

ANALYSIS OF SB 2385 - Equal Opportunity for All Students Act

Revises the Equal Opportunity for Students with Special Needs Act and renames it the Equal Opportunity for All Students Act, making Education Scholarship Accounts (ESAs, or vouchers) available to all students, including those without disabilities and home-school students.

Definitions

Eligible student – any student who meets **at least one** of the following criteria:

- Attended a Mississippi public or charter school during the prior academic year
- Eligible to enroll in kindergarten or first grade
- Had an active Individualized Education Program (IEP) within the last 18 months or received a diagnosis from a physician or psychologist of autism spectrum disorder, cerebral palsy, Down Syndrome, Prader-Willi Syndrome, spina bifida, muscular dystrophy, Williams Syndrome, hearing or vision impairment, or a specific learning disability as defined by the federal Individuals with Disabilities Education Act
- A child of an active-duty member of the armed forces or a veteran killed in the line of duty
- A foster child
- The sibling of a current ESA participating student
- A previous recipient of an ESA

Eligible school – any non-public school or home 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 at least three years of experience teaching at an accredited preschool, elementary, secondary, or postsecondary institution (community college, college, university) or who has at least five years' documented experience tutoring at least five students over five years.

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 a 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 release the home school district from all obligations to educate the student as long as the student is not enrolled in a public school; participation in the program shall have the same effect as parental refusal of service

- 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.

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 may use the funds for any of the following expenses:

- Tuition and/or fees at a private, for-profit, home school, or virtual school, including an online or virtual school that has its physical location in another state
- Textbooks
- Tutoring
- 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 if required by the program
- Contributions to a Coverdell Education Savings Account (Note: Coverdell Education Savings Accounts can be used to pay college tuition after high school graduation)
- Computer hardware and software, and other technological devices
- May be used out of state if parent verifies in writing that their child cannot obtain appropriate services at a Mississippi non-public school within 30 miles of their residence

If a student returns to a public school, the student's ESA account will be closed and any remaining funds returned to the General Fund.

Amount and Type of Voucher

Beginning with the 2016-2017 school year, the number of ESA vouchers available shall be 1% of the statewide public school enrollment for the preceding year with new enrollment limited to an additional 1% in each year thereafter.

Each student's annual ESA allocation shall be in the following amounts for the 2016-2017 year and shall increase or decrease by the same proportion as the base student cost for public school students each year thereafter:

- Students with disabilities - \$6,5000
- Students in families with a household income up to 200% of the federal poverty level: \$5,000

- Students in families with a household income greater than 200% but less than 350% of the federal poverty level: \$4,000
- All other students: \$3,000

(Note: the average MAEP allocation per student for 2016-2017 is approximately \$4,600.)

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 education 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 if they have such capacity (the schools, however, are **not** required to provide services to students with special needs)
- 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

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.

Because voucher schools are not required to participate in state assessments or the state accountability system, 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: 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, Application Process, and Administration

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

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

MDE shall accept program applications on a monthly basis throughout the year, with 12 month-long enrollment periods.

Voucher students shall be approved on a monthly basis, with notification of eligibility required within 15 days of the close of the monthly enrollment period in which the application was made. If the number of applications made during a monthly enrollment period exceeds the number of ESA vouchers available, a random selection process shall be used with priority given to students with disabilities and second priority given to students in families with incomes below 200% of the federal poverty level. Participating students who remain eligible for the following year are automatically approved and are not subject to random selection.

The number of approved ESAs shall be limited to 1% of the statewide public school enrollment for the preceding year with new enrollment limited to an additional 1% in each year thereafter.

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

Program Administration

The MDE may deduct up to 6% of the ESA appropriation for administrative costs during the first three years of the program, beginning in 2016-2017, and thereafter may deduct up to 4% for administrative purposes.

ESA payments may be made directly to education service providers on behalf of parents; funds shall be made available in quarterly installments.

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

The MDE or designated nonprofit shall establish or contract for a fraud reporting hotline.

Source: Mississippi Legislature

<http://billstatus.ls.state.ms.us/2016/pdf/history/SB/SB2385.xml>