

ANALYSIS OF HB 394 - Equal Opportunity for Students with Special Needs Act

Creates a five-year pilot program to implement Education Scholarship Accounts (ESA).

Definitions

Eligible student – any student who has had an active Individualized Education Program (IEP) within the last 18 months.

Eligible school – a non-public school that has enrolled a participating student. The school must be accredited by a state or regional accrediting agency or possess a provisional letter of accreditation from a state or regional accrediting agency or be approved/licensed by the State Department of Education. A home school is not an eligible school.

Tutor – 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 (community college, college, university) accredited by a state, regional or national accrediting organization.

Education service provider – an eligible school, tutor, or other person or organization that provides education-related services and products to participating students.

Student Eligibility

An eligible student may participate if parent or guardian signs an agreement promising:

- To provide an organized, appropriate education program with measurable annual goals and, to the extent deemed reasonable by the parent, to provide an education to the student in at least the subjects of reading, grammar, mathematics, social studies, and science;
- Not to enroll the participating student in a public school and to acknowledge that the school district of residence has provided clear notice that the participating student has no individual entitlement to a free appropriate public education (FAPE) from the district of residence, including special education services, as long as the student is participating;
- Not to home school the student;
- Not to participate in the Mississippi Dyslexia Therapy Scholarship or the Mississippi Speech-Language Therapy Scholarship while participating in the ESA program.

Participating students remain eligible until the student returns to public school, completes high school, or completes the school year in which the student reaches the age of 21.

Every three years after initial enrollment, parents of students who are not diagnosed with a permanent disability must verify that the student continues to have a diagnosis of a disability.

A student may return to his school district of residence at any time, after which the student's ESA shall be closed and unused funds returned to the General Fund.

Allowable Voucher Expenditures

Parents shall use the funds for the following qualifying expenses:

- Tuition and/or fees at a private, for-profit, or virtual school;
- Textbooks;
- Payment to a tutor;
- Purchase of a curriculum and supplemental materials required by the curriculum;
- Fees for transportation to and from an educational service provider paid to a fee-for-service transportation provider;
- Fees for nationally standardized, norm-referenced achievement tests and alternate assessments, Advanced Placement exams or similar courses, and college entry exams;
- Educational services or therapies from a licensed or certified practitioner, provider, paraprofessional, or aide;
- Services, classes, or extra-curricular programs provided by a public school;
- Tuition and fees at a community college, college, or university;
- Textbooks for coursework at a community college, college, or university;
- Surety bond payments;
- Up to \$50 in annual consumable school supplies for classes, therapies, or tutoring;
- Computer hardware and software, and other technological devices;
- May be used out of state if parent deems appropriate and if closest in-state school that parent deems appropriate is more than 30 miles from residence.

Any funds remaining in the student's ESA after high school graduation may be used for college tuition until the student graduates from college. The ESA account will be closed after college graduation or after four consecutive years following high school graduation without the student being enrolled in a postsecondary institution.

Amount and Type of Voucher

Subject to appropriation, **each student's ESA shall be \$6,500 for 2015-16** and in subsequent years, shall be increased or decreased by the same proportion as the MAEP base student cost is increased or decreased.

Unexpended amounts shall roll over to the following year, be combined with the funds for the following year, and be allowed to accumulate. Following graduation, accumulated funds may be used to pay college tuition. (Note: the **fully funded base student cost for 2015-16 is \$5,355**. Voucher students would get the fully funded MAEP Base Student Cost plus \$1,145, even in years when public school students do not receive full funding.)

Payments shall be made to ESA accounts quarterly unless there is evidence of misuse of funds.

Voucher School Eligibility

A participating voucher school shall not be required to alter its admission practices, creed, discipline policies, practices, services, or curriculum; voucher schools may pick and choose the students they wish to admit.

Voucher schools are not required to provide special services or meet any of the needs stipulated in the student's IEP.

Voucher schools must:

- Comply with federal nondiscrimination policies and health and safety laws that apply to **non**-public schools
- Provide parents with details of the school's programs and capacity to serve students with special needs (the schools, however, are **not** required to provide services to students with special needs in order to receive voucher payments);
- Have no public record of fraud;
- Offer participating students the option of taking a nationally standardized, norm-referenced test;
- Conduct criminal background checks on employees;
- Exclude from employment persons not permitted by state law to work in a non-public school and those who might pose a threat to the safety of students.

The identities of voucher schools shall not be revealed; taxpayers will not know which private, for-profit, or virtual schools are receiving taxpayer dollars.

Accountability

Participating voucher schools shall not be required to participate in the state assessments or the accountability rating system required of public schools and may not be subjected to any oversight or regulation by any government agency, including the Mississippi Department of Education.

All reports of student and parent satisfaction with the ESA program, test scores on optional achievement tests, graduation and college acceptance rates, etc., are to be reported on a statewide basis. Parents will be given no means of comparing student outcomes in a voucher school to student outcomes in other voucher schools or in public schools.

Beginning in 2018 and every two years thereafter, the Committee on Performance Evaluation Expenditure and Review (PEER) shall prepare a report assessing the sufficiency of funding for ESAs and recommend changes needed to improve the program. The report shall assess:

- Student and parental satisfaction with the program;
- Student performance on norm-referenced standardized achievement tests for students **whose parents request that their students be tested**;
- Student performance on Advanced Placement or similar exams and college entrance tests;
- High school graduation rates and college acceptance rates of participating students (Note: only acceptance rates are to be reported, not the percent of all voucher students being admitted to college, and voucher schools may set their own standards for awarding of high school diplomas)
- The percent of funds used for each qualifying expense;
- The fiscal impact to the state and the district of residence, including impact on revenue and impact on expenses.

The PEER report must protect the identities of participating voucher schools and students by keeping anonymous all disaggregated data (i.e., the report may not identify which voucher schools have higher test scores or satisfaction rates and which have lower scores).

Publicity and Application Process

The Mississippi Department of Education (MDE) must annually notify all students with IEPs of the existence of the program.

MDE shall begin receiving applications on July 1, 2015.

ESAs shall be limited to 500 students in the 2015-16 school year and shall grow by 500 students for each year thereafter.

Voucher students shall be approved on a first-come, first-served basis until participation reaches 50% of annual enrollment. After 50% participation is reached, the MDE shall set annual application deadlines for remaining applicants and maintain a waiting list. If the number of applicants exceeds available slots, a random selection process shall be used with priority given to students with active IEPs. Participating students who remain eligible for the following year are automatically approved and are not subject to random selection.

MDE shall make a determination of eligibility and approve the application within 21 business days of receiving the application.

The school district of residence must provide participating student's parent with a complete copy of the student's records within 30 days.

Program Administration

MDE may deduct up to 6% of the ESA appropriation for administrative costs. The Dept. of Finance and Administration may deduct up to 1% from appropriated amounts to cover the cost of providing ESA cards.

The Mississippi Board of Education may contract with a nonprofit organization to administer the program.

MDE shall adopt rules and policies for administering the program and shall conduct or contract for random audits throughout the year.

MDE shall establish or contract for a fraud reporting hotline and may require a surety bond for parents of participating students. If funds are misspent, the parent shall be required to provide additional documentation justifying the expenditure or repay the misspent amount within 15 days. If neither is done, the MDE shall begin a process to remove the ESA from the student and may refer the case to law enforcement. If the parent repays the amount, the offense is recorded in the student's file. Three offenses in three consecutive years shall disqualify the student from the program.

Source: Mississippi Legislature

(<http://billstatus.ls.state.ms.us/2015/pdf/history/HB/HB0394.xml>)