

By: Representative Roberson

To: Education

HOUSE BILL NO. 1433

1 AN ACT TO ESTABLISH THE "MISSISSIPPI QUALITY DESERT
2 EDUCATIONAL ENROLLMENT AND TRANSFER SCHOLARSHIP ACT" (QDESA) FOR
3 THE PURPOSE OF EXPANDING ACCESS TO HIGHER PERFORMING SCHOOLS AND
4 ACCREDITED NONPUBLIC SCHOOLS FOR STUDENTS ENROLLED IN CERTAIN
5 SCHOOLS AND DISTRICTS RATED AS "D" OR "F" BY THE STATE DEPARTMENT
6 OF EDUCATION; TO PRESCRIBE TERMS AND DEFINITIONS; TO PRESCRIBE THE
7 QUALIFICATIONS OF ELIGIBILITY; TO PROVIDE THAT A PARENT OR LEGAL
8 GUARDIAN WHOSE CHILD HAS BEEN ENROLLED IN A "D" OR "F" RATED
9 SCHOOL OR DISTRICT WITHIN THE LAST FIVE YEARS, BEGINNING WITH THE
10 2020 ACADEMIC YEAR, MAY MAKE APPLICATION TO ENROLL HIS OR HER
11 CHILD IN A HIGHER PERFORMING PUBLIC SCHOOL, SCHOOL DISTRICT OR
12 ACCREDITED NONPUBLIC SCHOOL; TO PROVIDE THAT FUNDING FOR
13 TRANSFERRED STUDENTS SHALL BE EQUIVALENT TO THE FULL BASE
14 PER-PUPIL STATE FUNDING AS DETERMINED UNDER MISSISSIPPI STUDENT
15 FUNDING FORMULA; TO PROVIDE THE PURPOSES FOR WHICH QDESA FUNDS MAY
16 BE USED; TO PROVIDE THAT IF A PARENT OR LEGAL GUARDIAN CHOOSES TO
17 ENROLL HIS OR HER CHILD IN AN ACCREDITED NONPUBLIC SCHOOL, QDESA
18 FUNDS SHALL BE PAID AS A REIMBURSEMENT FOR CERTAIN EDUCATIONAL
19 RELATED EXPENSES; TO PROVIDE THAT REIMBURSEMENT PAYMENT SHALL BE
20 MADE ON A MONTHLY BASIS UPON APPROVAL OF SUBMITTED EXPENSES; TO
21 PROVIDE THAT THE SIBLINGS OF ELIGIBLE STUDENTS WHO QUALIFY TO
22 RECEIVE A QDESA MAY ALSO RECEIVE A QDESA UPON THE SUBMISSION OF AN
23 APPLICATION BY THE PARENT OR LEGAL GUARDIAN; TO PROVIDE THAT A
24 TRANSFEREE DISTRICT OR NONPUBLIC SCHOOL MAY, BUT IS NOT REQUIRED
25 TO, PROVIDE TRANSPORTATION FOR TRANSFERRING STUDENTS; TO REQUIRE
26 APPLICATIONS TO BE SUBMITTED TO THE TRANSFEREE SCHOOL, DISTRICT OR
27 NONPUBLIC SCHOOL DURING AN ANNUAL ENROLLMENT PERIOD ESTABLISHED BY
28 THE STATE DEPARTMENT OF EDUCATION; TO PROVIDE THAT A TRANSFEREE
29 SCHOOL DISTRICT OR NONPUBLIC SCHOOL MAY ACCEPT STUDENTS BASED ON
30 CAPACITY TO ENROLL THE CHILD FOR ATTENDANCE; TO REQUIRE TRANSFEREE
31 DISTRICTS AND NONPUBLIC SCHOOLS TO ESTABLISH PUBLICLY ACCESSIBLE
32 TRANSPARENT CAPACITY POLICIES; TO REQUIRE THAT THE STATE
33 DEPARTMENT OF EDUCATION SHALL DEVELOP RULES, ANNUALLY REVIEW AND
34 REPORT ON SPECIFIED INFORMATION SUBMITTED BY PUBLIC SCHOOLS,



DISTRICTS AND ACCREDITED NONPUBLIC SCHOOLS; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO AUDIT REIMBURSEMENTS FOR NONPUBLIC SCHOOL EXPENSES TO ENSURE COMPLIANCE AND PUBLISH FINDINGS AND RECOMMENDATIONS FOR LEGISLATIVE OR REGULATORY ADJUSTMENTS; TO ESTABLISH THE QUALITY DESERT ENROLLMENT AND TRANSFER SCHOLARSHIP FUND AND TO PROVIDE FOR ITS MANNER OF FUNDING; TO AMEND SECTIONS 37-15-29 AND 37-15-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS, TO AUTHORIZE TRANSFERS WITHOUT SCHOOL BOARD CONSENT IN CERTAIN CIRCUMSTANCES; TO CREATE THE "MISSISSIPPI FOSTER CHILD EDUCATION SCHOLARSHIP ACCOUNT PROGRAM ACT" FOR THE PURPOSE OF ESTABLISHING EDUCATION SCHOLARSHIP ACCOUNTS (FESAS) FOR FOSTER PARENTS, GUARDIANS OR RESPONSIBLE AGENCY OFFICIALS OF THE DEPARTMENT OF CHILD PROTECTION SERVICES FOR FOSTER CHILDREN; TO PRESCRIBE THE CRITERIA FOR DETERMINING ELIGIBILITY FOR PARTICIPATION IN THE PROGRAM AND RECEIPT OF PROGRAM FUNDS; TO PROVIDE FOR THE FUNDING OF EACH STUDENT'S FESA; TO STIPULATE THE OBLIGATIONS OF FOSTER PARENTS, LEGAL GUARDIANS, RESPONSIBLE CPS OFFICIALS, STUDENTS AND SCHOOLS TO BECOME AND REMAIN ELIGIBLE FOR PARTICIPATION; TO PRESCRIBE THE DUTIES OF THE DEPARTMENT OF EDUCATION REGARDING THE ADMINISTRATION OF THE FUNDS; TO REQUIRE PEER TO PREPARE A BIENNIAL REPORT ON THE SUFFICIENCY OF FUNDING FOR FESAS AND STUDENT PERFORMANCE AND ASSESSMENT EVALUATION BEGINNING IN 2027 AND EVERY TWO YEARS THEREAFTER; TO PROVIDE FOR THE ADMINISTRATIVE, FINANCIAL AND ACADEMIC ACCOUNTABILITY STANDARDS TO BE ADHERED TO BY PARTICIPATING SCHOOLS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known, and may be cited, as the "Mississippi Quality Desert Educational Enrollment and Transfer Scholarship Act."

SECTION 2. (1) The Legislature finds that students enrolled in schools and districts rated as "D" or "F" by the State Department of Education often face significant challenges that impede their ability to achieve academic success.

(2) Expanding access to higher-performing schools and accredited nonpublic schools will substantially increase educational opportunities for students to thrive.



(3) To ensure equitable access, base per-pupil state funding must follow the student to the school of their choice, including through reimbursement to parents for tuition and eligible educational expenses at nonpublic schools.

SECTION 3. For purposes of this act, the following terms shall have the meanings ascribed in this section, unless context of use clearly requires otherwise:

(a) "Accredited nonpublic school" means a private school located within the State of Mississippi that meets the accreditation standards of:

- (i) The State Department of Education;
- (ii) The Mississippi Association of Independent Schools; or
- (iii) Any other state, regional or national accrediting association.

(b) "Base per-pupil funding" means the amount determined under Section 37-151-205, Mississippi Code of 1972, adjusted for categorical needs.

(c) "Eligible student" means a resident of Mississippi who:

- (i) Is or has been enrolled in a public school for a minimum of a year;
- (ii) Resides in a home school district that has received a "D" or "F" rating under the Mississippi State Accountability System within the past five (5) years, or attends a



97 school that has received a "D" or "F" rating and evidencing the
98 lowest fifty percent (50%) of student enrolled therein lacking
99 proficiency as determined by the Third Grade Reading Assessment
100 and any prescreening assessment related thereto;

101 (iii) Resides in an area where there is no
102 high-performing public school within thirty (30) miles of the
103 student's home with capacity to accept a transferring student; and

104 (iv) Resides in an area where there is an
105 accredited nonpublic school within thirty (30) miles of the
106 student's home.

107 (d) "QDESA program" means the Mississippi Quality
108 Desert Educational Enrollment and Transfer Scholarship Account
109 (QDESA) program created in this act.

110 (e) "Transferee school or district" means the school or
111 school district to which an eligible student seeks to transfer.

112 (f) "Transferor school or district" means the school or
113 school district in which the eligible student was previously
114 enrolled.

115 **SECTION 4.** (1) Any parent or legal guardian of an eligible
116 student who has been enrolled in a school or school district rated
117 "D" or "F", as defined in Section 3(c) within the last five (5)
118 years may apply for enrollment in:

119 (a) Any public school or district other than their
120 assigned residential school zone or school district with available
121 capacity to accommodate the student's enrollment therein; or



(b) Any accredited nonpublic school within the State of Mississippi.

(2) (a) For students transferring to public schools, funding equivalent to the full base per-pupil state funding, as determined under Section 37-151-205, shall follow the student to the transferee school or district, however, the local contribution of each school district based on the minimum local tax effort shall be retained as revenue of the home school district of the transferring student.

(b) For students attending accredited nonpublic schools, parents shall be reimbursed for tuition, fees and other educational expenses, up to the amount of the state's full base per-pupil funding for the child, adjusted for categorical needs such as special education services.

(3) If an eligible student qualifies under the provisions of this act to receive a QDESA, all of his or her siblings who reside within the same household may also receive a QDESA upon the submission of an application by the parent or legal guardian, regardless of the school and the accountability rating of the school they currently attend.

(4) (a) Applications shall be submitted to the transferee school, district or nonpublic school during an annual enrollment period, which shall be established by the State Department of Education.



(b) The transferee school, district or nonpublic school may accept students if capacity is available, prioritizing eligible students from "D" or "F" rated schools or districts, as defined in Section 3(c).

(5) (a) Transferee districts shall establish transparent capacity policies, which must be publicly accessible.

(b) Approval shall not be based on race, religion or socioeconomic status.

(6) (a) Parents must submit documentation of tuition and eligible educational expenses to the State Department of Education for reimbursement.

(b) Reimbursements shall be made monthly upon approval of submitted expenses.

(7) (a) The transferee district or nonpublic school may, but is not required to, provide transportation for transferring students.

(b) Parents of students attending nonpublic schools may apply for additional reimbursement for documented transportation expenses, subject to limits set by the department.

(8) Students who are determined to be eligible for a QDESA under this act, an ESA under the Equal Opportunity for Students with Special Needs Act, a Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program or a Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program, shall only be eligible to



participate in one (1) program, and not be entitled to receive benefits from multiple programs, but only the program that conveys the greatest financial and acute educational benefit to the eligible student.

SECTION 5. (1) The State Department of Education (SDE) shall develop rules for:

(a) Inter-district and nonpublic school transfer application timelines and procedures;

(b) Public reporting of open seats in public schools and districts; and

(c) An appeals process for denied transfers.

(2) (a) The State Department of Education shall annually review and report on the following information submitted by public schools, districts and accredited nonpublic schools:

(i) The number of students making application for transfer under this program, aggregated by the number accepted for transfer and the number denied transfer;

(ii) Reasons for denial of applications;

(iii) Academic performance and demographic data of transferring students; and

(iv) Financial impacts on transferor and transferee school districts and nonpublic schools.

(b) Accredited nonpublic schools participating in the this program must:



(i) Meet all applicable accreditation and reporting requirements as defined by the State Department of Education; and

(ii) Comply with all applicable state and federal nondiscrimination laws.

(3) The department shall audit reimbursements for nonpublic school expenses to ensure compliance and publish findings and recommendations for legislative or regulatory adjustments.

(4) The department may enter into a contractual agreement with a third-party vendor to administer the QDESA program and ensure compliance with state regulations.

SECTION 6. (1) There is hereby established the Quality Desert Educational Enrollment and Transfer Scholarship Fund in the State Treasury, which shall be administered by the State Department of Education, under the authority granted under Section 1 through 5 of this act, for the purpose of funding reimbursements to the parents or legal guardians of eligible students, as defined in Section 3 of this act, who attend accredited nonpublic schools, as prescribed under subsection (2)(b) and (7)(b) of Section 4 of this act, up to the amount of the state's full base per-pupil funding for the child in attendance, adjusted for applicable categorical needs, such as special education services.

(2) Funds administered under the provisions of subsection (1) shall be reimbursed to the parents or legal guardians of eligible students who attend accredited nonpublic schools shall be



allocated on a first-come, first-served basis. However, priority shall be given to eligible students as defined in Section 3 of this act, who reside in households that have an income of not more than one hundred thirty-eight percent (138%) of federal poverty level.

(3) The fund shall be initially capitalized with an appropriation of Five Million Dollars (\$5,000,000.00) from the State General Fund for fiscal year 2026, or other source, as determined by the Legislature. Annually thereafter, the Legislature shall appropriate funds for the program based upon the State Department of Education's estimation of students attending accredited nonpublic schools who are currently receiving QDESA funds and the projected number of eligible students who opt to attend an accredited nonpublic school.

SECTION 7. Section 37-15-29, Mississippi Code of 1972, is amended as follows:

37-15-29. (1) Except as provided in subsections (2), (3), (4) and (5) of this section, no minor child may enroll in or attend any school except in the school district of his residence, unless such child be lawfully transferred from the school district of his residence to a school in another school district in accord with the statutes of this state now in effect or which may be hereafter enacted.

(2) Those children whose parent(s) or legal guardian(s) are instructional personnel or certificated employees of a school



district may at such employee's discretion enroll and attend the school or schools of their parent's or legal guardian's employment regardless of the residence of the child.

(3) No child shall be required to be transported in excess of thirty (30) miles on a school bus from his or her home to school, or in excess of thirty (30) miles from school to his or her home, if there is another school in an adjacent school district located on a shorter school bus transportation route by the nearest traveled road. Those children residing in such geographical situations may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the nearer school, regardless of the residence of the child. In the event the parent or legal guardian of such child and the school board are unable to agree on the school bus mileage required to transport the child from his or her home to school, an appeal shall lie to the State Board of Education, or its designee, whose decision shall be final. The school districts involved in the appeal shall provide the Mississippi Department of Education with any school bus route information requested, including riding the buses as necessary, in order to measure the bus routes in question, as needed by the State Board of Education in considering the appeal.

(4) (a) Those children * * * enrolled in schools or districts having received an accountability rating of "D" or "F" within the last five (5) years, beginning with the 2020 academic school year, by the State Department of Education, upon written



application of their parent or legal guardian are entitled to transfer to another public school or district within or outside of their original residency or place of domicile with available capacity to accept the student into the district or a specific school, or released by the home school district of residence to attend an accredited nonpublic school. Parental application submitted under the authority of this subsection shall not require the mutual consent of the two (2) public school boards serving as the transferor and transferee schools or districts. If the public school district is unable to accommodate a request for enrollment of transfer due to a lack of capacity to accept the student into the district or a specific school campus, the school board shall deny the request and spread the same upon its minutes no later than the next regular meeting.

(b) The siblings of eligible students lawfully transferred under the provisions of paragraph (a), may also, at the discretion of their parent(s) or legal guardian(s), enroll and attend school in the transferee school district or be released by the home school district of residence to attend an accredited nonpublic school.

(5) (a) Those children whose parent(s) or legal guardian(s) are active members of the United States Armed Forces may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the school district and school campus of their parent's or



294 legal guardian's choosing, regardless of the residence of the
295 child.

296 (b) Those children whose parent(s) or legal guardian(s)
297 are civilian military personnel and reside on a military base
298 may, at the discretion of their parent(s) or legal guardian(s),
299 enroll and attend the school district and school campus of their
300 parent's or legal guardian's choosing, regardless of the residence
301 of the child.

302 (c) For purposes of paragraphs (a) and (b) of this
303 subsection (5):

304 (i) A school district is not required to provide
305 transportation to a student who enrolls in or transfers to another
306 school district or school campus within the district of chosen
307 attendance;

308 (ii) A student eligible for enrollment or transfer
309 shall be allowed only one (1) school transfer per academic year;

310 (iii) Once admitted, and unless expelled, the
311 parent(s) or legal guardian(s) of students transferring under the
312 authority of this subsection shall not be required to reapply for
313 admission for continued enrollment in the school district or
314 school campus of last attendance for any subsequent years of
315 attendance therein; and

316 (iv) If the school district is unable to
317 accommodate a request for enrollment for transfer due to a lack of
318 capacity to accept the student in to the district or a specific



319 school campus, the school board shall deny the request and spread
320 the same upon its minutes.

321 **SECTION 8.** Section 37-15-31, Mississippi Code of 1972, is
322 amended as follows:

323 37-15-31. (1) (a) Except as provided in subsections (2)
324 through (5) of this section, upon the petition in writing of a
325 parent or guardian resident of the school district of an
326 individual student filed or lodged with the president or secretary
327 of the school board of a school district in which the pupil has
328 been enrolled or is qualified to be enrolled as a student under
329 Section 37-15-9, or upon the aforesaid petition or the initiative
330 of the school board of a school district as to the transfer of a
331 grade or grades, individual students living in one school district
332 or a grade or grades of a school within the districts may be
333 legally transferred to another school district, by the mutual
334 consent of the school boards of all school districts concerned,
335 which consent must be given in writing and spread upon the minutes
336 of such boards.

337 (b) The school board of the transferring school
338 district to which such petition may be addressed shall act thereon
339 not later than its next regular meeting subsequent to the filing
340 or lodging of the petition, and a failure to act within that time
341 shall constitute a rejection of such request. The school board of
342 the other school district involved (the transferee board) shall
343 act on such request for transfer as soon as possible after the



transferor board shall have approved or rejected such transfer and no later than the next regular meeting of the transferee board, and a failure of such transferee board to act within such time shall constitute a rejection of such request. If such a transfer is approved by the transferee board, then such decision shall be final. If such a transfer should be refused by the school board of either school district, then such decision shall be final.

(c) Any legal guardianship formed for the purpose of establishing residency for school district attendance purposes shall not be recognized by the affected school board.

(2) (a) Upon the petition in writing of any parent or guardian who is a resident of Mississippi and is an instructional or licensed employee of a school district, but not a resident of such district, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board. Upon the petition in writing of any parent or guardian who is not a resident of Mississippi and who is an instructional or licensed employee of a school district in Mississippi, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board.

(b) The school board of any school district, in its discretion, may adopt a uniform policy to allow the enrollment and



attendance of the dependent children of noninstructional and nonlicensed employees, who are residents of Mississippi but are not residents of their district. Such policy shall be based upon the employment needs of the district, implemented according to job classification groups and renewed each school year.

(c) The employer transferee school district shall notify in writing the school district from which the pupil or pupils are transferring, and the school board of the transferor school district shall spread the same upon its minutes.

(d) Any such agreement by school boards for the legal transfer of a student shall include a provision providing for the transportation of the student. In the absence of such a provision the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(e) Any school district which accepts a student under the provisions of this subsection shall not assess any tuition fees upon such transferring student in accordance with the provisions of Section 37-19-27.

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described in Section 37-15-29(3), the school board of the school district operating the school located in closer proximity to the residence of the child shall consent to the transfer of the child to its district, and shall spread the same upon the minutes of the board.



Any such agreement by school boards for the legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the transferor or the transferee school district. In the event that either the school board of the transferee or the transferor school district shall object to the transfer, it shall have the right to appeal to the State Board of Education whose decision shall be final. However, if the school boards agreeing on the legal transfer of any student shall fail to agree on which district shall provide transportation, the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(4) Upon the * * * application in writing of any parent or legal guardian of a school-age child who was * * * enrolled in schools or districts having received an accountability rating of "D" or "F" within the last five (5) years, beginning with the 2020 academic school year, by the State Department of Education, as described in Section 37-15-29(4), the school board of the transferee school district shall * * * receive to the transfer of such child * * * provided the district has available capacity to accommodate the request for enrollment of transfer. If the public school district is unable to accommodate the transfer due to a lack of capacity, the school board shall deny the request, and shall spread the same upon the minutes of the board no later than the next regular meeting.



419 (5) (a) If the board of trustees of a municipal separate
420 school district with added territory does not have a member who is
421 a resident of the added territory outside the corporate limits,
422 upon the petition in writing of any parent or legal guardian of a
423 school-age child who is a resident of the added territory outside
424 the corporate limits, the board of trustees of the municipal
425 separate school district and the school board of the school
426 district adjacent to the added territory shall consent to the
427 transfer of the child from the municipal separate school district
428 to the adjacent school district. The agreement must be spread
429 upon the minutes of the board of trustees of the municipal
430 separate school district and the school board of the adjacent
431 school district. The agreement must provide for the
432 transportation of the student. In the absence of such a
433 provision, the parent or legal guardian shall be responsible for
434 transporting the student to the adjacent school district. Any
435 school district that accepts a student under this subsection may
436 not assess any tuition fees against the transferring student.

437 (b) Before September 1 of each year, the board of
438 trustees of the municipal separate school district shall certify
439 to the State Department of Education the number of students in the
440 added territory of the municipal separate school district who are
441 transferred to the adjacent school district under this subsection.
442 The municipal separate school district also shall certify the
443 total number of students in the school district residing in the



444 added territory plus the number of those students who are
445 transferred to the adjacent school district. Based upon these
446 figures, the department shall calculate the percentage of the
447 total number of students in the added territory who are
448 transferred to the adjacent school district and shall certify this
449 percentage to the levying authority for the municipal separate
450 school district. The levying authority shall remit to the school
451 board of the adjacent school district, from the proceeds of the ad
452 valorem taxes collected for the support of the municipal separate
453 school district from the added territory of the municipal separate
454 school district, an amount equal to the percentage of the total
455 number of students in the added territory who are transferred to
456 the adjacent school district.

457 **SECTION 9.** Sections 9 through 19 of this act shall be known
458 and may be cited as the "Mississippi Foster Child Education
459 Scholarship Account Program Act."

460 **SECTION 10.** As used in Sections 9 through 19 of this act the
461 following terms shall have the meanings ascribed herein, unless
462 context of use clearly requires otherwise:

463 (a) "FESA program" means the Foster Child Education
464 Scholarship Account (FESA) program created in this chapter.

465 (b) "Eligible student" means a child who:

466 (i) Is in the custody of Department of Child
467 Protection Services as a foster child or ward of the state; and



468 (ii) Has been in temporary placement exceeding six
469 (6) consecutive months; and
470 (iii) Is not concurrently enrolled in a public
471 school or receiving funding through another state or federal
472 educational assistance program.
473 (c) "Qualified expenses" include, but are not limited
474 to:
475 (i) Tuition and fees at an eligible school, as
476 defined in this section;
477 (ii) Textbooks, digital books, or other
478 instructional materials required for coursework;
479 (iii) Tutoring services provided by a certified
480 teacher or licensed provider;
481 (iv) Curriculum purchases, including supplemental
482 and enrichment materials;
483 (v) Fees for standardized testing, advanced
484 placement examinations, or college entrance exams;
485 (vi) Educational services or therapies from
486 licensed or certified providers, including speech therapy,
487 occupational therapy, and mental health counseling;
488 (vii) Technology expenses, including computers,
489 tablets, or software, deemed essential by Department of Child
490 Protection Services or an educational provider;
491 (viii) Dual enrollment or college credit fees and
492 related textbooks or materials;



(ix) Costs associated with extracurricular or educational enrichment activities, such as music lessons, art classes, or STEM programs, as preapproved by Department of Child Protection Services.

(d) "Eligible school" means a state-accredited special purpose school, a state-accredited nonpublic school, or a nonpublic school located in the state that has enrolled a participating student and is providing educational instruction and services to the participating student. An eligible school does not include a home instruction program under Section 37-13-91, Mississippi Code of 1972.

(e) "Educational service provider" means an eligible school, tutor, or other person or organization that provides education-related services and products to participating students.

(f) "Awarded FESA school year" means the duration of the school year in which FESA program funds are deposited in a student's FESA.

(g) "Responsible agency official" means an employee of the Mississippi Department of Child Protection Services who has been assigned as caseload manager, case worker, counselor or social worker for a child in the department's custody who has not received a permanent placement since becoming a ward of the state.

(h) An eligible school shall provide notice to a participating student's home school district when the eligible student enrolls in the eligible school with an FESA.



SECTION 11.

(1) An eligible student shall qualify to participate in the FESA program if the foster parent, legal guardian or responsible agency official signs an agreement promising:

(a) To provide an organized, appropriate educational program with measurable annual goals to their participating student and to provide an education for the participating student in at least the subjects of reading, grammar, mathematics, social studies and science;

(b) To document their participating student's disability at intervals and in a manner required under subsection (8) of this section;

(c) Not to enroll their participating student in a public school and to acknowledge as part of the agreement that the eligible school has provided clear notice to the parent or guardian that the participating student has no individual entitlement to a free appropriate public education (FAPE) from their home school district, including special education and related services, for as long as the student is participating in the FESA program; and

(d) Not to file for their participating student a certificate of enrollment indicating participation in a home instruction program under Section 37-13-91, Mississippi Code of 1972.



(2) Parents, legal guardians or responsible agency officials shall use the funds deposited in a participating student's FESA for any of the qualified expenses defined in Section 10(c) of this act, which shall be incurred within the awarded FESA school year, to educate the student.

(3) Neither a participating student, nor anyone on the student's behalf, may receive cash or cash-equivalent items, such as gift cards or store credit, from any refunds or rebates from any provider of services or products in the FESA program. Any refunds or rebates shall be credited directly to the participating student's FESA. The funds in an FESA may only be used for education-related purposes.

(4) (a) Eligible schools and educational service providers that serve participating students shall provide the foster parent, legal guardian or responsible agency official who submitted the FESA program application with an original itemized receipt, including the service provider's name and address, for all qualifying expenses. The foster parent, legal guardian or responsible agency official who submitted the FESA application shall provide the original itemized receipt to the Department of Child Protection Services.

(b) In lieu of providing the foster parent, legal guardian or responsible agency official who submitted the FESA program application with an original itemized receipt, the eligible schools and educational service providers may provide to



the Department of Child Protection Services an original itemized receipt approved and signed off on by the foster parent, legal guardian or responsible agency official who submitted the FESA application, including the service provider's name and address, for all qualifying expenses.

(5) Payment for educational services through a FESA shall not preclude foster parents, legal guardians or responsible agency officials from paying for educational services using non-FESA funds.

(6) For purposes of continuity of educational attainment, students who enroll in the FESA program shall remain eligible to receive monthly FESA payments until the participating student returns to a public school, completes high school, or completes the school year in which the student reaches the age of twenty-one (21) if he or she is eligible for special education for individuals with disabilities under the federal Individuals with Disabilities Education Act (20 USCS Section 1401(3)), whichever occurs first as applicable.

(7) Any funds remaining in a student's Foster Child Education Scholarship Account upon completion of high school shall be deposited into the Kinkade Fostering Access and Inspiring True Hope (FAITH) Scholarship Program Fund.

(8) An eligible student shall be allowed to return to his home school district after enrolling in the FESA program, in compliance with regulations adopted by the Department of Child



Protection Services which provide for the least disruptive process for doing so. Upon the participating student's return to his or her home school district, the student's Foster Education Scholarship Account shall be placed on temporary hold and monthly payment to the FESA shall be withheld for such time as until verification is provided that the student has resumed enrollment in an eligible school or completed high school. Any remaining funds in the student's FESA shall remain inviolate during the temporary holding period. However, upon completion of high school, any funds remaining in the FESA shall be deposited in accordance with subsection (7).

(9) A student's eligibility to participate in the Foster Child Education Scholarship Account Program, does not disqualify the student's ability to simultaneously participate in either the Equal Opportunity for Students with Special Needs FESA program, the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program or the Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program.

SECTION 12. (1) The Department of Child Protection Services shall manage and oversee FESA funds on behalf of each eligible child. The Department of Child Protection Services shall provide foster parents, legal guardians or responsible agency officials with guidance on eligible uses of funds and required documentation.



(2) (a) Foster parents, legal guardians or responsible agency officials shall submit receipts or invoices for qualified expenses to Department of Child Protection Services within thirty (30) days of incurring such expenses.

(b) The Department of Child Protection Services shall verify the expenses and submit reimbursement requests to the State Department of Education, which shall reimburse the Department of Child Protection Services for qualified expenses within twenty-one (21) business days of receipt of documentation.

(c) Within ten (10) business days of receiving reimbursement, the Department of Child Protection Services shall disburse funds to the foster parent or legal guardian, or to responsible agency official for deposit into the appropriate expense or operating fund of the department.

(3) (a) Educational service providers may directly invoice the Department of Child Protection Services for services rendered, subject to verification and approval.

(b) The Department of Child Protection Services shall ensure all payments are consistent with qualified expense guidelines.

(4) No funds for a FESA may be expended from the total funding formula funds provided in this act, nor shall any school district be required to provide funding for a FESA.

SECTION 13. (1) Department of Child Protection Services shall notify foster parents, legal guardians and responsible



agency officials of the availability of FESA funds upon a child entering the department's custody.

(2) Students participating in the FESA program remain eligible until:

(a) They return to public school;

(b) They complete the school year in which the student reaches the age of twenty-one (21) if he or she is eligible for special education for individuals with disabilities under the federal Individuals with Disabilities Education Act (20 USCS Section 1401(3)); or

(c) Their eligibility is revoked due to misuse of funds or noncompliance with program rules.

SECTION 14. (1) Subject to appropriation from the General Fund, each student's FESA shall be funded annually at the base student amount as determined under Section 37-151-203 of the Mississippi Student Funding Formula. For each subsequent year, the funded amount shall increase or decrease by the same proportion as the student base amount under Section 37-151-203 is increased or decreased.

(2) No funds for a FESA may be expended from the Mississippi Student Funding Formula, nor shall any school district be required to provide funding for a FESA.

SECTION 15. (1) The Department of Child Protection Services in conjunction with the State Department of Education shall develop policies and procedures for the administration of the FESA



666 program to ensure the appropriate use and expenditure of FESA
667 funds, including the accurate and timely submission of
668 reimbursement requests, and required maintenance of detailed
669 records for each eligible student.

670 (2) The State Department of Education shall:

671 (a) Conduct annual audits of the Department of Child
672 Protection Services-managed FESAs to ensure compliance;

673 (b) Establish a process for random audits of individual
674 FESA accounts and service providers;

675 (c) Provide the Department of Child Protection Services
676 with technical assistance and training on program administration.

677 (3) To ensure fraud prevention, the State Department of
678 Education shall:

679 (a) Adopt a process for removing educational service
680 providers that defraud parents and for referring cases of fraud to
681 law enforcement;

682 (b) Establish or contract for the establishment of an
683 online anonymous fraud reporting service; and

684 (c) Establish or contract for the establishment of an
685 anonymous telephone hotline for fraud reporting.

686 (4) The Department of Child Protection Services may enter
687 into a contractual agreement with a third-party vendor to
688 administer the FESA program and ensure compliance with state
689 regulations.



SECTION 16.

(1) Department of Child Protection Services shall submit an annual report to the Legislature and the State Department of Education detailing:

(a) The number of students participating in the FESA program;

(b) Total funds disbursed and remaining balances;

(c) A summary of the program's impact on foster children's educational outcomes.

(2) The State Department of Education shall provide an annual audit report to the Legislature, including findings and recommendations for program improvement.

SECTION 17.

(1) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare a biennial report, beginning in 2027 and every two (2) years thereafter, assessing efficacy of Foster Child Education Scholarship Accounts, to include the sufficiency of funding, and recommending any suggested changes in state law or policy necessary to improve the FESA program.

(2) The report shall assess:

(a) The level of participating students' satisfaction with the FESA program;

(b) The level of parental or guardian satisfaction with the FESA program;

(c) Participating students' performance, both pre-assessment and post-assessment, on the eligible school's



current assessment used to demonstrate academic progress, a nationally standardized norm-referenced achievement test, or a current state board-approved screener, as required in Section 18(f) of this act;

(d) Participating students' performance on Advanced Placement examinations or similar courses and any examinations related to college or university admission; provided that eligible schools must report participating students' performance on Advanced Placement examinations and any examinations related to college or university admission;

(e) The four-year high school graduation rates and college acceptance rates of participating students; provided that eligible schools must report participating students' high school graduation rates and, if known, college acceptance rates;

(f) The percentage of funds used for each qualifying expense identified in Section 10(c) of this act; and

(g) The fiscal impact to the state and home school districts of the FESA program, which must consider both the impact on revenue and the impact on expenses. Furthermore, the fiscal savings associated with students departing public schools must be explicitly quantified, even if the public school losing the student(s) does not reduce its spending accordingly.

(3) The report shall:

(a) Apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study; and



(b) Protect the identity of participating students and schools by, among other things, keeping anonymous all disaggregated data.

(4) PEER shall provide the Legislature with a final copy of the report of the FESA program before December 31 each year the report is due. At the same time, the study shall also be placed in a prominent location on the PEER website.

(5) PEER must make its data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USCS Section 1232(g)).

SECTION 18. To ensure that students are treated fairly and kept safe, all eligible schools shall:

(a) Comply with the nondiscrimination policies set forth in 42 USCS 1981;

(b) Prior to a participating student's application for enrollment, provide foster parents or legal guardians with details of the school's programs, record of student achievement, experience qualifications, capacities to serve participating student within the scope of their educational needs;

(c) Comply with all health and safety laws or codes that apply to nonpublic schools;

(d) Hold a valid occupancy permit if required by their municipality;

(e) Have no public record of fraud or malfeasance;



(f) Require participating students to take a pre-assessment at the beginning of the school year and a post-assessment at the end of the school year. The eligible school shall have the option to select their current assessment used to demonstrate academic progress, a nationally standardized norm-referenced achievement test, or a current state board-approved screener;

(g) Notify a foster parent, legal guardian or responsible agency official applying for the FESA program that the foster parent, legal guardian or responsible agency official waives the right of the participating student to an individual entitlement to a free and appropriate public education (FAPE) from their home school district, including special education and related services, for as long as the student is participating in the FESA program; and

(h) Conduct criminal background checks on employees and:

(i) Exclude from employment any person not permitted by state law to work in a nonpublic school; and

(ii) Exclude from employment any person who might reasonably pose a threat to the safety of students.

SECTION 19. (1) An eligible nonpublic school is autonomous and not an agent of the state or federal government and therefore:

(a) The State Department of Education or any other government agency shall not regulate the educational program of a



789 nonpublic school or educational service provider that accepts
790 funds from the foster parent, legal guardian or responsible agency
791 official of a participating student beyond the requirements of the
792 FESA program as promulgated in this chapter;

793 (b) The creation of the Foster Child Education
794 Scholarship Account program does not expand the regulatory
795 authority of the state, its officers, or any school district to
796 impose any additional regulation of nonpublic schools or
797 educational service providers beyond those necessary to enforce
798 the requirements of the FESA program; and

799 (c) Eligible schools and educational service providers
800 shall be given the maximum freedom to provide for the educational
801 needs of their students without governmental control. No eligible
802 school or educational service provider shall be required to alter
803 its creed, practices, admission policies or curriculum in order to
804 accept participating students.

805 (2) Eligible schools, or the foster parent, legal guardian
806 or responsible agency official who submitted the FESA application,
807 must submit student performance data to the State Department of
808 Education at the end of the school year, including the individual
809 results of the pre-assessment and post-assessment required in
810 Section 18(f) of this act. The department shall develop a
811 uniformed reporting format for eligible schools to use when
812 submitting assessment results.



813 (3) In any legal proceeding challenging the application of
814 this chapter to an eligible school or educational service provider
815 the state bears the burden of establishing that the law is
816 necessary and does not impose any undue burden on the eligible
817 school or educational service provider.

818 **SECTION 20.** If any provision of this act or its application
819 is found to be invalid, the remaining provisions shall remain in
820 force.

821 **SECTION 21.** This act shall take effect and be in force from
822 and after July 1, 2025.

