



School Handbook

A Guide to the Tennessee Education Savings Account Program

Tennessee Department of Education | 2023 - 24 School Year



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Tennessee Education Savings Account Program

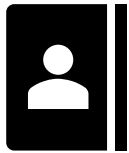
Overview

The Tennessee Education Savings Account (ESA) Program allows eligible students who are zoned to attend a school in Memphis-Shelby County Schools, Metro Nashville Public Schools, or a school that was in the Achievement School District (ASD) on May 24, 2019, to use state and local money toward education expenses, including tuition and/or fees at approved nonpublic schools.

With the ESA Program beginning in the 2022-23 school year, this guide provides information to schools participating in the ESA Program. ESA account holders can also find information [online](#). ESA account holders are students (if age 18 or older) or the participating student's legal parent or guardian.

A frequently asked questions document for schools is available online at www.tn.gov/education/esa. Further information for participating schools about the **responsibilities of participating account holders** is also available. Visit www.tn.gov/education/esa to locate the Family Handbook.

Contact Information



The department can answer further questions regarding the Education Savings Account Program. See below for specific contact information:

- Email: ESA.Questions@tn.gov
- Phone: 615-741-9360
- Website: www.tn.gov/education/esa

The Law, Rule, and Procedure

In Spring 2019, the Tennessee General Assembly passed and Governor Bill Lee signed the Tennessee Education Savings Account Pilot Program, codified at Tennessee Code Annotated (Tenn. Code Ann.) § 49-6-2601 et seq., into law. The first Education Savings Accounts (ESAs) were awarded in August 2022. To implement the Program, the Tennessee State Board of Education (SBE) approved rules, Chapter 0520-01-16, and the department developed policies and procedures for the ESA program. Links to the ESA Program Law and Rules are posted on the department's ESA website www.tn.gov/education/esa.

The Tennessee General Assembly meets annually, and the Tennessee State Board of Education (SBE) meets at least quarterly. Any changes to law or rule as determined by these bodies will be enacted in due time with the ESA Program. As such, some elements of the program may change over time. Stakeholders should check the ESA [website](#) and send questions to ESA.Questions@tn.gov.

School Eligibility

Category I, II, or III private schools may apply to the department to become a participating school. A list of categories, definitions, and approved accrediting agencies can be found [here](#).

- Category I: Schools approved by the department.
- Category II: Schools approved by an accrediting agency which has been approved by the SBE.
- Category III: Schools that are regionally accredited as identified by the SBE.

Student Eligibility

Students must meet the eligibility requirements below in order to participate in the ESA Program.

Student Eligibility	
<ul style="list-style-type: none"> Tennessee resident entering kindergarten through grade 12 	
<ul style="list-style-type: none"> Meets <i>one</i> of the following requirements: <ul style="list-style-type: none"> Previously enrolled in and attended a Tennessee public school for one full school year immediately before the school year for which the student receives the ESA Eligible for the first time to enroll in a Tennessee public school Received an ESA in the previous school year 	
<ul style="list-style-type: none"> Zoned to attend a school in Memphis-Shelby County Schools, Metro Nashville Public Schools, or a school that was in the Achievement School District on May 24, 2019 	
<ul style="list-style-type: none"> Member of a household with an annual income for the previous year that does not exceed twice the federal income eligibility guidelines for free lunch (see abridged chart below) 	
<p>Note: Students identified as “at-risk” as defined in federal law [Tenn. Code Ann. § 49-3-307(a)(6)/ 42 U.S.C. § 1759(b)(5)] will automatically meet the income requirement for eligibility.</p>	

Income Chart	
Household Size	Twice the Federal Free Lunch Income Guidelines 2023-24
2	\$51,272
3	\$64,636
4	\$78,000
5	\$91,364
6	\$104,728

Terms of the ESA

A participating student is eligible to remain in the ESA Program until the student:

- Enrolls in a public school.
- Enrolls in a school that is not a Category I, II or III nonpublic school or a private school not approved under the rules of the State Board of Education
- Is no longer a resident of the local school district in which the student lived when the student began participating in the ESA Program (Account holders must reapply to the ESA Program each year and verify their home address and income.)
- Is suspended or terminated from the ESA Program
- Graduates or withdraws from high school (Certificates of attendance do not equal graduation from high school for the purpose of the ESA Program. A student may continue in the Program until he or she receives a high school diploma or receives a passing score on all subtests of the General Educational Development test (GED) or High School Equivalency Test (HiSET).
- Reaches 22 years of age (The student may complete the school year in which he or she reaches the age of 22, as long as he or she will not be enrolled in the Program past August 15 of the next school year.)
- Fails to verify that household income meets the requirements

Note: *A participating student may voluntarily withdraw from the program at any time. If a participating student withdraws, the participating school must notify the department within five business days of withdrawal notification using the online form found [here](#).*

ESA Use of Funds

Account Holder

The funds received through the ESA constitute a scholarship provided for use on qualified educational expenses per Tenn. Code Ann. § 49-6-2603(i)(1). Scholarship distributions and allocations are managed by the Account Holder. An Account holder is the parent, legal guardian, or student who has reached the age of eighteen and has not submitted documentation showing a valid conservatorship or power of attorney. The account holder is responsible for signing the ESA agreement and is responsible for complying with the requirements of the ESA program. These responsibilities include completing the funding pre-approval form, complying with Tennessee Comprehensive Assessment Program (TCAP) requirements, and other aspects of participation in the program as determined by the department.

Determination of Allocations

The maximum annual amount a participating student is entitled to under the ESA program shall be equal to the amount representing the per-pupil state and local funds generated and required through the Tennessee Investment in Student Achievement (TISA) for the local education agency where the student resides, or the statewide per pupil average of required state and local TISA funds, whichever amount is less according to Tenn. Code Ann. § 49-6-2605 and State Board of Education Rule 0520-01-16-.04(7). The amount of an ESA may change from year to year as the amount is reviewed and determined annually according to local and state funding formulas.

Financial Accountability

Account Holders shall obtain pre-approval for tuition and fees, computer hardware or other technological device, tutoring services, educational therapy services, summer education programs and specialized after school education programs, and any other expenses identified by the department, according to State Board of Education Rule 0520-01-16-.05(2). If pre-approval is not obtained, the expense shall be deemed an unapproved expenditure. An Account Holder may request pre-approval by completing and submitting a pre-approval form in accordance with procedures developed by the department. Forms for pre-approval are available on the ESA website at www.tn.gov/education/esa.

Funds in an ESA may be used only for educational purposes.

These are allowable use of funds for participating schools:

- Tuition fees at a participating school (*ESA funds may not be used for tuition at a non-participating school*)
- Required school uniforms at a participating school (*ESA funds may not be used for uniforms at a non-participating school*)
- Required textbooks at a participating school (*ESA funds may not be used for required textbooks at a non-participating school*)
- Tuition and fees for approved educational summer education programs and specialized after-school education programs (*ESA funds cannot be used for non-educational childcare programs*)
- Tutoring services provided by an individual or agency who meets department requirements (*an individual must hold an active TN teacher license and an agency must have accreditation through one of the groups listed in SBE 0520-01-16-.05(1)(c)(2)*)
- Textbooks required by an eligible postsecondary institution (*An eligible postsecondary institution must be at a postsecondary institution operated by the Board of Trustees of the University of Tennessee; the Board of Regents of the state university and community college system; or a local governing board of trustees of a state university in this state; or a private postsecondary institution accredited by an accrediting organization approved by the State Board*)
- Transportation to and from a participating school or education provider (*ESA funds are paid only to a commercial fee-for-service provider e.g., taxi or bus; this does not include private transportation by a parent*)
- Fees for early postsecondary opportunity courses, exams, or exams related to college admission (*Fees do not include room and board, food, or consumable school supplies*)
- Educational therapies or services for participating students provided by a department-approved licensed therapist
- Computer hardware, technological devices, or other department-approved technology fees (*This is applicable only if the technology is used for educational needs, is purchased at or below fair market value, and is purchased through a participating school, private school, or provider*)
- ESA management fees provided by a private or non-profit financial management organization approved by the department, not to exceed 2% of the ESA funding in a fiscal year

Use of Funds in a non-participating Category I, II, or III school

These are allowable use of funds for students in non-participating nonpublic schools:

- Tuition and fees for approved educational summer education programs and specialized after-school education programs (ESA funds cannot be used for non-educational childcare programs.)
- Tutoring services provided by an individual or agency who meets department requirements (*an individual must hold an active TN teacher license and an agency must have accreditation through one of the groups listed in SBE 0520-01-16-.05(1)(c)(2)*)
- Educational therapies or services for participating students provided by a department-approved licensed therapist
- Transportation to and from an education provider (*ESA funds are paid only to a commercial fee-for-service provider e.g., taxi or bus, this does not include private transportation by a parent*)
- Fees for early postsecondary opportunity courses, related exams, or exams related to college admission (*fees do not include room and board, food, or consumable school supplies*)
- Computer hardware, technological devices, or other department-approved technology fees (*this is applicable only if the technology is used for educational needs, is purchased at or below fair market value, and is purchased through a participating school, private school, or provider*)
- ESA management fees

Application and Acceptance for School Participation

School Application to Participate in the ESA Program

Eligible schools must submit an application and receive an approval letter from the department to become a participating school in the ESA Program. Completing an interest form and/or submitting an application does not constitute approval. Once applications have been reviewed, approved schools will receive an official approval letter from the department, and a list of all approved schools will be subsequently posted on the [ESA website](#).

At the time of application, schools must declare **the number of student seats in each grade level that will be available for students** enrolled in the ESA Program using funds for tuition and other expenses. Understanding that schools and eligible students must be a good fit for one another, the approved school is not obligated to fill all seats it declares for annual capacity. If a school would like to amend its ESA seats, the head of school or designee should complete [this form](#) to initiate the process.

If an approved student enrolls at a participating school but *not* in a grade level indicated on the school application, the approved ESA student can use funds in the same manner of students in non-participating schools. In this case, ESA funds can be used for summer educational experiences, tutoring, therapy, technology, or transportation. The department will require the account holder to submit proof of enrollment, and if the student is in grades 3-11, the student will be required to take the TCAP in the spring. For students in non-participating schools, the account holder is responsible for ensuring TCAP compliance.

The school application also requires schools to demonstrate financial viability to repay any funds that may be owed to the state. The school may comply with this requirement by filing a surety bond payable to the state from a surety. The department will also accept copies of the most recent tax return or a notarized letter from a certified public accountant. The amount demonstrated on the financial viability paperwork must be equal to 50% of the number of seats declared multiplied by the approximate base amount of the ESA.

As part of the application process, the school must also submit the school's academic calendar, admission policy, and tuition and fees schedule in order to meet the following requirements as set forth in Tenn. Code Ann. § 49-6-2607(e) and State Board of Education Rule 0520-01-16-.08:

- School calendar: Schools must demonstrate a sufficient amount of instruction equal to or greater than 180 days at 6.5 hours per day. Additionally, pursuant to Tenn. Code Ann. § 49-6-3004(e)(1), any public and nonpublic schools who exceeds the required six and one-half hour instructional day by one-half hour for the full academic year may accumulate up to 13 "stockpile" days. Schools may

extend the instructional day beyond seven hours, but only the 30 minutes above six and one-half hours may be accumulated as a stockpile day. Schools may not accumulate more than 13 stockpile days.

- Admission policy: School admission policies must clearly state that the school does not discriminate on the basis of race, color, or national origin.
- Tuition and fees: Documentation submitted to the department must clearly state the amount of tuition (per grade level, if it varies) as well as any fees. Schools must include an indication if technology, textbooks, and uniforms are included in tuition or separate fees.
 - Enrollment fees, application fees, and supply fees are not allowable if they are separate from tuition for all students.

Applications for private schools to participate in the ESA Program must be completed and submitted by the principal or head of school. Applications will be accessible through the [ESA website](#).

Application Approval or Denial

The department will review the submitted application and all supporting documentation and notify the designated contact via email if the school is approved to participate in the ESA Program. If the school's application requires additional paperwork or updated information, the department will work with the school contact to clarify the necessary documentation in order to approve the school in a timely manner.

If the department approves the school's application to participate in the ESA Program, the department will include the school on the list of approved participating schools for that school year posted online at www.tn.gov/education/esa.

If the department does not approve the school's application to participate in the ESA Program, the department will email an explanation of why the school was not approved.

Annual School Renewal

Schools interested in participating in the ESA Program must submit a new application each year as an indication of their interest. Due to fluctuations in seat numbers, financial viability, school policies, school calendars, and other factors; documents must be submitted to the department as part of the school renewal application. The department will make all reasonable accommodations for schools working to change accreditation status or submit documentation after approval from a school Board of Trust or other governing body.

Appealing a School Application Denial

If the school's application is denied, the school principal, head of school, or board chair may appeal the decision by following the two-step appeals process in accordance with State Board of Education Rule 0520-01-16-.11.

Step 1:

- The appeal shall be submitted to the commissioner of education within 10 business days of receipt of the notice of application denial, suspension, termination, and/or removal. Notice of application denial, suspension, termination, and/or removal shall be provided electronically and via first-class USPS mail and be deemed received three business days after the date of postmark.
- The appeal shall be reviewed by the commissioner of education, or the commissioner's designee, and a decision shall be issued within 45 calendar days. To file a step one appeal, complete the appeal form located on the ESA website, and email the completed form to ESA.Questions@tn.gov.
- Appeal forms submitted after the deadline, incomplete appeal forms, or appeal forms with vague language that does not clearly articulate the issue on appeal will not be reviewed.

Step 2:

- The appellant shall be notified of the commissioner's or commissioner's designee's decision in step one (1) of the appeal process electronically and via first-class USPS mail. Such notice shall be deemed received three (3) business days after the date of postmark.
- An appeal of the step one (1) decision shall be filed with the commissioner by the appellant within thirty (30) calendar days of receipt and shall be heard as a contested case hearing pursuant to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).

Student Applications and Enrollment

Participating schools must submit a form within 10 business days of closing the student application window that contains the name and grade of all eligible student applicants accepted to the school. For schools with rolling enrollment windows, information regarding eligible students must be submitted on or before June 30 for the coming school year. Include the following:

- The name and grade of all eligible student applicants accepted to the school who intend to utilize an ESA.
- The name and grade of all ESA-approved applicants who were not accepted with an explanation as outlined below:
 - Failure to meet the school’s admission requirements
 - Academic needs that could not be met by the school
 - Other: (state)
- The date each eligible ESA student was accepted or rejected by the school

Participating School Obligations and Responsibilities

Student Approval and Proof of Enrollment

Due to student privacy regulations, the ESA team will not communicate student application status with a school until the student has been approved for an ESA and has a Family Educational Rights and Privacy Act (FERPA) waiver on file. Therefore, schools should encourage families to communicate directly with the ESA Program, and families should, in turn, communicate with schools once an approval or denial letter has been received. Student approval for the ESA Program is determined by the department; schools do not play a role in ESA approval. Student approval for a particular school is determined by the school's own admissions process.

In order for a student account to be established and funds to be available, the department must have proof of student enrollment at a Category I, II, or III nonpublic school. Approved students should share a copy of their approval letter with their chosen school. Then, as soon as possible and no later than June 30, schools must send proof of enrollment to the department at ESA.Questions@tn.gov for ESA account establishment. Schools may begin sending proof of enrollment as soon as families receive ESA approval.

Schools are responsible for sending the following information on letterhead:

- Student name
- Student date of birth
- Student date of enrollment (first day of class)
- Student grade for 2023-24 school year
- Total tuition amount*
- Cost of required uniforms*
- Cost of required textbooks*
- Cost of required technology*
- Additional itemized fees with associated costs*

**The amount should be totaled after any additional school-based, non-ESA financial aid is applied to the student account*

A sample template to use is included in the appendix of this handbook.

Academic Accountability

Participating schools are held accountable to the ESA account holder (i.e., parent or guardian of participating student or student who has reached the age of 18) for meeting the educational needs of the participating student. This means that, at a minimum, **the participating school must annually provide the account holder with a written explanation of the participating student's progress.**

Annual Testing

Participating schools must ensure that participating students in grades 3 through 11 are administered the TCAP tests in math and English language arts each year the student is enrolled in the ESA Program. Each school must designate a testing coordinator, regardless of grade level in which ESA students are enrolled. The school's testing coordinator will be trained by department staff in order to administer the assessments.

The participating school may NOT charge account holders a fee to administer the state assessments. Any assessment fees charged by the participating school for tests other than the required state assessment must be included in the fee schedule submitted with the school's application to participate in the ESA Program and must be itemized on the receipt given to account holders. Account holders may use ESA funds to pay for authorized assessments other than the required state tests.

The participating school must also provide the participating student with an assessment report for those participating students who take an annual TCAP assessment, which must include, at a minimum:

- the name of the assessment,
- the date the assessment was administered to the student,
- the name of the participating student (first, last, middle initial),
- the student's state ID number (issued by the public school in which the participating student resides), and
- the participating student's score on the assessment.

Participating students who take the TCAP must take the TCAP assessment (not the alternative growth measure, portfolio, or Tennessee Universal Reading Screener) and will not be able to receive testing accommodations under the Individuals with Disabilities Education Act (IDEA). However, students will receive ADA accommodations as applicable.

Additionally, data from the TCAP tests that are annually administered to students must be used to determine student achievement growth, as represented by the Tennessee Value-Added Assessment System (TVAAS). The department will post TVAAS scores of participating schools publicly on the department's website.

Non-discrimination Certification

Participating schools must certify that they will not discriminate against participating students or applicants on the basis of race, color, or national origin.

School Employees

Participating schools must administer criminal background checks for all school employees.

Participating schools must maintain documentation that any employees providing services to participating students have undergone a fingerprint-based criminal history records check conducted by the Tennessee Bureau of Investigation (TBI) and forwarded by the TBI to the Federal Bureau of Investigation (FBI) for processing pursuant to the National Child Protection Act. All participating schools must maintain documentation that all employees working on school grounds when students are present and/or providing services to students have undergone a fingerprint-based criminal history records check conducted by the TBI and forwarded to the FBI. Contact the ESA team for questions regarding the fingerprinting process or see the ESA website for guidance.

Additionally, participating schools must exclude from employment any person not permitted by state law to work in a nonpublic school and any person who might reasonably pose a threat to the safety of students.

Payment Management and Financial Obligations

Participating schools agree to a number of assurances as conditions of partnership with the program. Any school participating in the ESA Program agrees to the following:

- The Agreement and any additional information required by the department shall be submitted to and received by the department by the deadlines set by the department before the first ESA payment is disbursed.
- Prior to the first payment of ESA funds, the Account Holder must provide proof of enrollment in a Category I, II, or III nonpublic school. No funds shall be disbursed to an ESA account without proof of enrollment in a Category I, II, or III school.
- Participating schools must provide account holders with a receipt for all qualifying expenses paid to the participating school using ESA funds.
- No additional tuition or fees must be charged to participating students that are not also charged to non-participating students.
- Participating schools must not, in any manner, refund, rebate, or share funds from an ESA with a parent/guardian of a participating student or a participating student.
- Any tuition or fees charged by a participating school or postsecondary institution that exceed the ESA amount shall be the responsibility of the account holder.
- Participating schools must agree to accept reimbursement payments for tuition and fees from an account holder on the payment schedule identified by the department.
- If a participating student enrolls in the program for less than an entire school year, the ESA amount for that school year shall be reduced on a prorated daily basis.
- If the department determines that ESA funds have been misused, the department shall notify the participating school, and the school shall repay the misused amount in the manner and within the timeframe set by the department. Additionally, the department is authorized to freeze or withdraw ESA funding for reasons including, but not limited to, fraud, and misuse of funds.
- If a participating student becomes ineligible to participate in the program for any reason or withdraws from the program, the participating student's ESA shall be closed and any remaining funds shall be returned to the State Treasurer to be placed in the TISA Account of the Education Trust Fund of 1992 under Tenn. Code Ann. §§ 49-3-357 and 49-3-358.

Electronic Wallet

- ESA will have an electronic wallet payment system for account holders in the 2023-24 school year. More information can be found on the [ESA website](#).

Notice of Student Withdrawal and Transfer

A participating student may voluntarily or involuntarily withdraw from the program at any time. Participating schools must notify the department of any participating student who withdraws from the school by completing the following items:

- Conducting an exit interview with the transferring family is **strongly suggested** to alert them to rights and responsibilities upon leaving the participating school. This form can be found on the ESA website and serves as a resource and guide to the content of those meetings.
- Complete ESA program's mandatory [Student Withdrawal Form](#). Schools are required to notify the department **within five (5) business days** of receipt of a student's notice of withdrawal, pursuant to State Board of Education Rule [0520-01-16-.08\(6\)](#).
- Schools shall submit an expense report [here](#) **within ten (10) business days** of the withdrawal date to include all expenses covered through the ESA.

Fiscal Responsibilities for Withdrawals:

- In the case where a student withdraws during the course of the school year, the ESA scholarship for that school year will be reduced on a prorated daily basis, as required by State Board of Education Rule [SBE 0520-01-16-.04\(8\)](#).
- The department shall prorate the amounts paid to each school based on the days of enrollment at each school relative to the minimum number of days each school is open for instruction.
- Schools will submit the expense report within 10 business days of the withdrawal date to include all expenses covered through the ESA.
- Any funds remaining in the ESA account will be returned to the State Treasurer, as required by State Board of Education Rule [0520-01-16-.06\(3\)](#).
- Students are not eligible to retain funds for postsecondary enrollment unless all qualifications for the ESA Program are met and re-application is approved.

Account Holder Options for Transfer to Another School

The following options are available for re-enrollment after a withdrawal:

- Enroll the participating student in the public school district, homeschool or Category IV or V non-public school
 - If the account holder selects this option, they are **no longer eligible for the ESA program and will not be able to use ESA funds for the remainder of the school year. These students will have to reapply for the ESA program in order to access ESA funding.**

- Enroll the participating student in a non-participating Category I, II or III nonpublic school
 - If the account holder selects this option, the **fees for tuition, uniforms and textbooks are no longer an allowable use of funds** for the ESA scholarship.
 - The account holder must send a copy of the school contract to ESA.Questions@tn.gov.
- Enroll the student in a participating school
 - The remainder of the ESA scholarship can be used at the participating school the student is transferring to after revision of the pre-approval form.
 - The account holder must send a copy of the school contract to ESA.Questions@tn.gov.
 - The account holder must submit verification of enrollment from the new participating school to ESA.Questions@tn.gov.

Please note: If an account holder should voluntarily or involuntarily withdraw from their Category I, II, or III school, they must enroll in another Category I, II, or III nonpublic school to maintain their ESA scholarship. If an account holder should enroll in a public school, homeschool, or Category IV or V nonpublic school, they will forfeit their scholarship for the year.

However, according to Tenn. Code Ann. § 49-6-2602(3)(A)(iii), a student would remain eligible for the ESA Program in the upcoming school year. To re-enroll in the program, the eligible student must apply and submit all required documentation according to application timelines.

Annual Reviews

The department will conduct an annual review of each participating school for fiscal and program compliance. Part of this review may include requesting supporting documentation or additional information regarding an account holder or related reimbursement.

Annual Graduation and Completion Rates

Participating schools must annually submit graduation and completion information of participating ESA Program students to the department. The department will email participating schools a copy of the Graduation Data Submission Form annually in late April. The department must receive the completed form no later than the date set forth by the department. The participating school principal or designee must complete the form.

On the form, participating schools must report all of their 12th grade students who participate in the ESA Program as one of the following: *graduated; completed; withdrew from the school; repeating 12th grade; continuing due to special education needs; or other* with an explanation.

- **Participating schools will define graduation as a student who has either received a regular diploma or a special education diploma.**
- **Participating schools will define completion as a student who has taken and passed the HiSET or the GED.**

Please note: *If a secondary school does not have any participating students who are enrolled in the ESA Program and who are graduating/completing high school, the participating school principal must still complete the linked form by the deadline to report to the department indicating the participating school does not have any participating students who are graduating/completing.*

Program Suspension

Pursuant to Tenn. Code Ann. § 49-6-2608(a), **the department may suspend or terminate a participating school from participating in the ESA program in future years if the department determines that the participating school has failed to comply with state law, rules, or department procedures for the ESA Program or for nonpublic schools, including the requirements set forth in this handbook.** This includes, but is not limited to, failure of participating students to make academic progress as demonstrated by performance measures from multiple data sets including but not limited to the TCAP assessment or a nationally-normed assessment utilized by the school.

If the noncompliance is correctable within a reasonable amount of time and if the health, safety, or welfare of the participating students is not threatened, the department may issue a notice of noncompliance which provides the participating school a timeframe to provide evidence of compliance before the department takes action to suspend or revoke the participating school's participation in the ESA Program.

If the department issues a notice of noncompliance:

- Participating school principals will be given a reasonable period from the date of the notice, as determined by the department, to demonstrate compliance.
- The notice will state the reason(s) for the noncompliance, provide instructions on how to demonstrate compliance, and give a deadline for demonstrating compliance to the department.
- If the department issues a notice of proposed action suspending or revoking a participating school's participation, the notice will state the reason(s) for the action and specify the participating school's right to appeal.

The department may immediately suspend a school's participation in the ESA Program if it is determined that there is probable cause to believe there is a threat to the safety of students and/or fraudulent activity on the part of the participating school.

If the department suspends or terminates a participating school's participation, the department will notify affected account holders of the decision. If a participating school is suspended or if a participating school withdraws from the ESA Program, affected participating students remain eligible to participate in the ESA Program.

Appealing a School Suspension Denial

Schools may appeal the department's decision to suspend or terminate a school's participation in the ESA Program by following the two-step appeals process as required in the rules in SBE Chapter 0520-01-16-.11.

<p>Step 1:</p>
<ul style="list-style-type: none">• The appeal shall be submitted to the commissioner of education within 10 business days of receipt of the notice of revoked eligibility or frozen/withdrawn ESA funds. Notice of suspension, termination, and/or removal shall be provided electronically and via first-class USPS mail and be deemed received three business days after the date of postmark.• The appeal shall be reviewed by the commissioner of education, or the commissioner's designee, and a decision shall be issued within 45 calendar days. To file a step one appeal, complete the appeal form located on the ESA website, and email the completed form to ESA.Questions@tn.gov.• Appeal forms submitted after the deadline, incomplete appeal forms, or appeal forms with vague language that does not clearly articulate the issue on appeal will not be reviewed.
<p>Step 2:</p>
<ul style="list-style-type: none">• The appellant shall be notified of the commissioner's or commissioner's designee's decision in step one (1) of the appeal process electronically and via first-class USPS mail. Such notice shall be deemed received three (3) business days after the date of postmark.• An appeal of the step one (1) decision shall be filed with the commissioner by the appellant within thirty (30) calendar days of receipt and shall be heard as a contested case hearing pursuant to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).

Parent and Student Rights Waived

Special Education Services

Participation in the ESA Program has the same effect as parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1414). Participating schools are not obligated to provide special education services. However, participating schools must comply with applicable federal and state laws and regulations.

- While a student participating in the ESA Program does not retain the right to receive special education and related services through an Individualized Education Program (IEP), the participating student does retain the right to continue special education eligibility. **Enrollment in the ESA Program does not result in automatic non-eligibility determinations. Eligibility decisions are made solely by the student's IEP team. The student's IEP can be reactivated by unenrolling in the ESA program and re-enrolling in a public school district.**
- Students enrolled in nonpublic schools may request an eligibility evaluation from the local educational agency (LEA) in which the non-public school is located. Students are only entitled to equitable services provided through an Individualized Service Plan (ISP).
- Upon signing the ESA Account Holder Contract, the account holder has the right to withdraw the student from the ESA Program at any time, following the procedures in this handbook, and enroll the student in a public or nonpublic school, or a home school independent from the ESA Program. Prior to re-enrolling in public school, account holders must notify both the department and the LEA to provide information that the student intends to withdraw from the ESA Program.

Parent and Student Rights Waived in the ESA Program

By signing the *ESA Account Holder Contract* and accepting ESA funding, account holders acknowledge the following:

- The student will have no individual entitlement to a Free Appropriate Public Education (FAPE). Participation in the ESA Program has the same effect as a parental refusal to consent to the receipt of specially designed instruction and related services pursuant to the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1414). The student's IEP is no longer in effect, and the LEA will not be required to provide accommodations or services listed in the IEP.
- The LEA in which the student was previously enrolled is not obligated to provide special education or related services to the student during the term of the ESA, with the exception of services provided under a contract with an LEA, including individual classes and extracurricular programs and/or an Individualized Service Plan (ISP), as determined by the student's IEP team.
- Participating nonpublic schools are not required to provide special education services for the student.

Fraud Waste or Abuse

Fraud, Waste or Abuse Reporting

Citizens and agencies are encouraged to report fraud, waste, or abuse in state and local government.

NOTICE: The Tennessee Department of Education is a recipient of taxpayer funding. If you observe an agency director or employee engaging in any activity which you consider to be wasteful, inefficient or fraudulent activities please report these to the Tennessee Comptroller's Office for Fraud, Waste, and Abuse at: <https://www.comptroller.tn.gov/office-functions/investigations/fraud-waste-and-abuse.html> or **1-800-232-5454**.

Appendix A: Additional Questions

How many ESAs are available?

Up to 5,000 ESAs are available at this time. The number of available ESAs is determined by Tenn. Code Ann. § 49-6-2604.

Can an ESA be used for sports?

Standalone use of an ESA for sports fees outside of tuition is not an allowable use of funds.

Additionally, an ESA student is **ineligible** to participate in a sport sanctioned by an association that regulates interscholastic athletics for the first year in which a student attends a participating school if the participating student attended a Tennessee public school and participated in that sport, the student participated in that sport in the prior school year, and the participating student has not relocated outside the LEA in which the student participated in the sport previously, according to Tenn. Code Ann. § 49-6-2603(k).

Can a family use an ESA to attend a private school outside of their county of residence?

Yes. A participating student must be zoned to attend a school in Memphis-Shelby County Schools, Metro Nashville Public Schools, or the Achievement School District, but the ESA can be used to attend any participating nonpublic Category I, II, or III school. Students must maintain their residency in order to remain eligible for the ESA.

Does the school's admission criteria remain uncompromised if the school participates in the ESA Program?

Yes. An eligible student must be accepted by the school based on the school's entrance criteria. Participating schools agree not to discriminate based on race, color, or national origin.

Is a participating school obligated to accept a participating student for a second year if he or she is not thriving in the school environment?

No. The application and enrollment procedures and policies of the participating school are determined by the school itself. Participating schools should follow their regular re-enrollment criteria for ESA students just as they do for non-ESA students.

Is it possible a participating student may not qualify for an ESA in consecutive years?

Yes. A participating student must reapply every year and provide proof of compliance with income and residency requirements.

How frequently must the school complete fingerprinting of employees?

Pursuant to 0520-01-16-.08(2)(I), Schools must conduct criminal background checks on employees upon employment and at least every five years thereafter. Every school employee should have a fingerprint-based background check on file that is not older than 5 years.

Can the participating school require the account holder to purchase tuition insurance?

Only if the participating school's current policies and protocols require it of other non-ESA families as well.

Can a participating student return to a public school?

Yes. A participating student may return to their assigned public school at any time.

Appendix B: Sample Enrollment Letter

The following information should be sent to the department to verify an ESA student’s enrollment at a participating school. The information must be emailed to ESA.Questions@tn.gov on school letterhead from a school representative. Multiple attachments can be included with the same email.

Dear ESA Program,

This letter is to certify that [STUDENT NAME], date of birth [MM/DD/YYYY], is enrolled at [SCHOOL NAME] for the [GRADE] grade for the 2023-24 academic year.

The first day of school is [DATE].

The student’s financial information is below:

	Total cost for all students	Cost after school-provided financial aid (before ESA applied)	Remainder cost to be covered by ESA and out-of-pocket from family
Tuition			
Textbooks fee			
Technology fee			
Uniforms fee			

Sincerely,

[SCHOOL NAME]

Appendix C: Finance Worksheet

Account holders are encouraged to use this worksheet to understand how their ESA funds can be applied to particular educational expenses. Participating schools may assist with completing Columns A and B for an ESA student.

Instructions: Complete what is required by the school for **all students** in Column A. Then, complete in the amount of any non-ESA financial aid your child is receiving in Column B. Subtract Column B from Column A to determine the leftover cost.

Sample: Amber enrolls at a school where tuition for all students is \$10,000 and each student is charged a textbook fee of \$500. Amber receives \$6,000 of financial aid from the school for tuition. The sample chart below shows these amounts for Column A (what is charged to all students) and Column B (what Amber receives in her financial aid package). Column C is the remainder to be paid, Amber would need to pay \$4,000 for tuition and \$500 for the textbook fee. The ESA covers both as allowable uses of funds. Any remaining amount in Amber's ESA can be used for other educational expenses such as educational summer programs or tutoring.

<i>Amber's ESA</i>	A. Total cost for all students	B. Financial aid for my student	C. Amount remaining
Tuition	\$10,000	\$6,000	\$4,000
Textbooks	\$500	\$0	\$500

See the next page for a complete chart to use.

Finance Worksheet

Account holders are encouraged to use this worksheet to understand how their ESA funds can be applied to particular educational expenses. Participating schools may assist with completing Columns A and B for an ESA student.

Instructions: Complete what is required by the school for **all students** in Column A. Then, complete in the amount of any non-ESA financial aid your child is receiving in Column B. Subtract Column B from Column A to determine the leftover cost.

	A. Total cost for all students	B. Financial aid for my student	C. Amount remaining
Tuition			
Textbooks			
Technology			
Uniforms			
Transportation			
Tutoring			
Therapy			

*Check with your participating school to determine if the ESA funds amount is included in anticipated financial aid.

The amount listed in the **far-right column C**—Amount remaining—can be covered by the ESA Program as long as it does not add up to more than the total ESA funding amount, which is _____. If Column C is more than the ESA funds, the Account Holder will need to pay for any remaining tuition or fees out of pocket.

Column C amounts should be entered in the Financial Pre-Approval form. All expenses **must** be approved by the ESA Team.

