

OFFICE OF CHIEF ACADEMIC OFFICER
Summary of State Board of Education Agenda Items
Consent Agenda
September 19, 2019

OFFICE OF SPECIAL EDUCATION

- D. Approval to begin the Administrative Procedures Act process: To establish State Board Policy Part 3, Chapter 74, Rule 74.21 – Education Scholarship Account (ESA)

Background Information: The Equal Opportunity for Students with Special Needs Act (Miss. Code Ann. §§ 37-181-1 through 37-181-21) was signed into law during the 2015 session of the Mississippi Legislature and established Education Scholarship Accounts. The Education Scholarship Account (ESA) provides an opportunity for parents of children with disabilities who wish to withdraw their child from the public-school system to use scholarship money to help defray the cost of private school tuition or other specific allowable activities to educate their child.

The purpose of this policy is to establish regulations that govern the overall application, approval, reimbursement, and cancellation process for the ESA.

Recommendation: Approval

Back-up material attached

Chapter 74: Special Education

Rule 74.21 Education Scholarship Account

1. To be eligible for the Education Scholarship Account (ESA) the student must have had an active Individualized Education Program (IEP) within the past five (5) years.
2. The number of ESAs awarded annually is determined based on State legislative appropriations.
3. In accordance with Miss. Code Ann. § 37-181-9(1), the Mississippi Department of Education (MDE) Office of Special Education (OSE) has created a standard form for parents to submit to establish the student's eligibility. The application is available online at <https://mdek12.org/OSE/ESA> or by contacting the OSE.
4. Along with the application form, parents must provide the following documentation:
 - a. copy of parent/legal guardian's driver's license or state-issued identification;
 - b. copy of student's birth certificate;
 - c. legal paperwork to act on behalf of student, if applicable;
 - d. proof of residency (e.g., copy of utility bill);
 - e. copy of student's most recent IEP that was active within the past five years;
 - f. copy of student's most recent eligibility and/or evaluation; and
 - g. original, signed "*Responsibilities of Parents*" document with all boxes properly initialed.
5. Signed applications must be submitted via the United States Postal Service to:

Mississippi Department of Education
Attention: Educational Scholarship Account
P. O. Box 771
Jackson, MS 39205
6. Upon receipt, each ESA application is time and date stamped. Information is entered into the ESA database and a control number is assigned. Applicants are notified by email or telephone of receipt of the application. Incomplete applications will not be processed. If the application contains missing or incorrect information, the parents will be notified and provided 21 days to submit complete and accurate documentation. After 21 days, the applicant's place in line will be forfeited.
7. The MDE OSE shall notify the applicant by the third Monday in July of intent to award an ESA pending the receipt of a letter verifying the student's acceptance and enrollment. The letter must be on school letterhead and signed by a school official and must be

submitted by U. S. Postal Service by the third Monday in September. Failure to submit this required documentation will result in termination of the ESA award.

8. Until program participation reaches 50% of annual enrollment as established in Miss. Code Ann. § 37-181-7(2)(b), students are approved on a first-come, first-served basis, with applications being reviewed throughout the year. An ongoing waitlist will be maintained based on the applicant's original control number. As ESAs become available, applicants will be awarded in chronological order from the waitlist. After program participation reaches 50% of the annual enrollment, the MDE OSE will randomly select students from its waiting list (i.e., conduct a lottery).
9. ESA funds may not be used to attend an eligible school that maintains its primary location in a state other than Mississippi unless that school is approved for the Educable Child Program; or unless the parent can provide, in writing, documentation from the district (e.g., due process decision) that their child cannot reasonably obtain appropriate special education and related services in Mississippi within thirty (30) miles of their legal residence.
10. Mississippi Code Ann. § 37-181-5(2) lists the types of expenses eligible for reimbursement (i.e., allowable expenses).
 - a. Payment to a tutor. A tutor is "a person who is certified or licensed by a state, regional, or national certification or licensing organization or who has earned a valid teacher's license or who has experience teaching at an eligible postsecondary institution," which is defined in § 37-181-3(h) as "a community college, college, or university accredited by a state, regional or national accrediting organization." Parents may not be reimbursed as a tutor for their own child.
 - b. Tuition, fees, and textbooks at a postsecondary institution. These expenses are allowable for a high school student taking a class or classes at a postsecondary institution, but they are not allowable for a student who has graduated from high school and is enrolled at a postsecondary institution.
 - c. Fees for transportation to and from an educational service provider paid to a licensed fee-for-service transportation provider;
 - d. Computer hardware and software and other technological devices if an eligible school, licensed and certified tutor, licensed or certified educational service practitioner or provider, or licensed medical professional verifies in writing that these items are essential for the student to meet annual, measurable goals. Once a student is no longer eligible for the program, computer hardware and software and other technological devices purchased with ESA funds may be donated to a library or a nonprofit organization with expertise and training in working with

parents to educate children with disabilities or a nonprofit organization with expertise and training in working with disabled adults. Parents are responsible for submitting documentation from the organization receiving the donation.

11. The MDE reimburses quarterly. Each quarter in the fiscal year parents must submit a completed *Educational Scholarship Account (ESA) Reimbursement Request Form* along with required documentation (e.g., receipts) to the MDE OSE by mail. If not received by the OSE by the third Monday in November, the student account will not remain active and eligible for the disbursement of funds and ESA will be cancelled.
12. Parents are notified via the award letter of the various ways they may receive funds.
 - a. They may register as a vendor to receive quarterly reimbursement for eligible expenditures and choose to receive electronic reimbursement based on the MDE's receipt of qualified invoices; or submit receipts and receive a paper check mailed; or
 - b. Choose for the school to be a direct recipient of funds. The school must register as a vendor by setting up a PayMode account, or by completing a W9. In addition, the parents must have a signed agreement on file with the MDE OSE indicating that the school is to be directly reimbursed.
13. If the parent chooses to register as a vendor to receive quarterly reimbursements, the MDE will reimburse the parent who applied on behalf of the child.
14. The MDE OSE shall mail out *Recertification Forms* in April requesting an affirmation of the participant's intent for continued participation in the ESA program. Forms are due back to the MDE OSE by the second Friday in May. If the *Recertification Form* is not received by the aforementioned date, the MDE will use the contact information provided by the applicant to make 2 additional attempts (phone, via-e-mail) to contact the applicant. If no response is received by the last working day of May, the ESA account associated with the participant name will be cancelled due to lack of response.
15. Mississippi Code Ann. § 37-181-5(2) requires that the MDE adopt rules and policies necessary for the administration of the program to ensure that funds are spent appropriately. The MDE OSE shall conduct or contract for random audits annually.