

**RULES
OF
THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-24
EDUCATION FREEDOM SCHOLARSHIPS**

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0520-01-24-.01 PURPOSE.

The purpose of these rules is to effectuate the Tennessee Education Freedom Scholarships Program ("Program") as required by T.C.A. §§ 49-6-3501, et seq., subject to appropriations and other available funds.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.02 DEFINITIONS.

- (1) "Account Holder" means a Parent or an Eligible Student who has reached the age of eighteen (18), who is approved by the Department to participate in the Program, signs the EFS Agreement, and is responsible for complying with all the requirements of the Program.
- (2) "Agreement" means a document developed by the Department and signed by a Parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) that qualifies the Parent or Eligible Student who has reached the age of eighteen (18) to participate in the Program.
- (3) "Completed Application" means an application for an EFS submitted to the Department during an open application window set by the Department that contains a response to every required field and includes all required components pursuant to section 0520-01-24-.04 of this chapter, such that the application can be determined as Conditionally Approved or Denied. Required components include:
 - (a) Proof of Tennessee residency;
 - (b) Proof of United States citizenship or lawful presence; and
 - (c) Proof of meeting any additional criteria to be determined eligible for an EFS under section 0520-01-24-.03 of this chapter, if applicable.
- (4) "Conditionally Approved Application" means a Completed Application that demonstrates that the student is eligible to be awarded an EFS, pending availability based on the order in which the Completed Application is submitted and based on completion of all Program requirements, including proof of enrollment in a Private School.

(Rule 0520-01-24-.02, continued)

- (5) “Denied Application” means a Completed Application for an EFS that is submitted to the Department during an open application window set by the Department that demonstrates that the student is not eligible for an EFS.
- (6) “Department” means the Tennessee Department of Education.
- (7) “Educational therapy services” means individualized services provided by therapists that meet the requirements established by the Department and the State Board.
- (8) “EFS” means an Education Freedom Scholarship(s) as established in Chapter 7 of the Public Acts of 2025, First Extraordinary Session.
- (9) “Eligible Student” means a resident of this state who is entitled to attend a Public School, except for a student enrolled in a home school, as defined in T.C.A. § 49-6-3050, or in a church-related school, as defined in T.C.A. § 49-50-801, with which the student’s Parent is associated, is registered, or is participating as a parent-teacher for the purposes of T.C.A. § 49-6-3050(a)(2) or (a)(3).
 - (a) For purposes of this definition, “entitled to attend” and “enrolled” shall reference the academic year for which the EFS would be used.
- (10) “Incomplete Application” means an application for an EFS that is submitted to the Department during an open application window set by the Department that does not contain a response to every required field or does not include all required components pursuant to section 0520-01-24-.04 of this chapter such that it fails to demonstrate that the student is eligible for an EFS.
- (11) “IEP” means an Individualized Education Program developed by a Public School pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400, et seq.
- (12) “ISP” means an Individualized Service Plan and is a written statement that describes the special education and related services to be provided by an LEA to a student who is eligible under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400, et seq., but who has been enrolled in a non-public school by the student’s Parent.
- (13) “Lawful Presence” means only the following categories of non-citizens who are eligible for local or state public benefits pursuant to T.C.A. §§ 4-58-101 et. seq., 8 U.S.C. § 1621(a), and 8 U.S.C. § 1641(b):
 - (a) Legal Permanent Residents admitted into the United States under 8 U.S.C. §§ 1101 et seq.;
 - (b) Refugees admitted into the United States under 8 U.S.C. § 1157;
 - (c) Asylees granted asylum under 8 U.S.C. § 1158;
 - (d) Non-citizens paroled in the U.S. under Section 212(d)(5) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1182(d)(5), for a period of at least one year;
 - (e) Non-citizens whose deportation is withheld under the INA, 8 U.S.C. § 1253 or 8 U.S.C. § 1231(b)(3), as amended;
 - (f) Battered immigrants and children who meet the conditions set forth 8 U.S.C. §1641(c);

(Rule 0520-01-24-.02, continued)

- (g) Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
 - (h) Victims of a severe form of trafficking who have been granted nonimmigrant status under 8 U.S.C. § 1101(a)(15)(T) or who have a pending application that sets forth a prima facie case for such nonimmigrant status;
 - (i) Non-citizens who lawfully reside in the U.S. in accordance with the Compacts of Free Association (COFA) between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; and
 - (j) Cuban or Haitian parolees admitted under Section 212(d)(5)(A) of the INA.
- (14) "LEA" means local education agency.
- (15) "Parent" means the parent, legal guardian, person who has custody of the child, or person with caregiving authority for the child under T.C.A. § 49-6-3001.
- (16) "Private School" means a Category I, II, or III non-public school, as set forth in State Board of Education Rule 0520-07-02, that:
- (a) has a physical location owned or leased by the non-public school located in the state of Tennessee where students may receive educational services and testing; and
 - (b) registers with the Department to receive funds from the Program.
- (17) "Program" means the EFS Program as established by T.C.A. §§ 49-6-3501, et seq.
- (18) "Public School" means a public charter school, a school operated by an LEA, or a school operated by the state with public funds that serves students in any of the grades Kindergarten through twelve (K-12).
- (19) "Recipient" means an Eligible Student who enrolls in a Private School and receives an EFS for a given school year.
- (20) "Service Provider" means an individual or business that provides educational services in accordance with T.C.A. §§ 49-6-3501, et seq. and meets the requirements established by the Department and the State Board.
- (21) "State Board" means the Tennessee State Board of Education.
- (22) "Waitlist" means a list of Conditionally Approved Applications, ordered by time of receipt by the Department, which cannot be immediately awarded due to the Program reaching the limits as set forth in section 0520-01-24-.03 of this chapter.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.03 PRIORITIZATION OF AWARDS.

- (1) For the Program's first year of operation, the Department shall accept applications from Eligible Students in accordance with subparagraphs (1)(a) and (1)(b) simultaneously and

(Rule 0520-01-24-.03, continued)

shall award a maximum of twenty thousand (20,000) EFS as follows, in the order in which the Department receives Completed Applications:

- (a) Ten thousand (10,000) EFS are available for Eligible Students who meet one (1) of the following criteria:
 - 1. The student's annual household income does not exceed three hundred percent (300%) of the amount required for the student to qualify for free or reduced-price lunch, as provided in the income eligibility guidelines published by the United States Department of Agriculture's Food and Nutrition Service for the most recent year; or
 - 2. The student is an Eligible Student as defined by T.C.A. § 49-6-2602 for an Education Savings Account ("ESA") or as defined by T.C.A. § 49-10-1402 for an Individualized Education Account ("IEA").
 - (b) Ten thousand (10,000) EFS are available for Eligible Students, regardless of whether the Eligible Student meets one (1) of the criteria listed in subparagraph (1)(a) of this paragraph.
- (2) For the Program's second year and each year thereafter, if the number of applications received by the Department exceeds the number of EFS available for the respective school year, then the Department shall award EFS in the following order:
- (a) A Recipient in the immediately preceding school year who has a current EFS at the time of application;
 - (b) An Eligible Student whose annual household income does not exceed one hundred percent (100%) of the amount required for the student to qualify for free or reduced price lunch, as provided in the income eligibility guidelines published by the United States Department of Agriculture's Food and Nutrition Service for the most recent school year, or who is an Eligible Student as defined by T.C.A. § 49-6-2602 for an ESA or by T.C.A. § 49-10-1402 for an IEA, in the order in which the Department receives Completed Applications;
 - (c) An Eligible Student whose annual household income does not exceed three hundred percent (300%) of the amount required for the student to qualify for free or reduced-price lunch, as provided in the income eligibility guidelines published by the United States Department of Agriculture's Food and Nutrition Service for the most recent school year, in the order in which the Department receives Completed Applications;
 - (d) An Eligible Student who, at the time of submitting a Completed Application, is currently enrolled in a Public School or who is eligible to enroll in Kindergarten in a Public School for the respective school year, in the order in which the Department receives Completed Applications; and
 - (e) An Eligible Student, in the order in which the Department receives Completed Applications.
- (3) The Department may award an EFS to an Eligible Student in an order that does not comply with the order prescribed in this section, as applicable, if awarding the EFS out of order is consistent with the outcome of an administrative appeal adjudicating the denial of the Eligible Student's EFS application.

(Rule 0520-01-24-.03, continued)

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.04 APPLICATION.

- (1) To apply to receive an EFS, the applicant shall submit a Completed Application using an application developed by the Department.
- (2) As part of the application process, the applicant shall provide documentation that confirms the student's residence in this state and lawful presence or citizenship in the United States.
 - (a) Tennessee residency shall be demonstrated through the presentation of two (2) forms of documentation as detailed in Department guidance.
 - (b) Lawful Presence in the United States shall be established in accordance with T.C.A. § 4-58-103(d).
 - (c) United States citizenship shall be demonstrated in accordance with T.C.A. § 4-58-103(c).
- (3) To be considered for an EFS, based on income, pursuant to section 0520-01-24.03 of this chapter, the applicant shall provide, as part of the Program application process, verification that the student is a member of a household with an annual income that does not exceed the income threshold outlined in sections 0520-01-24-.03(1)(a)1., (2)(b), or (2)(c) of this chapter, based on the federal income eligibility guidelines for free or reduced-price lunch.
 - (a) Income verification shall be established through the requirements of subparts 0520-01-24-.04(3)(a)1., 2., or 3.:
 1. Form 1040 U.S. Individual Income Tax Return ("Form 1040 Tax Return") from the most recent year that was filed by the Parent and which lists the Eligible Student as a dependent or was filed by an Eligible Student who has reached the age of eighteen (18) and who is not listed as a dependent on another individual's Form 1040 Tax Return.
 - (i) If the Eligible Student is not listed on the Form 1040 Tax Return, additional documentation, as outlined in Department guidance, shall be submitted to establish that the student is a member of the same household as the Parent whose Form 1040 Tax Return is provided.
 2. Form 1040 Tax Returns of both Parents of an Eligible Student shall be included with an application if either of the following applies:
 - (i) Parents of the Eligible Student share joint primary residential custody such that neither or both are designated as the primary residential parent in a custody order pursuant to T.C.A. § 36-6-410; or
 - (ii) Parents of the Eligible Student share a household but file taxes as married, filing separately, or as head of household.
 3. Proof of family eligibility, including eligibility of the student, for enrollment in the state's Temporary Assistance for Needy Families ("TANF") program or Supplemental Nutrition Assistance Program ("SNAP").

(Rule 0520-01-24-.04, continued)

- (b) The Department may require additional documentation as needed to determine income eligibility.
- (4) To be considered for an EFS pursuant to subpart 0520-01-24.03(1)(a)2. of this chapter, the applicant shall provide sufficient documentation to meet eligibility criteria pursuant to State Board Rules 0520-01-11 or 0520-01-16, respectively.
- (5) Once the Department notifies an applicant that his or her Completed Application has become a Conditionally Approved Application, the Parent or an Eligible Student who has reached the age of eighteen (18) shall complete the enrollment process set forth by the Department on a timeline established by the Department. The enrollment process includes providing proof of enrollment in a Private School.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.05 APPLICATION PROCESSING.

- (1) The Department shall review and process Completed Applications in the order in which they are received.
- (2) An application shall first be considered for an EFS referenced in subparagraph 0520-01-24-.03(1)(a) of this paragraph. If an applicant fails to meet the eligibility requirements or if EFS are no longer available under subparagraph 0520-01-24-.03(1)(a) of this paragraph, then the applicant may be considered for an EFS as referenced in subparagraph 0520-01-24-.03(1)(b) of this paragraph.
- (3) Each submitted application shall be deemed a Conditionally Approved Application, a Denied Application, or an Incomplete Application. Conditionally Approved Applications may be placed in Waitlist status.
- (4) A Denied Application may be appealed pursuant to Rule 0520-01-24-.13.
- (5) A determination that a submitted application is an Incomplete Application may not be appealed.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.06 AGREEMENT AND FUNDS TRANSFER.

- (1) Upon notification by the Department that an EFS has been authorized and may be established, a Parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) shall become an Account Holder only after signing an Agreement to:
 - (a) Ensure the provision of an education for the Recipient that satisfies the compulsory school attendance requirement provided in T.C.A. § 49-6-3001(c)(1) through enrollment in a Private School;
 - (b) Comply with the requirement established in Chapter 7 of the Public Acts of 2025, First Extraordinary Session, that Recipients in grades three through eleven (3-11) participate in a nationally standardized achievement test that is aligned to the respective Private School's instructional program as determined by State Board Rule 0520-07-02 or the Tennessee Comprehensive Assessment Program ("TCAP") tests in

(Rule 0520-01-24-.06, continued)

- math and English language arts for the grade in which the Recipient is enrolled, or successor tests approved by the State Board, for each year of enrollment in the Program;
- (c) Not enroll the Recipient in a Public School during the time the Recipient is enrolled in the Program;
 - (d) Not enroll the Recipient in the ESA program or the IEA program during the time that the Recipient is enrolled in the Program;
 - (e) Release the LEA in which the Recipient resides and the Public School for which the Recipient is zoned to attend from all obligations to educate the Recipient during the time the Recipient is enrolled in the Program;
 - (f) Acknowledge that the Recipient does not retain the right to receive special education and related services from the LEA in which the Recipient resides through an IEP and that Recipients have the same rights under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1414, to receive equitable services through an ISP as all other students enrolled in non-public schools;
 - (g) Acknowledge that Recipients with an ISP are entitled to receive some special education and related services and not all of the services that are required for a Recipient with an IEP to receive a FAPE (Recipients using EFS funds who previously held IEPs may engage with the LEA to develop an ISP through the consultation process, as defined in 34 C.F.R. §§ 300.134 and 300.137);
 - (h) Acknowledge that the Private School is only required to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 if the Private School receives federal funding;
 - (i) Be responsible for any educational expenses in excess of the awarded EFS amount;
 - (j) Comply with the acceptable uses of EFS funds and the responsibilities of the Account Holder; and
 - (k) Not use EFS funds for Service Providers who are family or household members of the Recipient, as described in section 0520-01-24-.14 of this chapter.
- (2) The Agreement and any additional information or documentation required by the Department shall be submitted to and received by the Department by the deadlines set by the Department before the first EFS payment is disbursed. If the Agreement and any additional information or documentation required by the Department are not submitted and received by the deadlines set by the Department, the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program.
 - (3) The Department shall establish procedures to effectuate the EFS funds transfer process and dates on which each EFS payment shall be disbursed.
 - (4) Prior to becoming a Recipient, the Account Holder shall provide proof of enrollment in a Private School.
 - (5) EFS funds shall not be used for tuition at any non-public school other than a Private School as defined in section 0520-01-24-.02(16) of this chapter.

(Rule 0520-01-24-.06, continued)

- (6) No EFS funds shall be paid directly to a Recipient or to an Account Holder.
- (7) The EFS funds constitute a public benefit and are not income taxable to the Account Holder, Parent, or Recipient.
- (8) In accordance with the procedures set by the Department, the Department may remove any Account Holder from participating in the Program if the Account Holder fails to comply with the terms of the Agreement or applicable laws, rules, or procedures, including if the Account Holder misuses funds.
- (9) If the Department determines that EFS funds have been misused, the Department shall notify the Account Holder, and the Account Holder shall repay the amount of misused funds in the manner and within the timeframe set by the Department. Additionally, the Department is authorized to freeze or withdraw funding directly from the Recipient's EFS for reasons including, but not limited to, fraud; misuse of funds; failure by the Account Holder to comply with state laws, rules, procedures, or the Agreement; or the Recipient's return to a Public School.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.07 USE OF FUNDS.

- (1) EFS funds shall first be used to pay the Recipient's tuition and fees at the Private School in which the Recipient is enrolled. Any remaining EFS funds available to the Recipient after payment of tuition and fees may only be used for one (1) or more of the following educational expenses:
 - (a) Textbooks, curricula, instructional materials, and uniforms required by the Private School in which the Recipient is enrolled;
 - (b) Tutoring services approved by the Department and provided by:
 - 1. An individual tutor, including, but not limited to, a licensed Tennessee educator; or
 - 2. A tutoring facility accredited by one (1) or more of the following: any accreditation division of AdvancED, the North Central Association Commission on Accreditation and School Improvement ("NCA CASI"), the Northwest Accreditation Commission ("NWAC"), the Southern Association of Colleges and Schools Council on Accreditation and School Improvement ("SACS CASI"), the Middle States Association of Colleges and Schools ("MSA"), the New England Association of Schools and Colleges ("NEASC"), the Western Association of Schools and Colleges ("WASC"), or the Council on Occupational Education ("COE");
 - (c) Fees for transportation to and from the Private School in which the Recipient is enrolled, paid to a commercial fee-for-service transportation provider, including, but not limited to, a school bus service that meets the requirements established by the Department;
 - (d) Computer hardware, technological devices, or other technology fees approved by the Department, if the computer hardware, technological device, or technology

(Rule 0520-01-24-.07, continued)

fee charged by the Private School or Service Provider that is used for the Recipient's educational needs;

- (e) Tuition, fees, textbooks, curricula, and instructional materials for summer academic programs and specialized afterschool academic programs, operated outside the regular school day or school year, as approved by the Department, which do not include afterschool childcare;
- (f) Fees for early postsecondary opportunity courses and related examinations that give Recipients the opportunity to obtain postsecondary credit; any examinations related to college admission; and industry credentials, as approved by the Department; or
- (g) Educational therapy services provided by Service Providers who meet the requirements established by the Department.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.08 TERM OF THE EFS.

- (1) A Recipient's EFS account remains open, and all available EFS funds remain in the Recipient's EFS account, from one (1) school year to another, unless one (1) or more of the events described in subparagraphs (2)(a) through (f) occurs.
- (2) A Recipient's EFS account shall be closed, and all remaining EFS funds returned to the state treasurer to be used to award EFS to Eligible Students in future years, upon the earlier of:
 - (a) The Recipient's graduation from high school or obtainment of a high school equivalency credential approved by the State Board;
 - (b) The Recipient's enrollment in a Kindergarten through grade twelve (K-12) Public School;
 - (c) The Recipient's completion of thirteen (13) school years as a Kindergarten through grade twelve (K-12) student;
 - (d) The Recipient's voluntary withdrawal from the EFS Program;
 - (e) The Department disqualifying the Recipient from participating in the Program due to the Recipient's noncompliance with Program requirements. This includes, but is not limited to, the Recipient enrolling in a school that is not a Private School; a Recipient enrolling as an independent home school student; or the misuse or fraudulent use of funds; or
 - (f) The Recipient ceases to be a resident of the state of Tennessee.
- (3) An Account Holder who chooses to voluntarily withdraw from the Program at any time shall complete the procedures for withdrawal from the Program as set by the Department.
- (4) An Account Holder may transfer the Recipient from one Private School to another Private School in accordance with procedures set by the Department.

(Rule 0520-01-24-.08, continued)

- (5) If an Account Holder does not follow the applicable procedures for voluntary withdrawal or transferring the student from one Private School to another Private School, the Department may remove the Recipient from the Program, return any funding in the Recipient's EFS account to the state treasurer, and prohibit the Recipient from participating in the Program in the future.
- (6) In order for a Recipient to continue in the Program, the Account Holder shall annually apply to renew the EFS by following the procedures developed by the Department and posted on the Department's website.
- (7) The Department shall provide the Account Holder with a written explanation of the allowable uses of EFS funds and the responsibilities of the Account Holder in connection with the EFS funds. The Department shall also provide to the Parent of Recipients or Recipients who have reached the age of eighteen (18) a written explanation of the Department's duties regarding EFS funds, Eligible Students, and Recipients.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.09 FRAUD, WASTE, AND ABUSE.

- (1) Individuals may notify the Department of any alleged violation by Account Holder(s) or Private School(s) of state laws, rules, or procedures relating to the Program. The Department shall conduct an inquiry of any report of fraud or make a referral to the appropriate agency for an investigation.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.10 PRIVATE SCHOOLS.

- (1) As a condition of a Private School's accepting payments from an EFS, the Private School shall agree to:
 - (a) Maintain the school's status as a Category I, II, or III school in compliance with all applicable laws and State Board rules;
 - (b) Ensure Recipients in grades three through eleven (3-11) are administered a nationally standardized achievement test that is aligned to the respective Private School's instructional program as determined by State Board Rules 0520-07-02 or the Tennessee Comprehensive Assessment Program ("TCAP") tests in math and English language arts for the grade in which the Recipient is enrolled, or successor tests approved by the State Board, for each year of enrollment in the Program;
 - (c) By June 30 of each year, provide to the Recipient's Parent and to the Office of Research and Education Accountability (OREA) in the office of the Tennessee Comptroller of the Treasury the results of the annual test administered to Recipients, using a form developed and provided by OREA. Scores may be provided to the OREA using aggregated, deidentified data if the data allows the OREA to group and analyze the results by Recipient grade level, household income level, sex, and race. Test results and other data pertaining to students who are not Recipients are not subject to the reporting requirements of this section;

(Rule 0520-01-24-.10, continued)

- (d) Accept reimbursement payments for tuition and fees from an Account Holder pursuant to the payment schedule identified by the Department;
 - (e) Receive EFS funds through a process established by the Department;
 - (f) Use the funds in an EFS only as provided in section 0520-01-24-.07 of this rule for educational purposes;
 - (g) Not to, in any manner, refund or rebate EFS funds or share EFS funds with an Account Holder or Recipient; and
 - (h) Notify the Department of the Recipient's withdrawal within five (5) business days of receipt of the Recipient's notice of withdrawal.
- (2) All contracts entered into between a Private School and an Account Holder or a Recipient are the responsibility of the private parties involved and do not obligate the state in any way.
 - (3) The creation of the Program does not expand the regulatory authority of the state or authorize any entity to impose additional rules, regulations, or requirements on Private Schools beyond those necessary to enforce the requirements of the Program. Private Schools enrolling Recipients with an EFS remain autonomous and independent and are not agents of the state; they maintain the maximum freedom to educate students without government control and without being required to alter their creed, practices, admission policies, hiring policies, or curriculum in order to accept EFS funds.
 - (4) The Department may suspend or terminate a Private School from participating in the Program if the Department determines the Private School has failed to comply with the requirements of the Act, these rules, or the procedures set by the Department.
 - (5) If the Department suspends or terminates a Private School's participation, the Department shall notify the affected Recipients, the Account Holder, and the Private School of the decision. If a Private School is suspended or terminated or if a Private School withdraws from the Program, affected Recipients remain eligible to participate in the Program.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.11 SERVICE PROVIDERS.

- (1) Service Providers shall:
 - (a) Maintain documentation that any person that they employ or consult or contract with for the purpose of providing services to Recipients has 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 for processing pursuant to the National Child Protection Act;
 - (b) Maintain documentation of their credentials demonstrating that they meet the qualifications set by the Department;
 - (c) Provide Account Holders with a receipt, if requested, for all expenses paid to the Service Provider using EFS funds; and
 - (d) Not, in any manner, refund or rebate EFS funds to, or share EFS funds with, an Account Holder or Recipient.

(Rule 0520-01-24-.11, continued)

- (2) The Department may suspend or terminate a Service Provider's participation in the Program if the Department determines that the Service Provider has failed to comply with the requirements of the Act, these rules, or the procedures set by the Department.
 - (a) If the Department suspends or terminates a Service Provider's participation, the Department shall notify the affected Recipients and Account Holders and the Service Provider of the decision.
 - (b) A Service Provider's suspension, termination, or withdrawal from the Program shall not affect a Recipient's eligibility to participate in the Program.
- (3) All contracts entered into between the Service Provider and the Recipient or Account Holder are the responsibility of the private parties involved and do not obligate the state in any way.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.12 RETURN TO PUBLIC SCHOOL.

- (1) A Recipient may return to the Public School, for which he or she is zoned, at any time after enrolling in the Program. Upon enrollment in a Public School, the Recipient's participation in the Program shall be terminated.
- (2) If a Recipient ceases enrollment in a Private School, the Account Holder shall notify the Department in accordance with the procedures and timelines set by the Department.
- (3) Upon termination of a Recipient's participation in the Program, the Department shall close the Recipient's EFS account, and any remaining funds shall be returned to the state.
- (4) A Recipient with a disability shall not be determined ineligible for special education and related services under the IDEA due to the Recipient's participation in the Program. A Recipient remains eligible for special education and related services until a Tennessee LEA determines that such Recipient no longer meets the special education eligibility standards; until the student graduates with a traditional high school diploma; or until the end of the school year in which the student turns 22 years old, whichever occurs first. A Recipient in the Program is not entitled to receive a FAPE through an IEP, but he or she is eligible to receive equitable services through an ISP from the LEA serving the geographic area where the Private School in which the Recipient is enrolled.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.13 APPEAL PROCEDURES.

- (1) The decision of the Department to deny a student's application to participate in the Program or to remove a Recipient from the Program may be appealed.
- (2) The decision of the Department to suspend or terminate the participation in the Program of a Service Provider or Private School may be appealed.
- (3) The decision of the Department that an application is an Incomplete Application may not be appealed.
- (4) All appeals shall be filed pursuant to the following two (2) step appeal process:

(Rule 0520-01-24-.13, continued)

- (a) Step one (1): The appeal shall be on the form provided by the Department and shall be submitted to the Commissioner of Education, or the Commissioner's designee, within ten (10) business days of notice of the decision being appealed. The appeal shall be reviewed by the Commissioner of Education or the Commissioner's designee, and the Commissioner or the Commissioner's designee shall electronically notify the appellant of a decision within forty-five (45) calendar days of receipt of the appeal;
- (b) Step two (2): Within thirty (30) days of the Department's notification to the appellant of the Commissioner's or the Commissioner's designee's decision in step one (1) of the appeal process, the appellant may file, with the Commissioner, an appeal of the step one (1) decision. Such appeal shall be heard as a contested case hearing pursuant to the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.14 CONFLICT OF INTEREST.

- (1) Use of EFS funds shall be for the sole benefit of the Recipient for which the EFS is established. EFS funds shall only be used by the Account Holder on qualifying expenses.
- (2) It is a conflict of interest and is considered a misuse of EFS funds and a violation of Program rules and procedures for an Account Holder to provide EFS funds directly to his or her family member(s) or to any company, corporation, or business owned by his or her family member(s). A family member shall include an Account Holder's spouse, parent, step-parent, parent-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, or any person who resides in the same household as the Recipient or Account Holder receiving the EFS.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** Original rules filed; effective.

0520-01-24-.15 DEPARTMENT ASSESSMENT ANALYSIS.

- (1) Pursuant to T.C.A. § 49-6-3507(b) and in order to assess academic performance, the Department shall annually select a statistical sample of Recipients enrolled in any of the grades three (3) through eight (8) who, pursuant to T.C.A. § 49-6-3507(a)(1)(B), were administered TCAP assessments in the prior school year, provided that they were Recipients during the prior school year.
- (2) The statistical sample shall be determined based on all Recipients administered the TCAP in the relevant grade bands in the subjects of English language arts and mathematics who have a valid, reportable assessment score. While ensuring data privacy restrictions, the sample shall be sufficient to generate a 95 percent confidence interval of results being representative of the entire pool of Recipients. The Department shall prepare an annual report on the outcomes of the analysis.