



Rules Governing the North Carolina Personal Education Student Accounts for Children with Disabilities Program

A Program of the State of North Carolina
Administered by the State Education Assistance Authority
3120 Poplarwood Court
Raleigh, NC 27604

Adopted by the Board of Directors January 13, 2022
Effective January 13, 2022
Amended April 4, 2022
Effective April 4, 2022
Amended October 4, 2022
Effective October 4, 2022
Amended October 23, 2023
Effective October 23, 2023

Table of Contents

PART I.....	4
SHORT TITLE, PURPOSE, AND DEFINITIONS	4
.0100. Short Title.....	4
.0101. Purpose and Scope.....	4
.0102. Definitions.....	4
PART II.....	11
STUDENT ELIGIBILITY REQUIREMENTS.....	11
.0200. Student Eligibility for the ESA Plus Program - Generally.....	11
.0201. Additional Eligibility Requirements for Four-Year-Old Applicants.....	11
.0202. Student Eligibility for the Opportunity Scholarship Program.....	13
.0203. Disability Determination Requirements.....	13
PART III.....	15
APPLICATION, VERIFICATION, AND AWARDS	15
.0300. Applications.....	15
.0301. Verification.....	15
.0302. Application Deadlines and Priority Selection.....	16
.0303. Lottery Process.....	16
.0304. Wait List.....	17
.0305. Parental Notification of Choice of School.....	17
.0306. Student Scholarship Amount.....	18
.0307. Scholarship Amount for Certain Testing Requirements.....	18
PART IV.....	20
PARENTAL REQUIREMENTS, PARENTAL AGREEMENT, AND EXPENSE REPORTS	20
.0400. Parental Agreement.....	20
.0401. Parent Requirements.....	20
.0402. Renewal and Carryforward of Funds.....	21
.0403. Acceptance of Refunds Strictly Prohibited.....	21
.0404. Transfers.....	22
PART V.....	23
DISBURSEMENT AND USE OF FUNDS	23
.0500. Disbursements to Education Students Accounts Generally.....	23
.0501. Use of Funds.....	23
.0502. Educational Technology.....	25
.0503. Submittal of Documentation of Expense.....	25

PART VI.....27

SCHOOL ELIGIBILITY27

.0600. Requirements Related to Eligible Schools..... 27

.0601. Duty to Update Contact Information. 28

.0602. New School Registration Requirements 28

.0603. Direct Disbursement School Requirements; Tuition and Required Fees for Eligible Schools. 29

.0604. Confirmation of Student Eligibility. 34

.0605. Duty to Update Contact Information. 34

.0606. Duty to Notify DNPE and the Authority of School Closure. 35

PART VII.....38

FAILURE TO COMPLY38

.0700. Failure to Comply by An Eligible School; Noncompliance by a Direct Disbursement School. 38

.0701. Review for Reinstatement of Eligibility for an Eligible School. 39

.0702. Failure to Comply by an Account Holder. 40

PART VIII.....41

INTERPRETIVE GUIDANCE41

.0800. The Authority as Program Administrator..... 41

.0801. Interpretive Guidance. 41

Part I

Short Title, Purpose, and Definitions

.0100. Short Title.

The Rules Governing the North Carolina Personal Education Student Accounts for Children with Disabilities Program may hereinafter be cited as the “Rules.”

.0101. Purpose and Scope.

The North Carolina Personal Education Student Accounts for Children with Disabilities Program, also known as the “ESA Plus Program” was established by the 2021 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) “*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.
- (b) “*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.
- (c) “*ACT Exam*” means the American College Test, a nationally standardized test, commonly used for college admissions that serves as a measurement for aptitude and critical thinking in the areas of English, mathematics, reading, and science.
- (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) *“Cash Basis Accounting Report”* means a report performed by a CPA which provides any comprehensive basis of accounting recognized by the American Institute of Certified Public Accounts (AICPA), including the income tax basis of accounting, cash basis of accounting, or modified cash basis of accounting.
- (g) *“Child with a Disability”* means a child with at least one Disability who because of that Disability requires Special Education and Related Services.
- (h) *“Child with Certain Designated Disabilities”* means a child who meets all of the eligibility criteria of the Program and also has one of the following disabilities listed as the student’s primary or secondary disability on the student’s eligibility determination form as part of the student’s IEP at the time of the submission of the Program: Autism; Hearing impairment; Moderate or severe Intellectual Disability; Orthopedic Impairment; or Visual Impairment.
- (i) *“Common Nationally Standardized Test”* means the Nationally Standardized Test recommended by the Superintendent of Public Instruction for use in third grade and the Nationally Standardized Test recommended by the Superintendent of Public Instruction for use in eighth grade that would be administered to students receiving scholarship funds in Eligible Schools and students attending a North Carolina public school.
- (j) *“CPA”* means a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners.
- (k) *“Criminal History”* means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties in overseeing State funds and the requirements of the scholarship program. Such crimes are those listed in G.S. § 115C-332(a)(1).
- (l) *“Date of Withdrawal”* means the last date that the student attended classes or submitted work to the teacher at the Eligible school.
- (m) *“Developmental Delay”* means a child aged three through seven, whose development and/or behavior is delayed or atypical, as measured by appropriate diagnostic instruments and

procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, and who, by reason of the delay, needs special education and related services.

- (n) *“Direct Disbursement School”* means an Eligible School that consents to comply with the requirements of G.S. § 115C-562.5, but does not include a North Carolina public school for which the payment of tuition is required.
- (o) *“Disability”* includes intellectual disability; 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 the IDEA; and for a child ages three through seven, this term also includes developmental delay.
- (p) *“Division of Nonpublic Education”* or *“DNPE”* means the Division of Nonpublic Education located within the Department of Administration under G.S. § 143-341.
- (q) *“Education Student Account”* or *“ESA”* means an electronic 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 Educational Expenses.
- (r) *“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 educational purposes for a Child with a Disability as identified annually by the Authority in accordance with Rule .0502.
- (s) *“Eligible School”* means a Part 1 or Part 2 Nonpublic School or a North Carolina public school for which the payment of tuition is required and that has completed the Program registration process prescribed by the Authority, if applicable.
- (t) *“Executive Director”* means the executive director of the Authority as defined in G.S. 116-203(f1).
- (u) *“Financial Review”* means a financial review as that term is defined by the American Institute of Certified Public Accountants (AICPA).
- (v) *“Fiscal Year”* means the year beginning on July 1 and ending on June 30, except a Direct Disbursement School may define its fiscal year for the school for the purposes of the financial reporting under Rule .0603(i).

- (w) *"Foster Parent"* means a foster parent as defined in G.S. 131D-10.2(9a).
- (x) *"Graduation Rate"* means the percentage of Program recipients who attended the Eligible School during their senior year and graduated.
- (y) *"HDMA"* means 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.
- (z) *"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).
- (aa) *"Home School"* means a nonpublic school as defined in G.S. §115C-563(a).
- (bb) *"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.
- (cc) *"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.
- (dd) *"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).
- (ee) *"In-Person Instruction"* means that one or more teachers provides educational instruction in-person to students receiving scholarship funds at a facility maintained by an Eligible School.
- (ff) *"Licensed Psychologist"* means an individual who has been issued a license pursuant to the North Carolina Psychology Practice Act, G.S. § 90-270.135 et seq., and whose license is in good standing and permits him or her to engage in the practice of psychology as defined in G.S. § 90-270.136(6).
- (gg) *"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.

(hh) "*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:

1. A local school administrative unit;
2. A charter school;
3. The Department of Health and Human Services;
4. The Division of Adult Correction of the Department of Public Safety;
5. The Division of Juvenile Justice of the Department of Public Safety; and
6. Any other State agency or unit of local government.

(ii) "*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.

(jj) "*National Aptitude Test*" means a test such as the Stanford-Binet, the Wechsler Preschool and Primary Scale of Intelligence, The Kaufman Anderson, or any other comparable tests.

(kk) "*Nationally Normed Achievement Test in either Reading or Mathematics*" means a test such as the Metropolitan Readiness Test, the Stanford Early School Achievement Test, the Mini Battery of Achievement, the Woodcock-Johnson, the Test of Early Mathematics (TEMA), the Test of Early Reading Ability (TERA), or any other comparable test.

(ll) "*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 or for grades nine (9), ten (10), and twelve (12) measures competencies in the verbal and quantitative areas.

(mm) "*Opportunity Scholarship Program*" means the scholarship program as established in Part 2A of Article 39 of Chapter 115C of the North Carolina General Statutes.

(nn) "*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).

(oo) "*Parent*" means an applicant for the Scholarship who is:

1. A biological, 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 biological 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.

(pp) "*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.

(qq) "*Part 1 or Part 2 Nonpublic School*" means a nonpublic school that has been deemed by the Division of Nonpublic Education ("DNPE") to meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes.

(rr) "*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.

(ss) "*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.

(tt) "*Priority Deadline*" means March 1 of each School Year and is the deadline by which a Parent must submit a complete application in order to be entered into the Program lottery.

(uu) "*Program*" means the North Carolina Personal Education Student Accounts for Children with Disabilities Program established under Article 41 of Chapter 115C of the North Carolina General Statutes.

(vv) "*Qualified Educational Expenses*" means the category of expenses set forth in G.S. § 115C-595(a)(3).

(ww) "*Related Services*" means related services as defined in the IDEA at 34 C.F.R. 300.34 and G.S. § 115C-112.5(3a).

(xx) "*Remote Instruction*" means instruction delivered to students in a remote location outside of a school facility, whether synchronously or asynchronously.

- (yy) *"Scholarship"* means funds awarded under the Program as defined in G.S. §115C-592(b).
- (zz) *"School Year"* means at least two semesters and may include a Summer Term following the spring semester as determined by an Eligible School.
- (aaa) *"Semester"* means an academic period occurring during the school year as determined by an Eligible School; the fall semester shall be in the first half of the school year and may commence on days in which school attendance is required as determined by the Eligible School between July and October and continue until January and the spring semester shall be in the second half of the school year and may commence on days in which school attendance is required as determined by the Eligible School between January and March and continue until June.
- (bbb) *"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.
- (ccc) *"State"* means the State of North Carolina.
- (ddd) *"Summer Term"* means an academic period occurring during the School Year as determined by an Eligible School that continues after the spring semester and occurs between July 1 and August 31.
- (eee) *"Superintendent of Public Instruction"* means the secretary and chief administrative officer of the State Board of Education, as established in Article 3 of Chapter 115C of the North Carolina General Statutes.
- (fff) *"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).
- (ggg) *"Work Sample"* means a work sample in at least one of the following areas: independent reading, problem solving, advanced vocabulary, and some writing fluency. The work sample should show outstanding ability in art, math, writing, dramatic play, creative productions, science, social interactions, or any other area.

Part II

Student Eligibility Requirements

.0200. Student Eligibility for the ESA Plus Program - Generally.

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

- (a) Is residing in North Carolina;
- (b) Is a Child with a Disability;
- (c) Satisfies the disability determination requirements in Rule .0203;
- (d) Is eligible to attend a North Carolina public school pursuant to G.S. § 115C-364 and 366;
- (e) 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;
- (f) Will enroll in and attend an Eligible School or a Home School in a grade level no lower than kindergarten for the School Year for which the student applies;
- (g) Has reached or will reach the age of five (5) on or before August 31, except if a student is the age of four (4) on or before April 16 immediately preceding the School Year for which the student is applying, the student may be otherwise eligible if the HDMA of a Part 1 or Part 2 Nonpublic School, finds that the student meets all of the requirements set forth in Rule .0201 and those findings are documented by the HDMA of the Part 1 or Part 2 Nonpublic School in the manner prescribed by the Authority;
- (h) Is younger than twenty-two (22) as of the date of the beginning of the Semester;
- (i) Has not been placed in a nonpublic school or facility by a public agency at public expense;
- (j) Has not been enrolled as a student on a full-time basis taking at least twelve (12) hours of academic credit in a postsecondary institution; and
- (k) Does not have a high school diploma or its equivalent.

.0201. Additional Eligibility Requirements for Four-Year-Old Applicants.

- (a) Evaluation and Testing.

1. Student Aptitude. The student must score at the ninety-eighth (98th) percentile or above on a National Aptitude (IQ) Test. The National Aptitude Test must be administered by a Licensed Psychologist.
 2. Student Achievement. The student must also score at the ninety-eighth (98th) percentile or above on a Nationally Normed Achievement test in either Reading or Mathematics. The Nationally Normed Achievement Test may be administered by (i) the Licensed Psychologist who administered the student's National Aptitude Test; (ii) a member of the Licensed Psychologist's professional staff; or (iii) an impartial professional educator who is trained in the use of the instrument, so long as the impartial professional educator has no potential conflict of interest in the outcome of the assessment.
 3. Timing of the Administration of the Tests. The National Aptitude Test and the Nationally Normed Achievement Test must be administered after April 16th following the student's fourth (4th) birthday.
- (b) Determination of Readiness for Kindergarten by the HDMA. If the student meets the requirements in Rule .0201(a), then the HDMA at a Part 1 or Part 2 Nonpublic School in which the student wishes to enroll, must decide if the four-year-old student applicant demonstrates readiness to attend kindergarten at a Part 1 or Part 2 Nonpublic School based on the following factors:
1. Student Performance. The student must be able to perform tasks well above same-age peers as evidenced by behaviors in one or more areas such as independent reading, problem solving skills, advanced vocabulary, and some writing fluency. Within the first thirty (30) calendar days of the school's instructional year, the Parent shall submit a Work Sample of the student's work to the HDMA.
 2. Observable Student Behavior/Student Interest. The student shall demonstrate (i) the social and developmental maturity needed for a structured school setting; (ii) the capability of following verbal instruction; and (iii) the ability to function independently within a group. Within the first thirty (30) calendar days of the school's instructional year, the Parent shall provide to the HDMA two (2) Letters of

Recommendation with specific documentation of physical and social maturity, from the student's preschool teachers, childcare workers, pediatricians or other adults with direct knowledge of the student.

3. Motivation/Student Interest. The HDMA or his/her designee shall conduct an informal interview with the student and a more structured interview with the Parent to determine if the student seeks new and challenging learning situations.
- (c) Timing of Eligibility Determination for Four-Year-Old Applicant. The HDMA shall decide whether to grant the Parent's application for enrollment in kindergarten within three (3) weeks of the Parent's submissions of the testing, Work Sample, and the letters of recommendation required in Rules .0201(a) and (b).
- (d) Documentation of Enrollment Decision. The HDMA will complete a form provided by the Authority verifying (i) that the student scored in the ninety-eighth (98th) percentile or above on the tests required in Rule .0201(a) and (ii) that he or she has determined "that the child is gifted and that the child has the maturity to justify admission to the school."
1. A copy of this form must be submitted to the Authority in order for the student to be deemed eligible for the Scholarship.
 2. The signed form, the student's test scores, and all other submissions required under Rule .0201 associated with the admissions process, must be kept at the school and be presented to the Authority upon request.

.0202. Student Eligibility for the Opportunity Scholarship Program.

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 the eligibility criteria required for participation in the Opportunity Scholarship Program.

.0203. Disability Determination Requirements.

- (a) Initial Eligibility Determination. The Parent shall submit documentation, in a manner prescribed by the Authority, of the eligibility 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.

- (b) Continuing Eligibility Determination. Each eligible student receiving Scholarship funds shall be assessed for continuing eligibility at least every three (3) years to verify that the student continues to be a Child with a Disability by one of the following methods, except as otherwise provided for students whose primary disability is Developmental Delay:
1. The LEA shall assess if the student continues to be a Child with a Disability and will document that assessment in the student's eligibility determination at the time of the assessment. An eligible student whose primary disability is Developmental Delay can only be assessed for continuing eligibility by an LEA.
 2. A Licensed Psychologist with a school psychology focus 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 or Home 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.
- (e) The Parent shall complete a new application for renewal of the Scholarship each School 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 School 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 .0203, 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 School 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) If the number of Scholarships awarded to eligible students who received a Scholarship during the prior School 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 School Year, third 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.
- (h) 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 Parents 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 into 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 into 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 may award Scholarships in the order that the Parent is on the wait list.

.0305. Parental Notification of Choice of School.

- (a) 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 or Home School and failure to notify the Authority by the deadline may result in the Scholarship being revoked.
- (b) The Parent of a student who participates in the Program who is in a Home School must register that Home School with the Division of Nonpublic Education and 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 prior to the disbursement of Scholarship funds.

.0306. Student Scholarship Amount.

- (a) The General Assembly determines the maximum amount of a Scholarship and appropriates the funds for the Program for each School 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 student who is attending an Eligible School full-time is eligible to receive a Scholarship up to the statutory amount as set forth in G.S. § 115C-592(b)(i) and a Part-time Student is eligible to receive up to one-half of the statutory amount of a Scholarship as set forth in G.S. § 115C-592(b)(ii), unless the student is a Child with Certain Designated Disabilities and may be eligible for a larger scholarship amount.
- (d) A student who is attending an Eligible School full-time and is a Child with Certain Designated Disabilities may be eligible for a larger scholarship amount, up to the amount set forth in G.S. §115C-592(b1)(i).
- (e) A Part-Time student, who is a Child with Certain Designated Disabilities, may be eligible for a scholarship up to the amount set forth in G.S. §115C-592(b1)(ii).
- (f) In order for a student to be considered eligible for priority in the award of a larger scholarship amount up to the amount set forth in G.S. §115C-592(b1), the IEP for the Child with Certain Designated Disabilities must be submitted to the Authority no later than May 1 of the school year prior to the school year for which the student is applying. The Authority may award a larger scholarship amount if the IEP for the Child with Certain Designated Disabilities is submitted after May 1 if the Authority awards Scholarships to other students who submitted their applications on or before the Priority Deadline and who were not selected in the lottery under Rule .0302(g) and, after those awards, funding remains available for the Program for the School Year.

.0307. Scholarship Amount for Certain Testing Requirements.

The Authority shall disburse funds to an Eligible School separate from the Scholarship amount under Rule .0306 for each student receiving a Scholarship enrolled in grades three (3), eight (8), or eleven (11) at the Eligible School in an amount equal to the cost of the Common Nationally

Standardized Test and ACT Exam to applicable students as required under Rule .0603(j)1.a.(1) and (2).

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 Student 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 Rule 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 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. Ensure and certify that the student received an education in the subjects of English language arts, mathematics, social studies, and science for at least 70 days of the applicable Semester.
 - 3. Release, in a format acceptable to the Authority, the Local Educational 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.

4. Use the Scholarship funds only for Qualifying Educational Expenses as set forth in Rule .0501. Use of funds for items that do not constitute Qualifying Educational Expenses may result in forfeiture of the Scholarship.

.0402. 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) Scholarship funds remaining in a student's Education Student Account at the end of the prior Fiscal Year, other than in an account for a Child with Certain Designated Disabilities, may not be carried forward to the next Fiscal Year and shall be returned to the Authority.
- (c) If a Child with Certain Designated Disabilities applies for renewal of the scholarship and the renewal application is granted, Scholarship funds remaining in the Education Student Account for a Child with Certain Designated Disabilities at the end of the Fiscal year may be carried forward in an amount not to exceed four thousand five hundred dollars (\$4,500), however in no event shall the total amount of funds in the Education Student Account carried forward exceed thirty thousand dollars (\$30,000).
- (d) If a student is not granted renewal of the Scholarship, any Scholarship funds not used by the student under subsection (c) of this Rule 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.

.0403. Acceptance of Refunds Strictly Prohibited.

- (a) Any parent who receives a refund of Scholarship funds from an Eligible School, a service provider, 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.

- (b) Parents should also inform and remind the Eligible School, service provider, or practitioner that refunds of Scholarship funds to the Parent are prohibited and that the entity should contact the Authority and refund amounts directly to the Authority.

.0404. 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 the Authority is notified by the Parent within ten (10) school days from the Date of Withdrawal of the student from the Eligible School.
- (b) Eligible Schools shall notify the Authority within ten (10) school days from the Date of Withdrawal that a Student has withdrawn from the Eligible School.
- (c) 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 Students Accounts Generally.

- (a) No Scholarship funds will be transmitted to the Account Holder's Education Student 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 an ESA in two equal amounts, once in each half of the School Year. For students who attend a Direct Disbursement School, the amount deposited in the ESA account will be equal to one-half of the award amount less the tuition and fees to be paid by the Scholarship funds to the school. The tuition and fees that the Scholarship funds cover will be disbursed from the Authority directly to the school in two payments, one payment in the fall Semester and one payment in the spring Semester.
- (c) The initial disbursement of Scholarship funds for the first Semester of the Fiscal Year will be made after a fully executed Parental Agreement has been received by the Authority electronically.

.0501. Use of Funds.

- (a) 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 an 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 that are not otherwise provided for by Rule .0307;
 6. Fees charged to the account holder for the management of the ESA;
 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;
 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; and
 12. Transaction or merchant fees charged to the account holder, not to exceed two and one-half percent of the cost of the item or service.
- (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.
 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 obligated during the Fiscal Year for which the Scholarship was approved. An expense obligated for a Summer Term or for tutoring and teaching services, educational therapies, or curriculum occurring between July 1 and August 31

related to the continuation of a student's attendance at an Eligible School or a Home School must be submitted for approval to the Authority prior to June 15 of a School Year.

- (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 Educational 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 Educational 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 annually on the Program website.

.0503. Submittal of Documentation of Expense.

- (a) Documentation of expenses shall be submitted in a manner established by the Authority upon request by the Authority.
- (b) Documentation of expenses shall verify that the expense incurred meets the applicable requirements of the Act.

- (c) An expense report shall not be required for any expenses that have been pre-approved by the Authority.
- (d) 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.
- (e) 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 Eligible Schools.

- (a) Any Direct Disbursement 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 at which a parent uses Scholarship funds to cover the cost of tuition and fees from the Program shall have a location in North Carolina. A Direct Disbursement School must also maintain a facility to provide In-Person Instruction. A Direct Disbursement School is not prohibited from offering Remote Instruction, in addition to In-Person Instruction. However, failure to offer In-Person Instruction will result in the Direct Disbursement School being deemed ineligible for participation in the Program.
- (c) If an Eligible School is no longer meeting the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes as identified by the Division of Nonpublic Education, the school must notify the Authority no later than fourteen (14) days after its change in eligibility and is no longer permitted to accept scholarship funds.
- (d) The Authority will disburse scholarship funds for tuition and required fees directly to the Direct Disbursement Schools on behalf of Scholarship recipients.
- (e) Disbursement of Scholarships directly to Direct Disbursement Schools will be made only after the Direct Disbursement School completes all of the applicable annual Direct Disbursement School requirements and the Authority receives all documentation required under this Rule and Rules .0603 and .0607 in a manner acceptable to the Authority.
- (f) Disbursements shall not be made until the Parent endorses the Scholarship for direct deposit into the Direct Disbursement School's account.

.0601. Duty to Update Contact Information.

All Direct Disbursement 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.

.0602. New School Registration Requirements

- (a) A new nonpublic school who enrolls students receiving scholarship funds for tuition and fees from the Program must be identified by DNPE as meeting the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes prior to registering for the Program.
- (b) In order to be paid Scholarship funds from an ESA, a school that is applying to be a Direct Disbursement School must notify the Authority of its intent to be a Direct Disbursement School no later than June 15 and must complete a registration process as established by the Authority, no later than June 30 prior to the School Year for which the school seeks to receive funds, including completing each and every subpart of the initial registration process as set forth in this Rule. Failure to complete the registration process by the deadlines set by the Authority for a Direct Disbursement School may result in an ineligibility to receive funds from an ESA. An Eligible School that completes the registration process established by the Authority to be disbursed funds on behalf of students participating in the Opportunity Scholarship Program will also meet the requirements to be a Direct Disbursement School under this Part.
- (c) If a new or registered Part 1 or Part 2 Nonpublic School has more than one school location or campus, each and every location must be separately 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. Each location must also complete the initial registration process as established by the Authority no later than June 30 prior to the School Year for which they wish to receive scholarship funds.

.0603. Direct Disbursement School Requirements; Tuition and Required Fees for Eligible Schools.

(a) Execute a Participation Agreement.

1. To receive Scholarship funds by direct disbursement, the Direct Disbursement School must sign a Participation Agreement.
2. The agreement shall remain in effect until it is terminated pursuant to the terms of the Participation Agreement.

(b) Other Required Forms.

1. The Direct Disbursement 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.
2. The Authority may require the Direct Disbursement School to complete and submit other forms as necessary to disburse the Scholarships for tuition in accordance with the Act.

(c) Tuition and Required Fees.

1. The Direct Disbursement School shall provide the Authority with a complete copy of its tuition and fee schedule on an annual basis and no later than July 15 prior to the School Year for which they wish to enroll students who receive scholarship funds. No changes to the Tuition and Fee Schedule after July 15 will be permitted for the upcoming School Year. Failure to provide the Tuition and Fee schedule by July 15 may result in a school being deemed ineligible for that School Year
2. Fees for an Eligible School may include certain fees for books, transportation, equipment, or other items required by the Eligible School.
3. The Scholarship will only cover fees that are required of all students at the Eligible School or all students in a particular grade level at the Eligible School. Optional fees or fees required of only some students will not be covered by the Scholarship.

4. The Direct Disbursement 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.
5. The Direct Disbursement School shall not require payment of any additional fees based on the status of the student as a recipient of a Scholarship.

(d) Scholarship Certification and Endorsement.

1. Prior to the disbursement of scholarship funds to the Direct Disbursement School, the Direct Disbursement School shall certify and attest that the student is a Full-time or a Part-time student enrolled in and attending the school.
2. Following the Parent's endorsement of scholarship funds for direct deposit into the Direct Disbursement School's account, the Direct Disbursement School shall certify and attest that the tuition and fees charged to the student are true and accurate, prior to the Authority's disbursing the scholarship funds to the school.
3. The amount of tuition and fees endorsed by the school for each student who receives the Scholarship must align with and be accurately itemized in the Tuition and Fee Schedule submitted for the School Year in order for scholarship funds to be disbursed to the school. Any discrepancies identified between the amount of tuition and fees endorsed for a student and the Tuition and Fee Schedule submitted to the Authority may result in a return of funds to the Authority and a school being deemed ineligible for that School Year.

(e) Crediting the Student Account. The Direct Disbursement School shall credit the student's account within ten (10) days of the receipt of a Scholarship. Funds disbursed for the costs of tests for students pursuant to Rule .0307 shall be accounted for specifically for that purpose by the Eligible School.

(f) 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.

(g) Reimbursement Policy.

1. Reimbursement of scholarship funds by the Eligible School directly to a Parent is prohibited, except with direct written consent by the Authority. Consent will only be given in rare and specific circumstances, such as where a student is awarded a Scholarship during the School Year, but after the Parent paid tuition and fees for the School Year.
2. Schools are prohibited from charging a Parent tuition and/or fees covered by a Scholarship received by a student under the Program in advance of Direct Disbursement to the school.

(h) Criminal History Check.

1. Each Direct Disbursement School shall submit a criminal history check in a manner established by the Authority, national in scope and dated as of the date of submission, for the HDMA at the Direct Disbursement School.
2. Each Direct Disbursement School must submit a criminal history check every three (3) years in order to remain eligible for the Program.
3. A Direct Disbursement School shall notify the Authority if the HDMA is charged or convicted of any crime listed in G.S. § 115C-332(a)(1) within five business days of the charge or conviction. The Authority may request additional information regarding a pending charge of any crime listed in G.S. § 115C-332(a)(1).
4. A Direct Disbursement School shall notify the Authority within five (5) business days of employing a new HDMA and shall submit a criminal history check on that person as required by subdivision 1 of this Rule.
5. If during initial registration of a school, the determination is made under Part VII of this Rule that the Direct Disbursement School is ineligible based on the review of Criminal History of the HDMA, the school shall not be eligible to receive a disbursement of scholarship funds from the Program unless the Direct Disbursement School notifies the Authority of a new HDMA and submits a criminal history check on that person as required by subdivision 1. of this Rule. During the initial registration process, a Direct Disbursement School may submit a criminal history check on a new HDMA until June 30 prior to the School Year

in which the school will become eligible to receive a disbursement of funds on the behalf of students participating in the Program.

(i) Financial Reporting Requirements.

1. Each Direct Disbursement School that receives Opportunity Scholarship Program funds or Education Student Accounts for Children with Disabilities Program funds on behalf of a total of seventy (70) or more students enrolled in the school for at least one Semester during a School Year shall contract with a CPA to perform either (i) a Financial Review consistent with generally accepted accounting principles or (ii) a Cash Basis Accounting Report, in a format acceptable to the Authority.
2. The Financial Review report or the Cash Basis Accounting Report must include the amount received from the Opportunity Scholarship Program and ESA+ Program for the School Year at issue listed by program.
3. A copy of the Financial Review report or the Cash Basis Accounting Report prepared by the CPA must be submitted annually to the Authority in electronic format within four (4) months of the end of the school's fiscal year.
4. If the Financial Review report or the Cash Basis Accounting Report documents significant findings regarding the school's administration of Program funds, the Authority may withhold Program funds from the school until the findings are resolved.

(j) Academic Progress Reporting Requirements.

1. Testing Requirements

- a. At least once a year, each Direct Disbursement School shall administer a nationally standardized test to all students receiving Scholarships in grades three (3) and higher whose tuition and fees are paid in whole or in part by the Program as follows:

- (1) the Common Nationally Standardized Test, as recommended by the Superintendent of Public Instruction and designated by the Authority in accordance with G.S. § 115C-562.5(a)(4)a., to all students in grade

three (3) and grade eight (8);

(2) the ACT Exam for all students in grade eleven (11); and

(3) a Nationally Standardized Test selected by the HDMA of the Eligible School, to all students in grades four (4) through seven (7) and grades nine (9), ten (10), and twelve (12).

b. Each Direct Disbursement School shall report the individual test scores of the nationally standardized tests to the Authority by July 15 of each year in the manner prescribed by the Authority.

2. Each Direct Disbursement School that has more than twenty-five (25) students receiving Scholarships enrolled in grades three (3), eight (8), or eleven (11) in the Semester in which they administer the test shall provide aggregate standardized test performance scores for those students by July 15 of each year in a manner prescribed by the Authority.

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

4. Each Direct Disbursement 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.

(k) Tuition Reimbursement.

1. Tuition reimbursement is available to families whose children attend Part 1 or Part 2 Nonpublic Schools that are registered with DNPE, but have chosen not to complete the Authority's registration process. The Authority shall not reimburse a parent prior to midpoint each semester and shall only provide reimbursement for tuition and required fees upon documentation requested by the Authority.

2. Home School students are not eligible for reimbursement of tuition.

(l) Mandatory School Training.

Each Direct Disbursement School shall attend mandatory training on school responsibilities and program operation requirements as required by the Authority and by the deadlines set by the Authority in order to remain eligible for the Program. Failure

to complete mandatory training may result in suspension of disbursement of Scholarship funds to the Direct Disbursement School until training has been completed or, following notification by the Direct Disbursement School that it is requesting a waiver of one or more training requirements for good cause, the Authority determines that the Direct Disbursement School may receive a waiver of a requirement and receive scholarship funds for that School Year only.

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

1. Inspection of Records.

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

2. Retention of Records.

Each Direct Disbursement School shall retain all Program records for five (5) years from the end of the School Year or until all audit findings are resolved, whichever is longer.

3. Review and Audit.

Each Direct Disbursement 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.

.0604. Confirmation of Student Eligibility.

(a) Eligible Schools shall confirm that information that the Authority has regarding each student is consistent with the information that the Eligible School has for the student and the school shall report any conflicting information to the Authority.

(b) An Eligible School shall report to the Authority any misrepresentations, of which it is aware, made by a Parent that relate to the receipt of Program funds.

.0605. Duty to Update Contact Information.

Each Eligible School 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.

.0606. Duty to Notify DNPE and the Authority of School Closure.

- (a) If a Part 1 or Part 2 Nonpublic School ceases to operate, the school shall notify DNPE and the Authority as soon as possible, but no later than fourteen (14) days after closure. A school shall not accept any scholarship funds after a school closure, unless otherwise permitted by the Authority.
- (b) The Part 1 or Part 2 Nonpublic School shall return funds disbursed on behalf of students receiving Scholarships depending on the date of closure and in accordance with the Authority's policies for return of funds for the Program, including the Opportunity Scholarship Program Student Withdrawal and Refund policy.
- (c) Failure to (i) notify DNPE within fourteen (14) days of a school closure and (ii) return any funds owed to the Authority in a timely manner shall result in any other nonpublic school opened during that School Year, or in subsequent School Years, by an owner or chief administrative officer of the Part 1 or Part 2 Nonpublic School deemed ineligible to participate in the Opportunity Scholarship Program or the ESA+ Program until such time as the Authority determines the obligation to return those funds has been satisfied.

.0607. Review of the School's Criminal History Check.

- (a) The Authority will review each criminal history check submitted by a Direct Disbursement school, in accordance with Rule .0603(h)1., to determine if the HDMA has been convicted of a crime enumerated in G.S. § 115C-332(a)(1) and therefore have a Criminal History that may preclude the school from being eligible to receive scholarship funds from the Program via direct disbursement.
- (b) If the HDMA has a Criminal History, the Executive Director shall review the Criminal History to make a determination as to whether the Criminal History indicates that the HDMA has any of the following disqualifying characteristics, which would preclude the school from being deemed eligible for direct disbursement: (i) poses a threat to the physical safety of students or personnel; (ii) demonstrates that he or she does not have the integrity or honesty to fulfill his or her duties in overseeing State funds and the requirements of the Program; or (iii) has not fully satisfied the criminal sentencing obligations imposed following his or her conviction by a court of competent jurisdiction.
- (c) In making the determination, the Executive Director, shall consider the following:
 - 1. The level and seriousness of the crime;
 - 2. The nature of the crime;
 - 3. The circumstances surrounding the commission of the crime, if known;
 - 4. The amount of time that has elapsed since the person's last criminal activity;
 - 5. The age of the person when the crime was committed;
 - 6. The nexus between the criminal conduct of the person and his or her position at the Direct Disbursement School;
 - 7. The conduct and work activity of the person before and after the criminal activity;
 - 8. The prison, jail, probation, parole, rehabilitation, and/or employment records of the HDMA since the date the crime was committed;
 - 9. The frequency of convictions; and
 - 10. Evidence of rehabilitation.
- (d) The Authority may request the HDMA provide supplemental information to help make

the determination.

- (e) The Executive Director shall make written findings regarding whether the Direct Disbursement School is in compliance with the Act and eligible to receive a disbursement of funds from the Program and how the Criminal History was used in making the determination. A finding of ineligibility under this subsection for a Direct Disbursement School that has been receiving funds for students participating in the Program will make the school subject to the provisions of Rule .0700. A Direct Disbursement School may be provided an opportunity to notify the Authority of a new HDMA for the school and submit a criminal history check on that person as required by Rule .0603(h)1. under subsection (b) of Rule .0700.

Part VII

Failure to Comply

.0700. Failure to Comply by An Eligible School; Noncompliance by a Direct Disbursement 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 directly or indirectly receive Scholarship funds from students participating in the Program or any other program administered by the Authority. The Authority will notify an Eligible School of a failure to comply with any such requirements and whether that school may become ineligible to receive Scholarship funds, including through direct disbursement in accordance with this section.
- (b) If an Eligible School is a Direct Disbursement School, the Authority shall notify the Direct Disbursement School if the school is failing to meet any requirement that would lead to a determination of noncompliance and ineligibility for a disbursement of funds to the school from the Program. The Authority may provide a reasonable amount of time in which to correct the deficiency, unless the Executive Director of the Authority deems it to be in the best interest of the students enrolled in the Eligible School to revoke eligibility of the school immediately due to its noncompliance. The Authority may develop policies and procedures for a Direct Disbursement School related to correcting deficiencies, including a period in which the school may submit supplemental documentation demonstrating progress towards compliance.
- (c) If a Direct Disbursement School is determined to be in noncompliance with the Act, the Rules, or Program policies by the Executive Director, the Direct Disbursement School will no longer be eligible to receive a disbursement of funds and be ineligible to receive future funds from the Program or any other program administered by the Authority.
- (d) Upon receiving notice that the Eligible School is determined to be in noncompliance, 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 receive funds from the Program.

- (e) A school that is deemed ineligible to receive a disbursement of funds from 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. Review for Reinstatement of Eligibility for an Eligible School.

- (a) A Part 1 or Part 2 Nonpublic School that is determined to be in noncompliance with any requirement of the Act, the Rules, or Program policies under Rule .0700 may apply for reconsideration of its eligibility to become an Eligible School for the School Year that begins at least one full School Year after the date in which the Part 1 or Part 2 Nonpublic School's eligibility was revoked.
- (b) A Part 1 or Part 2 Nonpublic School must apply for reconsideration of eligibility to the Executive Director of the Authority by February 1 of the year prior to the School Year in which it seeks to be reinstated and would enroll students receiving scholarship funds.
- (c) The application must include at least the following:
 - 1. Documentation that the nonpublic school corrected the deficiency that was the basis for the determination of noncompliance.
 - 2. If applying as a Direct Disbursement School, demonstrate the ability to otherwise meet the requirements as a Direct Disbursement School under Part VI of this Rule.
- (d) The Authority may request additional documentation from the Part 1 or Part 2 Nonpublic School as part of the Authority's reconsideration of eligibility.
- (e) The Authority will notify the Part 1 or Part 2 Nonpublic School by May 1 if it is determined by the Executive Director that the school meets the necessary requirements for reinstatement as an Eligible School, and if applicable, as a Direct Disbursement School that is eligible to receive a disbursement of funds on the behalf of students participating in the Program for the next School Year.

.0702. 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. In the event of any conflict between the Act and the Program Rules, the Executive Director of the Authority is authorized to implement temporary policies in compliance with any amendments to the Act pending action by the Board of Directors to amend the Program Rules.

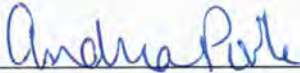
.0801. Interpretive Guidance.

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.

Statutory Authority: Article 41 of Chapter 115C of the North Carolina General Statutes.

I, Andrea Poole, 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 Student Accounts Program for Children with Disabilities, as amended, effective October 23, 2023, and adopted by the Board of Directors of the Authority on October 23, 2023, 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 31 day of October, 2023.



*Andrea Poole
Executive Director and Secretary of the Board of Directors*

