects.

^dHealth and safety is defined as a program requirement that all participating private schools must follow state and local health and safety codes.

^eTeacher qualifications is defined as a program requirement that all private school teachers at a participating school must have specified qualifications and/or certifications.

^fBackground checks is defined as a program requirement that all participating private schools' employees, or all employees with direct unsupervised contact with children, undergo criminal background checks.

^gParaprofessional/specialist qualifications is defined as a program requirement that paraprofessionals and/or specialists at a participating school must have specified qualifications and/or certifications.

^hSite visits is defined as a program requirement that all participating private schools submit to site visits by program officials.

ⁱProof of fiscal soundness is defined as a program requirement that all participating private schools must provide some type of proof of fiscal soundness or evidence of financial viability.

**Appendix II: Key Information about Private
School Choice Programs, School Year 2016-17**

¹Annual audit is defined as a program requirement that all participating private schools must conduct an unconditional annual audit or independent financial review.

Appendix III: Comments from the U.S. Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

October 19, 2017

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

Dear Ms. Nowicki:

Thank you for providing the Department of Education (Department) the opportunity to review and comment on the Government Accountability Office (GAO) draft report: "Private School Choice: Programs Using Public Funds for Private School Expenses Provide Inconsistent and Incorrect Information on Special Education Rights" (GAO-18-94). The Department's responses to the draft report's two recommendations, as well as other general comments on the draft report, are set out below. In addition, enclosed are technical comments.

The Department agrees that it is important that parents of children with disabilities have information to be able to make informed choices when considering whether to place their child in a private school and has disseminated information on this topic. For example, we have posted on our website a booklet titled, "The Individuals with Disabilities Education Act: Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools."¹ Additionally, the Department published a document, "Choosing A School For Your Child," several years ago,² which we are updating.

While the draft report provides some useful information about the important topic of parents making informed choices, as a preliminary matter, we believe that the title of the draft report can be improved and made more consistent with the information presented in the draft report. Thus, we suggest that a more appropriate title would be: "Parents of Children with Disabilities Would Benefit From More Complete Information About Private School Choice Programs."

GAO examined 27 private school voucher and Education Savings Account programs (private school choice programs) in operation as of January 2017, including reviewing academic, administrative, and financial accountability mechanisms. Fifteen of these programs were designed specifically for students with disabilities. GAO interviewed families who had at least one child with a disability. Specifically, GAO noted that 15 of the 17 families they spoke with had students enrolled in private school choice programs at the time of their discussion, and a

¹ <https://www2.ed.gov/admins/lead/speced/privateschools/idea.pdf>

² <https://www2.ed.gov/parents/schools/find/choose/choosing.pdf>

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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number of families expressed satisfaction with the private schools their students attended. GAO also found that of the 15 programs specifically for students with disabilities, four programs that enrolled 73 percent of students participating in disability choice programs provided no information about how IDEA rights change when such students move from public to private school, while another five of these programs that enrolled 10 percent of such students provided information, but included some statements that were inconsistent with the IDEA. Thus, we do not believe that the current title of the draft is consistent with GAO's own information or the full scope of this study.

Recommendation 1: *The Assistant Secretary for Special Education and Rehabilitative Services should correct inaccurate information provided by states related to changes in federal special education rights when a parent places a student with a disability in a private school.*

Response: The Department will review the information provided to parents about Federal rights under IDEA in those States where GAO reviewed documents. Because GAO's review included excerpts from specific documents, and the Department was not provided with the full documents or information regarding the context in which the documents were presented, the Department must first obtain more information from GAO regarding those documents and then determine if further information would be needed. This is necessary for the Assistant Secretary to determine whether information provided by States should be corrected.

Thus, we suggest that GAO revise Recommendation 1 to read as follows: *The Assistant Secretary for Special Education and Rehabilitative Services should review information provided by states related to changes in special education rights when a parent places a student with a disability in a private school. If such information is found to be inaccurate, the Assistant Secretary for Special Education and Rehabilitative Services should determine what actions are necessary to correct the information.*

Recommendation 2: *The Assistant Secretary for Special Education and Rehabilitative Services should require that states notify parents/guardians of changes in students' federal special education rights, including that key IDEA rights and protections--such as discipline procedures and the least restrictive environment requirements--do not apply when a student with a disability is moved from public to private school by their parent. Such notice could be included, for example, in an existing notification vehicle such as the IDEA notice of procedural safeguards.*

Response: IDEA does not include statutory authority to require States and school districts to give parents notice that certain IDEA rights and protections--such as discipline procedures and the least restrictive environment requirements--do not apply when a student with a disability is moved from public to private school by his or her parents. IDEA includes two separate applicable parent notice requirements and includes express statutory language on the information that each notice must contain. The statute requires that prior written notice be provided to parents of actions proposed or refused by the local educational agency (LEA) under 20 U.S.C. 1415(b)(3) and (c)(1). The statute also requires that a notice of procedural safeguards be provided to parents at least once a year and at other specified times under 20 U.S.C. 1415(d)(2), and the statute specifies the information this notice must contain.

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In particular, the procedural safeguards notice must include an explanation of requirements for unilateral placement by parents of children in private schools at public expense, as required by 20 U.S.C. § 1415(d)(2)(H). This notice also must include the statement that IDEA does not require an LEA to pay for the cost of a child's education at a private school, including special education and related services, if the LEA made a free appropriate public education available to the child and the parents elected to place their child in a private school. Finally, the procedural safeguards notice must include a statement informing parents that, in this situation, their child is included in the population of children whose needs are addressed under IDEA's equitable services provisions. See 20 U.S.C. § 1412(a)(10)(C)(i). However, IDEA does not include statutory language requiring States and school districts to give parents the type of notice GAO has recommended.

Thus, we recommend that Recommendation 2 be revised to read as follows: *The Assistant Secretary for Special Education and Rehabilitative Services should encourage states to notify parents/guardians of changes in students' federal special education rights, including that key IDEA rights and protections--such as discipline procedures and the least restrictive environment requirements--do not apply when a student with a disability is moved from public to private school by his or her parent. Such notice could be included, for example, in an existing notification vehicle such as the IDEA notice of procedural safeguards.*

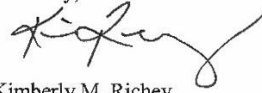
Based on our review of the draft report and the limited data GAO has provided, it appears that GAO may be assuming that parents who select private school choice programs for their children are unaware that their child's access to some of IDEA's rights and protections will change as a result of that choice. Statements about the availability of information for parents included in the draft report are based on limited reviews and small samples. The conclusions outlined in the draft report imply the lack of information affects the choices made by parents, but the data in the report that "a number of families expressed satisfaction with the private schools their students attended" belies that conclusion. Parents will seek information consistent with the individual needs of their children; GAO noted that parents expressed a need for more information on disability-related services schools offer. Parents may believe that educational benefits or services provided by private schools to their children with disabilities outweigh any rights conferred by IDEA or services provided by public schools. Additionally, the draft report does not address other factors that often lead parents to enroll their children in private schools in State choice programs. We believe the report would be strengthened if this limitation in scope were mentioned.

While the need for parents of children with disabilities to have access to correct information is extremely important, the Department does not believe there is a conflict between ensuring that rights under IDEA are protected and offering parents additional opportunities to educate their children. Offering parents of students with disabilities the opportunity to choose among a private school, a different public school, or a non-public school through a State-operated voucher or Education Savings Account program empowers the parents to ensure their children receive the educational services that work best for their child. If parents are not satisfied with the private options available, they maintain all their current options and rights within their local public school system, including their right to re-enroll their child in a public school program.

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We appreciate the opportunity to comment on the draft report and would be glad to work with your office as you finalize the report.

Sincerely,



Kimberly M. Richey
Acting Assistant Secretary for Special Education
and Rehabilitative Services

Enclosure

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Jacqueline M. Nowicki, (617) 788-0580 or nowickij@gao.gov

Staff Acknowledgments

In addition to the contact named above, Nagla'a El-Hodiri (Assistant Director), Alison Grantham (Analyst-in-Charge), Kelsey Burdick, Cheryl Jones, and Alex Squitieri made key contributions to this report. Also contributing to this report were Susan Aschoff, Carl Barden, James Bennett, Deborah Bland, Sarah Cornetto, Lawrence Malenich, Shelia McCoy, Tom Moscovitch, Kelly Rubin, Andrew Stavisky and Barbara Steel-Lowney.

Appendix V: Accessible Data

Data Tables

Data Table for Figure 1: Private School Choice Programs by State, Operating in School Year 2016-17

State	Number of programs	Number of students participating
Arizona	1	Between 1,000 and 10,000
Arkansas	1	Less than 1,000
District of Columbia	1	Between 1,000 and 10,000
Florida	2	More than 30,000
Georgia	1	Between 1,000 and 10,000
Indiana	1	More than 30,000
Louisiana	2	Between 1,000 and 10,000
Maryland	1	Between 1,000 and 10,000
Mississippi	3	Less than 1,000
North Carolina	2	Between 1,000 and 10,000
Ohio	5	More than 30,000
Oklahoma	1	Less than 1,000
Tennessee	1	Less than 1,000
Utah	1	Less than 1,000
Wisconsin	4	More than 30,000

Data Table for Figure 2: Key Academic, Administrative, and Financial Accountability Mechanisms That May Be Used in Private School Choice Programs for Participating Private Schools

Academic	Administrative	Financial
<ul style="list-style-type: none"> • Testing: Schools to administer tests • Schools to administer state standardized or norm-referenced test • Test results to be reported publicly • Core subjects: Schools to teach core academic subjects • Accreditation: Schools to be accredited • Schools to be accredited by an agency approved by the state 	<ul style="list-style-type: none"> • Health and safety: Schools to follow state and local health and safety codes • Background checks: Schools to conduct background checks on all employees • Teacher qualifications: Schools to hire teachers with minimum qualifications • Schools to hire teachers with degrees or state teaching licenses • Paraprofessional qualifications: Schools to hire paraprofessionals or specialists with minimum qualifications • Site visits: Schools to submit to site visits by program officials 	<ul style="list-style-type: none"> • Annual audit: Schools to conduct annual audits or independent financial reviews • Proof of fiscal soundness: Schools to provide proof of fiscal soundness or financial viability

Data Table for Figure 3: Academic Accountability Mechanisms in 27 Voucher and Education Savings Account (ESA) Private School Choice Programs, Operating in School Year 2016-17

9 programs that require testing publicly report results

	Not required by programs designed for students with disabilities	Not required by other programs	Required by programs designed for students with disabilities	Required by other programs
Testing ^a	1	8	7	11
Accreditation ^b	4	7	8	8
Core subjects ^c	3	10	5	9

Data Table for Figure 4: Administrative Accountability Mechanisms in 27 Voucher and Education Savings Account (ESA) Private School Choice Programs, Operating in School Year 2016-17

13 programs require teaching licenses or degrees, 5 for students with disabilities and 8 for other students

	Not required by programs designed for students with disabilities	Not required by other programs	Required by programs designed for students with disabilities	Required by other programs
Health and safety ^a	1	1	14	11
Teacher qualifications ^b	4	4	11	8
Background checks ^c	5	5	10	7
Paraprofessional/ specialist qualifications ^d	5	8	7	7
Site visit ^e	5	7	8	7

Data Table for Figure 5: Financial Accountability Mechanisms in 27 Voucher and Education Savings Account (ESA) Private School Choice Programs, Operating in School Year 2016-17

	Not required by programs designed for students with disabilities	Not required by other programs	Required by programs designed for students with disabilities	Required by other programs
Proof of fiscal soundness ^a	7	5	10	5
Annual audit ^b	7	12	3	5

Data Table for Figure 6: Number of Private School Choice Programs Providing Different Types of Information on Participating Schools, as of April 2017

category	Number of profiles with that information
Address	21 of 27
Contact information	21 of 27
Grades served	20 of 27
Teacher qualifications	8 of 27
Accreditation status	6 of 27
Staff background checks	5 of 27
Race/ethnicity data	5 of 27
Student performance data	5 of 27
School performance data	5 of 27
Graduation rate	4 of 27
Years in operation	2 of 27

Source: GAO analysis of program documents. | GAO-18-94

Data Table for Figure 7: Estimated Percentage of Private Voucher Schools Providing Information on Their Websites, as of April 2017

	Estimated percentage of private school websites	Lower bound	Upper bound
Address and phone	99	96	100
Teaching philosophy or Curriculum	85	80	89
Years in operation	68	63	74
Tuition	64	58	70
Fees (beyond tuition)	63	57	69
Accreditation	64	58	69
Transportation	50	44	56
Information for students with disabilities	44	38	50
Teacher qualifications	39	33	45
Total enrollment	27	22	32
Student performance data	13	9	17

Data Table for Figure 8: Estimates of Private Schools in Disability Voucher Programs Providing Special Education/Disability-Related Information Online, as of April 2017

	Estimated percentage	Lower bound	Upper bound
Whether teachers are trained to serve students with disabilities	5	2	11
Whether the types of disabilities served are specified	14	9	21
Whether the types of disabilities not served are specified	7	3	12
Whether the school exclusively serves students with specific disabilities	9	5	15

Data Table for Figure 9: Number of Private School Choice Programs for Students with Disabilities Providing Information on Changes in Rights under IDEA When Moving from Public to Private School and Percentage of Children Enrolled in These Programs in School Year 2016-17

	Number of non-disability programs providing information on changes in disability rights	Number of disability programs providing information on changes in disability rights	Percentage of students in a disability program
Information provided with required signature	1	2	1%
Information provided in FAQ or other parent document	6	4	16%
Inaccurate information provided	0	5	10%
No information provided	5	4	73%

Agency Comment Letter

Text of Appendix III: Comments from the U.S. Department of Education

Page 1

October 19, 2017

Ms. Jacqueline M. Nowicki

Director, Education, Workforce, and Income Security Issues Government Accountability Office

441 G Street, NW Washington, DC 20548

Dear Ms. Nowicki:

Thank you for providing the Department of Education (Department) the opportunity to review and comment on the Government Accountability Office (GAO) draft report: "Private School Choice: Programs Using Public Funds for Private School Expenses Provide Inconsistent and Incorrect

Information on Special Education Rights" (GAO-18-94). The Department's responses to the draft report's two recommendations, as well as other general comments on the draft report, are set out below. In addition, enclosed are technical comments.

The Department agrees that it is important that parents of children with disabilities have information to be able to make informed choices when considering whether to place their child in a private school and has disseminated information on this topic. For example, we have posted on our website a booklet titled, "The Individuals with Disabilities Education Act: Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools."¹ Additionally, the Department published a document, "Choosing A School For Your Child," several years ago,² which we are updating.

While the draft report provides some useful information about the important topic of parents making informed choices, as a preliminary matter, we believe that the title of the draft report can be improved and made more consistent with the information presented in the draft report. Thus, we suggest that a more appropriate title would be: "Parents of Children with Disabilities Would Benefit From More Complete Information About Private School Choice Programs."

GAO examined 27 private school voucher and Education Savings Account programs (private school choice programs) in operation as of January 2017, including reviewing academic, administrative, and financial accountability mechanisms. Fifteen of these programs were designed specifically for students with disabilities. GAO interviewed families who had at least one child with a disability. Specifically, GAO noted that 15 of the 17 families they spoke with had students enrolled in private school choice programs at the time of their discussion, and a

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number of families expressed satisfaction with the private schools their students attended. GAO also found that of the 15 programs specifically for students with disabilities, four programs that enrolled 73 percent of students participating in disability choice programs provided no

¹ <https://www2.ed.gov/admins/leadisped/privateschools/idea.pdf>

² <https://www2.ed.gov/parents/schools/find/choose/choosing.pdf>

information about how IDEA rights change when such students move from public to private school, while another five of these programs that enrolled 10 percent of such students provided information, but included some statements that were inconsistent with the IDEA. Thus, we do not believe that the current title of the draft is consistent with GAO's own information or the full scope of this study.

Recommendation 1:

The Assistant Secretary for Special Education and Rehabilitative Services should correct inaccurate information provided by states related to changes in federal special education rights when a parent places a student with a disability in a private school.

Response:

The Department will review the information provided to parents about Federal rights under IDEA in those States where GAO reviewed documents. Because GAO's review included excerpts from specific documents, and the Department was not provided with the full documents or information regarding the context in which the documents were presented, the Department must first obtain more information from GAO regarding those documents and then determine if further information would be needed. This is necessary for the Assistant Secretary to determine whether information provided by States should be corrected.

Thus, we suggest that GAO revise Recommendation 1 to read as follows: The Assistant Secretary for Special Education and Rehabilitative Services should review information provided by states related to changes in special education rights when a parent places a student with a disability in a private school. If such information is found to be inaccurate, the Assistant Secretary for Special Education and Rehabilitative Services should determine what actions are necessary to correct the information.

Recommendation 2:

The Assistant Secretary for Special Education and Rehabilitative Services should require that states notify parents/guardians of changes in students' federal special education rights, including that key IDEA rights and protections--such as discipline procedures and the least restrictive environment requirements--do not apply when a student with a disability is moved from public to private school by their parent. Such notice could

be included, for example, in an existing notification vehicle such as the IDEA notice of procedural safeguards.

Response:

IDEA does not include statutory authority to require States and school districts to give parents notice that certain IDEA rights and protections--such as discipline procedures and the least restrictive environment requirements--do not apply when a student with a disability is moved from public to private school by his or her parents. IDEA includes two separate applicable parent notice requirements and includes express statutory language on the information that each notice must contain. The statute requires that prior written notice be provided to parents of actions proposed or refused by the local educational agency (LEA) under 20 U.S.C. 1415(b)(3) and (c)(1). The statute also requires that a notice of procedural safeguards be provided to parents at least once a year and at other specified times under 20 U.S.C. 1415(d)(2), and the statute specifies the information this notice must contain.

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In particular, the procedural safeguards notice must include an explanation of requirements for unilateral placement by parents of children in private schools at public expense, as required by 20 U.S.C. § 1415(d)(2)(H). This notice also must include the statement that IDEA does not require an LEA to pay for the cost of a child's education at a private school, including special education and related services, if the LEA made a free appropriate public education available to the child and the parents elected to place their child in a private school. Finally, the procedural safeguards notice must include a statement informing parents that, in this situation, their child is included in the population of children whose needs are addressed under IDEA's equitable services provisions. See 20 U.S.C. § 1412(a)(10)(C)(i). However, IDEA does not include statutory language requiring States and school districts to give parents the type of notice GAO has recommended.

Thus, we recommend that Recommendation 2 be revised to read as follows: The Assistant Secretary for Special Education and Rehabilitative Services should encourage states to notify parents/guardians of changes in students' federal special education rights, including that key IDEA rights and protections--such as discipline procedures and the least restrictive environment requirements--do not apply when a student with a disability is moved from public to private school by his or her parent.

Such notice could be included, for example, in an existing notification vehicle such as the IDEA notice of procedural safeguards.

Based on our review of the draft report and the limited data GAO has provided, it appears that GAO may be assuming that parents who select private school choice programs for their children are unaware that their child's access to some of IDEA's rights and protections will change as a result of that choice. Statements about the availability of information for parents included in the draft report are based on limited reviews and small samples. The conclusions outlined in the draft report imply the lack of information affects the choices made by parents, but the data in the report that "a number of families expressed satisfaction with the private schools their students attended" belies that conclusion. Parents will seek information consistent with the individual needs of their children; GAO noted that parents expressed a need for more information on disability-related services schools offer. Parents may believe that educational benefits or services provided by private schools to their children with disabilities outweigh any rights conferred by IDEA or services provided by public schools. Additionally, the draft report does not address other factors that often lead parents to enroll their children in private schools in State choice programs. We believe the report would be strengthened if this limitation in scope were mentioned.

While the need for parents of children with disabilities to have access to correct information is extremely important, the Department does not believe there is a conflict between ensuring that rights under IDEA are protected and offering parents additional opportunities to educate their children. Offering parents of students with disabilities the opportunity to choose among a private school, a different public school, or a non-public school through a State-operated voucher or Education Savings Account program empowers the parents to ensure their children receive the educational services that work best for their child. If parents are not satisfied with the private options available, they maintain all their current options and rights within their local public school system, including their right to re-enroll their child in a public school program.

Page 4

We appreciate the opportunity to comment on the draft report and would be glad to work with your office as you finalize the report.

Kimberly M. Richey

Acting Assistant Secretary for Special Education and Rehabilitative Services

Enclosure

Page 5

U.S. Department of Education (Department) Technical Comments on Draft GAO Report (GAO-18-94) on Private School Choice

Highlights page, second paragraph, the reference to GAO's estimate that fewer than half the private schools participating in voucher programs "provide special education or disability-related information on their websites" is confusing in light of the material in Appendix II. That Appendix cites disability as the primary eligibility factor in admissions to 15 of 27 programs, a substantial majority.

Highlights page, third paragraph, the draft report states: "GAO found private school choice programs are inconsistently providing information on changes in key protections and rights under the Individuals with Disabilities Education Act (IDEA) when parents move a child with a disability from public to private school." The narrative continues: "In school year 2016-17, 83 percent of students enrolled in a program designed specifically for students with disabilities were in a program that provided either no information or inaccurate information about changes in IDEA rights, as confirmed by the U.S. Department of Education (Education)." (GAO later states that it obtained this impression based on interviews with 17 families, comments made by stakeholder organizations, and comments provided by Education.)

The Department cannot confirm whether programs provided no information about changes in special education rights when parents enroll their child in a private school choice program, and the statements that the Department commented on that contained inaccurate information were provided without context. We suggest that GAO clarify that information was gathered from a variety of sources. We suggest revising the sentence in the paragraph above to read: "In school year 2016-17, 83 percent of students enrolled in a program designed specifically for students with disabilities were in a program that provided either no information (73 percent) or some inaccurate information (10 percent) about changes in IDEA rights; the inaccuracies in the information for the programs representing 10 percent of these students were confirmed by

the Department based on its review of discrete statements that GAO asked the Department to review."

Page 3, footnote 8, the definition of "participating private school" is confusing. Under this definition, a school without a single student enrolled through a choice program would be a "participant." Please consider substituting "accepts applications."

Page 4, footnote 10, the reference to a "documented disability" should be clarified. How is a disability documented? For example, did the documentation include the existence of an IEP under IDEA or the receipt of SSI benefits?

Page 6, second paragraph, we suggest mentioning child find, consistent with the child find reference in footnote 17 on page 7.

Page 6, third sentence, the definition of FAPE in paragraph one prior to footnote 14 refers to "an agreed upon" IEP, which could be confusing because the IEP reflects a Team decision. We suggest deleting "as part of an agreed upon individualized education program (IEP)" and

Page 6

substituting "in conformity with an individualized education program (IEP)," which is the language used in 20 U.S.C. §1401(9).

Page 6, footnote 14, after "present levels of academic achievement," please insert "and functional performance."

Page 6, footnote 16, the citation to 20 U.S.C. §1412(a)(10)(C) should be modified to read 20

§U.S.C. 1412(a)(10)(C)(i). A citation to 20 U.S.C. §1412(a)(10)(A) should also be added to this footnote.

Page 7, we suggest adding child find to both columns in Table 2.

Page 7, Footnote 17: the following statement should be modified to read as follows: "Under 20

U.S.C. § 1412(a)(10)(A) and 34 C.F.R. §§ 300.130-300.144, school districts are required to conduct "child find" activities to identify, locate, and evaluate parentally-placed children with disabilities enrolled in private

elementary and secondary schools located in the school district." We suggest adding the underlined language to accurately reflect the child find requirement for parentally placed private school children with disabilities.

Page 8, we suggest mentioning that OSERS administers IDEA in all of its aspects, in addition to the much more limited role of answering questions and providing information.

Page 13, footnote 23, would "a statement by a certified public accountant verifying a school's viability" be an audit opinion, or would it reflect some other type of review?

Page 16, bottom paragraph, we confirm that the Department is in the process of updating the 2007 "Choosing a School ... " guidance, with issuance planned for next year.

Pages 22 23, and 25, regarding federal internal control standards, the Department's 2001 policy letter, and the additional guidance mentioned, were issued consistent with these standards.

Because "quality information" regarding IDEA rights and protections has been provided, ED requests that GAO remove the suggestion that ED did not comply with applicable Internal Control Standards in issuing its prior guidance.

Page 32, Appendix II, the references to student eligibility in Arkansas, Arizona, and the District of Columbia appear to contain transposed words and are inconsistent with the wording used in the other entries in the Appendix about eligibility.

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