

# North Carolina Personal Education Savings Account Program

## Misuse of State Funds Policy

### I. Introduction and Purpose

North Carolina Personal Education Saving Account Program (the “Program”) scholarship funds may only be used for Qualified Educational Expenses<sup>1</sup> as defined in N.C.G.S. § 115C-595(a)(3), Rule .0501 of the Rules Governing the North Carolina Personal Education Savings Account Program, the Parental Agreement and Program policies. Scholarship funds shall only be used for the student for whom the Scholarship was awarded. This policy outlines the consequences of an Account Holder’s misuse of State Program funds.

Any and all violations of the Programs’ statutes, rules, policies or procedures, including but not limited to, this Misuse of State Funds Policy may result in a Parent and his or her eligible student being deemed ineligible to participate in the Program or any other program administered by the State Education Assistance Authority (the “Authority”).

### II. Governing Law

Pursuant to N.C.G.S. § 115C-597(c), the Authority “may remove a parent or eligible student from the Program and close a personal education savings account for failure to comply with the terms of the parental agreement, for failure to comply with applicable laws, or because the student is no longer an eligible student.”

In addition, pursuant to Rule .0701(a) (entitled “Failure to Comply by an Account Holder”), if the Authority determines that an Account Holder has failed to comply with any requirement of the Act, the Rules or Program policies, the parent and eligible student may forfeit the scholarship funds awarded to the student and the Parent and the student may be deemed ineligible to participate in the Program. Also pursuant to Rule .0701(b), the Authority may freeze a Educations Savings Account (“ESA”), direct that a hold be placed on an ESA, or require a return of ESA 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 polices.

### III. Policy

#### A. Misuse of State Funds

The Authority has a zero tolerance for misuse of ESA Scholarship funds and will take the following actions if account holders misspend ESA Scholarship funds:

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<sup>1</sup> All capitalized terms in this policy are defined in Rule .0102 (“Definitions”) of the Rules Governing the Personal Education Savings Account Program. The Rules Governing the Personal Education Savings Account Program may be found on the Authority’s ESA [website](#).

- (1) The Authority will notify the account holder through email that funds were misspent and the amount of funding that the Account Holder must repay.
- (2) The ESA account may be frozen until all of the misspent funds are repaid, and/or the Account Holder may be removed from the ESA Program.
- (3) If the Account Holder believes the funds were properly spent, the Account Holder will have ten business days from the date of receipt of the notice of misspent funds to provide an explanation of why he or she believes the funds constitute a Qualified Educational Expense.
- (4) The Authority will withhold the amount of misspent funds from the student's next ESA payment.
  - a. If the student is not participating in the ESA Program as of the date of the next payment, the account holder must repay the funds directly to the Authority following the process below.
  - b. The Authority reserves the right to withdraw misspent funds directly from the ESA account and/or request repayment from the account holder.

**The Authority may refer cases of misuse of State Scholarship funds to the State Bureau of Investigation and/or the North Carolina Attorney General's office for investigation.**

**B. Self-Reporting of Misuse of State Funds**

If the Account Holder uses ESA funds for items other than a Qualified Educational Expense, the Account Holder shall notify the Authority immediately by contacting ESA Program staff at [ESA@ncseaa.edu](mailto:ESA@ncseaa.edu) or (855) 330-3955.

**C. Repayment of Misspent Funds**

If the Authority sends an Account Holder a notice that he or she must repay misspent State funds, the Account Holder should:

- (1) Send the Authority a certified check for the amount of the funds that were misspent.
- (2) Checks should be made payable to: the State Education Assistance Authority.
- (3) With the check, include a letter setting forth the name of the student, the name of the Account Holder, and the reason the funds are being returned to the State (e.g. to repay misspent ESA funds, list the date of the purchase, and describe the purchase including the vendor, provider, and/or item/service).
- (4) Mail the check and letter to:

NCSEAA  
ATTN: Education Savings Account  
P.O. Box 13663  
Research Triangle Park, NC 27709-3663

No additional funds will be disbursed into any of the Account Holder's ESA until the misspent funds are repaid in full. If the Account Holder does not repay the funds, the Authority will remove the Account Holder from the ESA Program and any other programs administered to the Authority and may refer the case to the State Bureau of Investigation and/or the Attorney General's Office.

**D. Freezing and Closing ESA Accounts**

In accordance with the Program statute and Program rules, the Authority is permitted to freeze funds in the ESA, close the ESA, and/or withdraw funds from the ESA for reasons including, but not limited to:

1. Fraud;
2. Misuse of Scholarship funds;
3. Account Holders failure to comply with the Program statute, Program Rules, the Parental Agreement or Program policies;
4. If the student returns to the public school district;
5. If the student exits the Program; or
6. If the funds were deposited into the ESA in error.

Eff. July 1, 2018