



## **Rules Governing the North Carolina Personal Education Savings Account Program**

A Program of the State of North Carolina  
Administered by the State Education Assistance Authority  
2 UNC-TV Drive  
Research Triangle Park, NC 27709

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# Table of Contents

<b>PART I</b> .....	<b>4</b>
<b>SHORT TITLE, PURPOSE, AND DEFINITIONS</b> .....	<b>4</b>
<i>.0100. Short Title.</i> .....	4
<i>.0101. Purpose and Scope.</i> .....	4
<i>.0102. Definitions.</i> .....	4
<b>PART II</b> .....	<b>9</b>
<b>STUDENT ELIGIBILITY</b> .....	<b>9</b>
<i>.0200. Student Eligibility for the ESA Program.</i> .....	9
<i>.0201. Student Eligibility for the Opportunity Scholarship and Disability Grants Program.</i> .....	9
<i>.0202. Disability Determination Requirements.</i> .....	10
<b>PART III</b> .....	<b>11</b>
<b>APPLICATION, VERIFICATION, AND AWARDS</b> .....	<b>11</b>
<i>.0300. Applications.</i> .....	11
<i>.0301. Verification.</i> .....	11
<i>.0302. Application Deadlines and Priority Selection.</i> .....	12
<i>.0303. Lottery Process.</i> .....	12
<i>.0304. Wait List.</i> .....	13
<i>.0305. Parental Notification of Choice of School.</i> .....	13
<i>.0306. Scholarship Amount.</i> .....	13
<b>PART IV</b> .....	<b>14</b>
<b>PARENTAL REQUIREMENTS, PARENTAL AGREEMENT, AND EXPENSE REPORTS</b> .....	<b>14</b>
<i>.0400. Parental Agreement</i> .....	14
<i>.0401. Parent Requirements.</i> .....	14
<i>.0402. Expense Reports.</i> .....	15
<i>.0403. Renewal and Carryforward of Funds.</i> .....	15
<i>.0404. Acceptance of Refunds Strictly Prohibited.</i> .....	16
<i>.0405. Transfers.</i> .....	16
<b>PART V</b> .....	<b>17</b>
<b>DISBURSEMENT AND USE OF FUNDS</b> .....	<b>17</b>
<i>.0500. Disbursements to Education Savings Accounts Generally.</i> .....	17
<i>.0501. Use of Funds.</i> .....	17
<i>.0502. Educational Technology.</i> .....	19
<i>.0503. Submittal of Documentation of Expense.</i> .....	19
<b>PART VI</b> .....	<b>20</b>
<b>SCHOOL ELIGIBILITY</b> .....	<b>20</b>
<i>.0600. Requirements Related to Nonpublic Schools.</i> .....	20
<i>.0601. Requirements Related to Home Schools.</i> .....	20
<i>.0602. Duty to Update Contact Information.</i> .....	20

.0603. <i>Requirements for Eligible Schools to Receive Scholarship Funds</i> .....	20
<b>PART VII</b> .....	<b>24</b>
<b>FAILURE TO COMPLY</b> .....	<b>24</b>
.0700. <i>Failure to Comply by An Eligible School</i> .....	24
.0701. <i>Failure to Comply by a Parent</i> .....	24
<b>PART VIII</b> .....	<b>25</b>
<b>INTERPRETIVE GUIDANCE</b> .....	<b>25</b>
.0800. <i>The Authority as Program Administrator</i> .....	25
.0801. <i>Interpretive Guidance</i> .....	25

## Part I

### Short Title, Purpose, and Definitions

#### **.0100. Short Title.**

The Rules Governing the North Carolina Personal Education Saving Account Program may hereinafter be cited as the “Rules.”

#### **.0101. Purpose and Scope.**

The North Carolina Personal Education Saving Account Program, also known as the “Education Savings Account Program,” was established by the 2017 General Assembly. The Authority administers the Program as directed by the General Assembly. Funding for the Program is contingent each year upon appropriations made available to the Authority by the General Assembly.

#### **.0102. Definitions.**

Unless the context clearly indicates some other meaning, the following capitalized words and phrases shall have the corresponding meanings in the Rules:

- (a) “*Academic Year*” means two Semesters, beginning with the fall Semester.
- (b) “*Account Holder*” means the Parent of the student who completes the application, executes the Parental Agreement, and is responsible for complying with all the requirements of the Program.
- (c) “*Act*” means Article 41 of Chapter 115C of the North Carolina General Statutes, any revision, amendment or extension thereof, and any subsequent budget or appropriations act affecting the Program.
- (d) “*Authority*” means the State Education Assistance Authority, a political subdivision of the State, created under Article 23 of Chapter 116 of the North Carolina General Statutes.
- (e) “*Autism*” means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences and as further defined in the IDEA and 34 C.F.R. § 300.8(c)(1).

- (f) "*Child with a Disability*" means a child with at least one Disability who because of that Disability requires Special Education and Related Services.
- (g) "*CPA*" means a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners.
- (h) "*Disabilities Grant Program*" means the grant program as established in Part 1H of Article 9 of Chapter 115C of the North Carolina General Statutes.
- (i) "*Disability*" includes mental retardation; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; serious emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments, specific learning disability, or other disability as may be required to be included under IDEA; and for a child ages three through seven, this term also includes developmental delay.
- (j) "*Education Savings Account*" or "*ESA*" means a bank account or comparable financial transaction account, provided to a parent for the purpose of holding Scholarship funds awarded by the Authority for an eligible student to be used for Qualifying Education Expenses.
- (k) "*Educational Technology*" means an item, piece of equipment, material, product, or system which may be purchased commercially off the shelf, modified, or customized and that is used primarily for education purposes for a Child with a Disability as identified by the Authority in accordance with Rule .0502.
- (l) "*Eligible School*" means a North Carolina nonpublic school as defined in G.S. § 115C-591(4) that has completed the Program registration process established by the Authority.
- (m) "*Financial Review*" means a financial review as that term is defined by the American Institute of CPAs.
- (n) "*Fiscal Year*" means the year beginning on July 1 and ending on June 30.
- (o) "*Graduation Rate*" means the percentage of Program recipients who started the fall Semester of their senior year and graduated.
- (p) "*Hearing Impairment*" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance and as further defined in the IDEA and 34 § C.F.R. 300.8(c)(5).
- (q) "*Home School*" means a nonpublic school as defined in G.S. §115C-563(a).

- (r) "*IDEA*" means The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., as amended, and federal regulations adopted under the IDEA Act.
- (s) "*Individualized Education Program*" or "*IEP*" means a written statement for each Child with a Disability that is developed, reviewed, implemented, and revised consistent with IDEA and State law.
- (t) "*Intellectual Disability*" means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance and as further defined in the IDEA and 34 C.F.R. § 300.8(c)(6).
- (u) "*Licensed Psychologist*" means an individual who has been issued a license pursuant to the North Carolina Psychology Practice Act, N.C. Gen. Stat. § 90-270.1 *et seq.*, whose license is in good standing and permits him or her to engage in the practice of psychology as defined in N.C. Gen. Stat. § 90-270.2(6) and who maintains a practice with a focus on school psychology.
- (v) "*Licensed Psychiatrist*" means an individual who has been issued a medical license by the North Carolina Medical Board, whose license is in good standing in the State of North Carolina and permits him or her to engage in the practice of psychiatry.
- (w) "*Local Educational Agency*" or "LEA" includes any of the following State entities that are located within North Carolina and that provides Special Education and Related Services to children with disabilities:
  - a. A local school administrative unit;
  - b. A charter school;
  - c. The Department of Health and Human Services;
  - d. The Division of Adult Correction of the Department of Public Safety;
  - e. The Division of Juvenile Justice of the Department of Public Safety; and
  - f. Any other State agency or unit of local government.
- (x) "*Lottery Number*" means a number generated at random by computer software operated by the Authority that determines the Parent applicant's order of placement for purposes of awarding a Scholarship.
- (y) "*Nationally Standardized Test*" means a published, nationally normed test or other nationally standardized equivalent measurement which provides a valid and reliable measure of a student's

present achievement level in comparison with age or grade and also measures achievement in the areas of English grammar, reading, spelling, and mathematics.

- (z) *“Nonpublic School that Exclusively Provides Services for Children with Disabilities”* means a nonpublic school that exclusively provides services for children with disabilities as identified by the Authority.
- (aa) *“Opportunity Scholarship Program”* means the scholarship program as established in Part 2A of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (bb) *“Orthopedic Impairment”* means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures) and as further defined in the IDEA and 34 C.F.R. § 300.8(c)(8).
- (cc) *“Parent”* means an applicant for the Scholarship who is:
1. A natural, adoptive, or foster parent;
  2. A legal guardian or legal custodian, but not the State if the child is a ward of the State;
  3. An individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative, and with whom the child lives;
  4. An individual who is legally responsible for the child's welfare; or
  5. A surrogate if one is appointed under G.S. § 115C-109.2.
- (dd) *“Parental Agreement”* means the agreement, in a form acceptable to the Authority, and fully-executed by the Parent, by which a Parent agrees to comply with the Act and the Rules of the Program.
- (ee) *“Part-time Student”* means a student receiving a Scholarship who is enrolled part-time in a public school and part-time in a Nonpublic School that Exclusively Provides Services for Children with Disabilities.
- (ff) *“Participation Agreement”* means the agreement, in a form acceptable to the Authority, by which an Eligible School agrees to comply with the Act and the Rules and otherwise meets the requirements for receiving Scholarship funds on behalf of students who are eligible for the Program.

- (gg) *“Priority Deadline”* means March 1 of each Academic Year and is the deadline by which a Parent must submit a complete application in order to be entered into the Program lottery.
- (hh) *“Program”* means the Personal Education Savings Account Program.
- (ii) *“Qualified Educational Expenses”* means the category of expenses set forth in G.S. § 115C-595(a)(3).
- (jj) *“Quarter”* means one of four quarters each of which consist of three months, the first quarter is July 1 through September 30, the second quarter is October 1 through December 31, the third quarter is January 1 through March 31 and the fourth quarter is April 1 through June 30.
- (kk) *“Related Services”* means related services as defined in the IDEA at 34 C.F.R. 300.34 and G.S. § 115C-112.5(3a).
- (ll) *“Scholarship”* means funds awarded under the Program as defined in G.S. §115C-592(b).
- (mm) *“Semester”* means one of two semesters, the Fall semester is the first half of the school year consisting of days in which school attendance is required as determined by the Eligible School between July and January and the Spring semester is the second half of the school year consisting of days in which school attendance is required as determined by the Eligible School between January and June.
- (nn) *“Special Education”* means specially designed instruction to meet the unique needs of a Child with a Disability and includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings.
- (oo) *“State”* means the State of North Carolina.
- (pp) *“Visual Impairment”*, including blindness, means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness and carries the meaning as further defined in the IDEA and 34 C.F.R. § 300.8(c)(13).

## Part II

### Student Eligibility Requirements

#### **.0200. Student Eligibility for the ESA Program.**

Student eligibility is determined each Academic Year. A student qualifies to receive a Scholarship if the student meets all of the following requirements:

- (a) Is a legal resident of North Carolina;
- (b) Is a Child with a Disability;
- (c) Satisfies the disability determination requirements in Rule .0202;
- (d) Will not be enrolled in a North Carolina public school to which he or she has been assigned as provided in G.S. § 115C-366 for the semester in which the student is receiving the Scholarship, unless enrolled as a Part-time Student;
- (e) Will be enrolled in a Eligible School in a grade level no lower than kindergarten;
- (f) Has reached or will reach the age of 5 on or before August 31;
- (g) Is eligible to attend a North Carolina public school pursuant to G.S. § 115C-364 and 366;
- (h) Is younger than 22 as of the date of the beginning of the Semester;
- (i) Has not been placed in an Eligible School or facility by a public agency at public expense;
- (j) Has not been enrolled full-time in a postsecondary institution; and
- (k) Does not have a high school diploma or its equivalent.

#### **.0201. Student Eligibility for the Opportunity Scholarship and Disability Grants Program.**

- (a) A student who is eligible for the Program may, in addition to the Program, be eligible for a scholarship from the Opportunity Scholarship Program, provided the student meets all of the eligibility criteria required for participation in the Opportunity Scholarship Program.
- (b) A student who is eligible for the Program may, in addition to the Program, also be eligible for a grant from the Disabilities Grant Program, provided the student meets all of the eligibility criteria of the Program and also has one of the following disabilities designated in the student's active IEP as the primary or secondary disability at the time of the submission of the Program application:

1. Autism;
2. developmental disability;
3. Hearing Impairment;
4. Moderate or severe Intellectual Disability;
5. Multiple, permanent Orthopedic Impairments; or
6. Visual Impairment.

**.0202. Disability Determination Requirements.**

(a) Initial Eligibility Determination.

The Parent shall submit documentation of the determination by the student's LEA dated within three (3) years from the date of submission that the student is a Child with a Disability and is eligible for Special Education or Related Services, in a manner established by the Authority.

(b) Initial Eligibility Determination Exception for Certain Disabilities Grant Participants.

A student participating in the Disabilities Grant Program that has been (1) determined to be a Child with a Disability for purposes of initial eligibility for the Disabilities Grant Program and (2) determined to have continuing eligibility for the Disabilities Grant Program by an assessing psychologist or psychiatrist, may submit the same documentation submitted to the Authority for purposes of the Disabilities Grant Program in order to meet the requirement that the student is a Child with a Disability for initial eligibility purposes for the Education Savings Account Program.

(c) Continuing Eligibility Determination.

Each eligible student receiving Scholarship funds shall be assessed for continuing eligibility at least every three years to verify that the student continues to be a Child with a Disability by one of the following methods:

1. The LEA shall assess if the student continues to be a Child with a Disability and verify the same in a manner acceptable to the Authority; or
2. A Licensed Psychologist or a Licensed Psychiatrist shall evaluate if the student has improved his or her educational performance and would continue to benefit from placement in the Eligible School. The assessment shall be verified in a manner acceptable to the Authority.

## **Part III**

### **Application, Verification, and Awards**

#### **.0300. Applications.**

- (a) To apply for a Scholarship, the student's Parent shall complete an application as instructed by the Authority.
- (b) The Parent completing the application must be a Parent with whom the child resides.
- (c) An application is not considered submitted until it is complete and received by the Authority.
- (d) A copy of the student's most recent IEP documentation in the format determined by the Authority dated within three (3) years of submission shall be submitted to the Authority before the application can be approved and considered complete, unless the student fits into the limited exception for Children with Disabilities Grant Program participants set forth in Rule .0202(b) in which case the documentation set forth in Rule .0202(b) will render the application complete.
- (e) The Parent shall complete a new application for renewal of the Scholarship each Academic Year.
- (f) If any information presented on the applicant's initial or renewal application changes, the Parent is responsible for notifying the Authority of any such change.

#### **0301. Verification.**

- (a) The Parent shall comply with any processes established by the Authority to verify information on the Parent's application.
- (b) The Authority may require an applicant to submit documentation or additional information to substantiate information presented in the application.
- (c) The Parent shall provide consent for the release of the student's education record from the student's school and other entities as may be necessary for the Authority to complete the verification process.
- (d) Failure to cooperate with the verification process by the Parent or any member of the household may result in the revocation of the Scholarship.

**.0302. Application Deadlines and Priority Selection.**

- (a) The Authority may set the application deadlines for the Program for each Academic Year. An application for a Scholarship received after the applicable deadline may not be considered for a Scholarship.
- (b) An application is not considered submitted until it is complete and received by the Authority.
- (c) Applications received on or before the Priority Deadline that are complete will be considered submitted by the Priority Deadline.
- (d) In order to qualify for the Priority Deadline, the information on the application must be accurate and verifiable at the time the application is submitted and all documentation required for determination that the student is a Child with a Disability, pursuant to Rule .0202, must be included with the application.
- (e) First priority for the award of a Scholarship shall be given to eligible students who received a Scholarship during the prior Academic Year if those students have applied on or before the Priority Deadline.
- (f) Second priority for the award of a Scholarship shall be given to eligible students who submitted an application on or before the Priority Deadline and who were selected in the lottery.
- (g) Third priority for the award of a Scholarship shall be given to eligible renewal students who apply after the renewal priority deadline.
- (h) If the number of Scholarships awarded to eligible students who received a Scholarship during the prior Academic Year and submitted applications and to new applicants who submitted their application on or before the Priority Deadline and who were selected in the lottery does not exceed the amount of funding for the Program for the Academic Year, fourth priority shall be given to eligible students who submitted their application on or before the Priority Deadline and who were not selected in the lottery.
- (i) Thereafter, applications for new Scholarship recipients received after the Priority Deadline will be considered in the order the application was submitted.

**.0303. Lottery Process.**

- (a) All students whose Parent's submit an application on or before the Priority Deadline are screened for eligibility.

- (b) Those Parent applicants that submitted an application on or before the Priority Deadline and whose students are deemed eligible will be placed in to a computerized program operated by the Authority that will randomly assign a number to the Parent.
- (c) A Parent that applies for multiple students will only be placed in to the computerized program once and receive one Lottery Number assigned to all eligible students of the same Household.
- (d) The Lottery Number determines what priority order to award the Scholarship.
- (e) A Parent that has been selected through the random lottery process will have a deadline as set by the Authority to accept or decline the Scholarship and failure to notify the Authority by the deadline may result in the Scholarship being revoked.

**.0304. Wait List.**

If additional funding becomes available, the Authority will award Scholarships in the order that the Parent is on the wait list.

**.0305. Parental Notification of Choice of School.**

A Parent that has been notified of the award of a Scholarship will have a deadline as set by the Authority to notify the Authority of the Parent's choice of Eligible School and failure to notify the Authority by the deadline may result in the Scholarship being revoked.

**.0306. Scholarship Amount.**

- (a) The General Assembly determines the maximum amount of a Scholarship and appropriates the funds for the Program for each Academic Year.
- (b) The Authority may set the amount of the Scholarship, in an amount not to exceed the statutory amount set forth in the Act, based on appropriations made by the General Assembly for the Program.
- (c) A Part-time Student is only eligible to receive up to one-half of the statutory amount of a Scholarship, as set forth in the Act.

## Part IV

### Parental Requirements, Parental Agreement, and Expense Reports

#### **.0400. Parental Agreement**

- (a) The Parental Agreement must be executed by the Parent who completes the application.
- (b) Scholarship funds will be placed in an Education Savings Account in the name of the Parent who completes the application.
- (c) Failure to execute the Parental Agreement by the deadline established by the Authority may result in a forfeiture of the Scholarship funds.

#### **.0401. Parent Requirements.**

- (a) Failure to abide by any of the parental requirements set forth in this Section or in the Parental Agreement shall result in forfeiture of the Scholarship funds.
- (b) Any Parent who enrolls his or her student into the Local Educational Agency or other North Carolina public school or department of defense school during the year that the student is receiving Scholarship funds under the Program, other than as a Part-time Student, shall return any unexpended funds to the Authority and shall request a release from the Authority of his or her obligations under the Parental Agreement.
- (c) In order to receive Scholarship funds, a Parent must agree to:
  - 1. Use at least a portion of the Scholarship funds, in an amount to be set forth by the Authority, to provide an education to the Student in, at a minimum the subjects of English language arts, mathematics, social studies and science.
  - 2. Release, in a format acceptable to the Authority, the local education agency in which the student is eligible to attend under G.S. § 115C-366, of all obligations to educate the eligible student while the student is participating in the Program, unless the student is a Part-time Student.
  - 3. Use the Scholarship funds only for Qualifying Education Expenses as set forth in Rule .0501. Use of funds for items that do not constitute Qualifying Education Expenses may result in forfeiture of the Scholarship.

**.0402. Expense Reports.**

- (a) Expense reports, completed in a format acceptable to the Authority, must be submitted by the Parent to the Authority electronically on a quarterly basis, following the initial disbursement of funds, by the deadline set by the Authority.
- (b) Expense reports must be completed by the Parent who completes the application.
- (c) After the initial quarterly disbursement, no Scholarship funds will be transmitted to the Parent applicant unless the expense report for the prior Quarter has been received by the Authority.
- (d) Failure to submit the expense report on a quarterly basis by the deadlines established by the Authority may result in a forfeiture of the Scholarship funds for the remainder of the Fiscal Year.
- (e) Expense reports shall include documentation in a format acceptable to the Authority that the student has used at least a portion of the Scholarship funds, in an amount to be set by the Authority, to pay for an education for the student that consists of, at a minimum, education in the subjects of English language arts, mathematics, social studies, and science.
- (f) Expense reports shall include documentation in a format acceptable to the Authority that the student has received an education in the subjects of English language arts, mathematics, social studies, and science for at least 35 days of the applicable Quarter.
- (g) Expense reports containing items that do not constitute Qualified Educational Expenses will be voided and may result in the forfeiture of Scholarship funds.

**.0403. Renewal and Carryforward of Funds.**

- (a) In order to renew the Scholarship, the Parent must have complied with Program Rules in the prior year, including the specific requirements set forth in Rule .0401.
- (b) If a student applies for renewal of the Scholarship and the renewal application is granted, Scholarship funds remaining in a student's Education Savings Account at the end of the prior

Fiscal Year may be carried forward to the next Fiscal Year, in an amount not to exceed the maximum amount permitted by the Authority to be carried forward.

- (c) If a student is not granted renewal of the Scholarship, any Scholarship funds not used by the student by the end of the Fiscal Year during which the student was awarded the Scholarship shall be returned to the Authority by the deadline set by the Authority.

**.0404. Acceptance of Refunds Strictly Prohibited.**

Any parent who receives a refund of Scholarship funds from an Eligible School, a service provider or practitioner, or any person or company of any kind, shall notify the Authority immediately that it has received a refund of Scholarship funds and must return those funds to the Authority. Failure to report receipt of a refund of Scholarship funds from any source shall result in the student forfeiting any remaining Scholarship funds and being deemed ineligible for the Program and any other programs administered by the Authority.

**.0405. Transfers.**

- (a) A Parent may move the student from one Eligible School to another Eligible School and still use ESA funds at the transferee school so long as (1) the Authority is notified within the time frame required by the Authority for notification of transfer between Eligible Schools.
- (b) Any refunds received by the Parent from the Eligible School must be sent directly to the Authority. Failure to notify the Authority of any refund from an Eligible School as a result of a transfer may result in forfeiture of Scholarship funds and/or a student being deemed ineligible for the Program.

## Part V

### Disbursement and Use of Funds

#### 0500. Disbursements to Education Savings Accounts Generally.

- (a) No Scholarship funds will be transmitted to the Account Holder's Education Savings Account until the Parental Agreement has been properly executed by the Parent, in the manner required by the Authority, and received by the Authority by the method of delivery required by the Authority.
- (b) The Authority will deposit Scholarship funds to a ESA on a quarterly basis.
- (c) The initial disbursement of Scholarship funds for the first Quarter of the Fiscal Year will be made after a fully executed Parental Agreement has been received by the Authority electronically.
- (d) After the initial disbursement, the Authority will only make the quarterly disbursement of Scholarship funds to the ESA after receipt of the Expense Report as required in Rule .0402.
- (e) Disbursement of Scholarships for tuition by the Account Holder to an Eligible School shall only be made after the Authority receives all documentation required under Rules .0603 and in a manner acceptable to the Authority.

#### .0501. Use of Funds.

- (a) Generally. Scholarship funds may only be used for the Student for whom the Scholarship was awarded and who meets the eligibility requirements set forth in Rule .0200.
- (b) Account holders shall only use funds deposited in the ESA for any, or any combination of, the following expenses:
  - 1. Tuition and/or fees for a Eligible School;
  - 2. Textbooks required by the Eligible School;
  - 3. Tutoring and teaching service provided by an individual or facility that meets the requirements set by the Authority, including accreditation by a State, regional or national organization that is acceptable to the Authority;
  - 4. Payment for purchase of curricula;
  - 5. Fees for nationally standardized norm-referenced achievement tests, advanced placement tests, or nationally recognized college entrance exams;
  - 6. Fees charged to the account holder for the management of the PESA;

7. Fees for services provided by a public school and approved by the Authority, including individual classes and extracurricular programs;
  8. Premiums charged to the account holder for any insurance or surety bonds required by the Authority;
  9. Educational therapies provided by a practitioner who holds a license that meets the requirements set by the Authority, including accreditation by a State, regional or national organization that is acceptable to the Authority;
  10. Educational Technology defined by the Authority as approved for use in the Disabilities Grant Program; and
  11. Student transportation, pursuant to a contract with an entity that regularly provides student transportation, to and from (i) a provider of education or related services or (ii) an education activity.
- (c) Account holders are prohibited from using funds deposited in the ESA for any of the following expenses:
1. Computer hardware or other technological devices not defined by the Authority as Educational Technology approved for use in the Disabilities Grant Program.
  2. Consumable educational supplies, including paper, pen or markers.
  3. Tuition and fees at an institution of higher education, as defined in G.S. § 116-143.1, or a private postsecondary institution.
  4. Tuition and fees for a Home School student.
- (d) The expense shall have been incurred during the Fiscal Year for which the Scholarship was approved.
- (e) The Authority may require documentation, in a format acceptable to the Authority, from the Parent of any item or service purchased using Scholarship funds at any time. Failure to provide documentation requested by the Authority within the time allotted by the Authority may result in forfeiture of Scholarship Funds.
- (f) If the Authority determines that Scholarship funds were used for an item or service other than a Qualifying Education Expense, the Scholarship funds used for that item or service must be returned to the Authority within the deadline set by the Authority.

- (g) Use of Scholarship funds for an item or service other than a Qualifying Education Expense may result in forfeiture of funds and the Account Holder and a student being deemed ineligible for the Program.
- (h) Providers of tutoring and teaching services or educational therapies shall not be a member of the student's immediate family and, if the student is a Home School student, shall not be a member of the households of the student's Home School.
- (i) The Authority shall disapprove any expense for which Scholarship funds were used if the Authority determines that the expense is inconsistent with the purpose of the Program, the Program Rules, and the Act.

**.0502. Educational Technology.**

- (a) Educational Technology shall assist the student to benefit from Special Education and be used primarily for educational purposes.
- (b) A list of approved Educational Technology shall be posted on the Program website. Any updates to the list of approved Educational Technology will apply retroactively to the Academic Year in which the update is made.

**.0503. Submittal of Documentation of Expense.**

- (a) Documentation of expenses shall be submitted in a manner established by the Authority.
- (b) Documentation of expenses shall verify that the expense incurred meets the applicable requirements of the Act.
- (c) The Authority may require the Parent to complete and submit other forms as necessary to disburse the Scholarship to the Parent in accordance with the Act.
- (d) The Parent shall comply with any processes established by the Authority to verify information on the Parent's application or documentation of the Parent's expenses.
- (e) The Authority may require additional information to verify documentation of the Parent's expenses.

## **Part VI**

### **School Eligibility**

#### **.0600. Requirements Related to Nonpublic Schools.**

- (a) Any Eligible School that receives Scholarship funds from an ESA under the Program in the form of tuition and fees is required to be identified by the Division of Nonpublic Education as meeting the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (b) Any Eligible School that receives Scholarship funds from the Program shall be physically located in North Carolina.

#### **.0601. Requirements Related to Home Schools.**

- (a) Any Home School that uses Scholarship funds from the Program must be identified by the Division of Nonpublic Education as meeting the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (b) Any Home School that receives Scholarship funds from the Program shall be physically located in North Carolina.

#### **.0602. Duty to Update Contact Information.**

All Eligible Schools shall update the Authority within five (5) days of any change in its contact information, including the name of the school administrator, the email address, the street address and phone numbers.

#### **.0603. Requirements for Eligible Schools to Receive Scholarship Funds.**

- (a) Applicability. In order to be paid Scholarship funds from an ESA, Eligible Schools must complete a registration process as established by the Authority, including completing each and every subpart of the initial registration process as set forth in this Rule.

(b) General Responsibilities.

1. Execute a Participation Agreement.
  - a. To receive Scholarship funds, the Eligible School must sign a Participation Agreement.
  - b. The agreement shall remain in effect until it is terminated pursuant to the terms of the Participation Agreement.
2. Other Required Forms.
  - a. The Eligible School shall complete and submit an Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification, prior to disbursement of the Scholarship for tuition.
  - b. The Authority may require the Eligible School to complete and submit other forms as necessary to disburse the Scholarships for tuition in accordance with the Act.

(c) Tuition and Fees.

1. The Eligible School shall provide the Authority with a complete copy of its tuition and fee schedule for each Academic Year prior to the Eligible School receiving Scholarship funds for tuition.
2. The Eligible School shall provide the Authority with documentation of the required tuition charged to the student prior to the Authority's disbursing Scholarships for tuition for that student.
3. The Eligible School shall not require payment of any additional fees based on the status of the student as a recipient of a Scholarship.

(d) Crediting the Student Account.

The Eligible School shall credit the student's account within ten (10) days of the receipt of a Scholarship.

(e) Refund Policy.

Each Eligible School shall comply with the Authority's Refund Policy that expressly prohibits Eligible Schools from refunding Scholarship funds directly to the student. If there is a need for a refund, the Eligible School must notify the Authority immediately.

(f) Criminal Background Check.

1. Each Eligible School shall conduct a criminal background check in a manner established

by the Authority, national in scope and dated within one year of submission, for the staff member with the highest decision-making authority at the Eligible School as defined by the bylaws, articles of incorporation, or other governing document of the Eligible School to ensure that the person has not been convicted of any crime listed in G.S. § 115C-332(a)(1). An Eligible School shall notify the Authority if the staff member with the highest decision-making authority is charged or convicted of any crime listed in G.S. § 115C-332(a)(1) within five business days of the charge or conviction.

2. An Eligible School shall notify the Authority within five (5) business days of employing a new staff member with the highest decision-making authority as defined by bylaws, articles of incorporation, or other governing document of the Eligible School and shall obtain a criminal background check on that person as required by this sub-subsection of Rule .0603(f)(1).

(g) Financial Reporting Requirements.

1. Each Eligible School that receives more than \$300,000 in Scholarship funds from ESA accounts in a single Academic Year shall contract with a CPA to perform a Financial Review consistent with generally accepted accounting principles and in a format acceptable to the Authority.
2. A copy of the Financial Review report prepared by the CPA must be submitted annually to the Authority in electronic format within ninety (90) days of the end of the Eligible School's fiscal year.
3. If the Financial Review report documents significant findings regarding the Eligible School's administration of Program funds, the Authority may withhold Program funds from the Eligible School until the findings are resolved.

(h) Academic Progress Reporting Requirements.

a. Nationally Standardized Test.

- i. At least once a year, each Eligible School shall administer a Nationally Standardized Test, selected by the chief administrative officer of the Eligible School, to all students in grades three and higher whose tuition and fees are paid in whole or in part by the Program.
- ii. Each Eligible School shall report the scores of the Nationally Standardized Tests to the Authority by July 15 of each year in the manner prescribed by the Authority.

b. Each Eligible School that enrolls more than twenty-five (25) students receiving Scholarship funds for tuition shall report Nationally Standardized Test scores in the aggregate to the Authority by July 15 of each year in a manner prescribed by the Authority.

c. Each Eligible School shall report Graduation Rates to the Authority by July 15 of each year in a manner prescribed by the Authority.

d. Each Eligible School will provide the Parent of each student who receives a Scholarship with a written explanation of the student's progress, including the Nationally Standardized Test scores, at least annually.

(i) Inspection, Retention, Review and Audit of Program Records.

1. Inspection of Records.

Each Eligible School shall provide the Authority with access to all records related to the administration of the Program upon request.

2. Retention of Records.

Each Eligible School shall retain all Program records for five years from the end of the Academic Year or until all audit findings are resolved, whichever is longer.

3. Review and Audit.

Each Eligible School shall be subject to examination by the Authority and any other audit process designated by the Authority to determine whether it has administered the Program in accordance with the Act and the Rules.

## Part VII

### Failure to Comply

#### **.0700. Failure to Comply by An Eligible School.**

- (a) If the Authority determines that an Eligible School has failed to comply with any requirement of the Act, the Rules, or Program policies, the Eligible School may be ineligible to participate in the Program or any other program administered by the Authority.
- (b) Upon receiving notice that the Eligible School is ineligible to participate in the Program, the Eligible School must notify the Parent of any enrolled student scheduled to receive or receiving a Scholarship that the school is no longer eligible to participate in the Program.
- (c) A school that is deemed ineligible to participate in the Program may be required to return a pro-rata share of the Scholarship that was to be used for tuition for the student to attend the Eligible School, depending upon when during the Semester the school is deemed ineligible, and as determined in accordance with the policies of the Authority.

#### **.0701. Failure to Comply by an Account Holder.**

- (a) If the Authority determines that an Account Holder has failed to comply with any requirement of the Act, the Rules, or Program policies, the Account Holder may forfeit the Scholarship funds awarded to the student and the Parent and student may be ineligible to participate in the Program or any other program administered by the Authority.
- (b) The Authority may freeze an ESA Account, direct that a hold be placed on an ESA account, or require a return of funds to the Authority in the event that an Account Holder has failed to comply with any requirement of the Act, the Rules, or Program policies.

## **Part VIII**

### **Interpretive Guidance**

#### **.0800. The Authority as Program Administrator.**

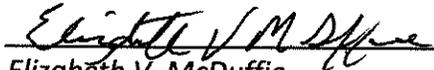
The Authority is hereby authorized and directed to develop, adopt and implement such policies, procedures, and forms as necessary from time to time in order to administer the Program in accordance with the Act and Rules.

#### **.0801. Interpretive Guidance.**

The Authority may, from time to time, issue guidance for interpreting the Program Rules in the form of policy memoranda or questions and answers. All interpretative guidance shall have the force and effect of the Rules.

*I, Elizabeth V. McDuffie, Executive Director and Secretary of the Board of Directors of the State Education Assistance Authority, DO HEREBY CERTIFY that the foregoing is a true and exact copy of the Rules Governing the North Carolina Personal Education Savings Account Program as amended effective July 1, 2018, adopted by the Board of Directors of the Authority on October 3, 2018 and as approved as final pursuant to the authority delegated to me; these Rules are in full force and effect.*

*WITNESS my hand and seal of the Authority, this the 3<sup>rd</sup> day of October, 2018.*

  
Elizabeth V. McDuffie

*Executive Director and Secretary of the Board of Directors*