

A Statutory Review of Mississippi’s Education Scholarship Account (ESA) Program

CONCLUSION: In fiscal years 2017–2018, the Mississippi Department of Education (MDE) disbursed only 70% (\$3.9 million) of education scholarship funds available, while 30% (\$1.7 million) lapsed and was returned to the State Treasury. The ESA program’s net added expense to the state for FY 2018 was \$724,074. The program, as prescribed in state law, lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements and that students with disabilities are receiving the services they need and progressing toward their special needs goals. Furthermore, the MDE has not administered the program in the most effective manner. However, PEER’s survey indicated high levels of satisfaction with the program by both parents and students.

Background:

In its 2015 Regular Session, the Legislature passed “The Equal Opportunity for Students with Special Needs Act,” which directs the Mississippi Department of Education to implement an Education Scholarship Account program in the state on a phased-in basis. The program’s purpose is to offer parents of special needs children financial assistance to place their children in a nonpublic school setting and receive other educational services that parents believe best meet the needs of their child.

MISS. CODE ANN. Sections 37-181-5 et seq. outline the obligations of parents for participating in the program, the Mississippi Department of Education, and schools that enroll students with an education scholarship account.

For FY 2016 through FY 2018, the budget for the Education Scholarship Account program was \$9 million. Of this amount, the Mississippi Department of Education disbursed \$4.8 million to parents and educational service providers and expended \$309,939 for program administration.

During FY 2018, 367 students participated in the Education Scholarship Account program and attended 96 nonpublic schools in Mississippi, Tennessee, and online. While some of the schools are designed to serve students with special needs, the majority are not aimed toward special needs students.

As of June 29, 2018, 197 students were on the education scholarship account waiting list. Because many of the ESA participants from the previous school year will continue to participate in the program, and the number of available education scholarships is limited, there are few available to new applicants. For the most recent lottery conducted in August 2018, the MDE reported having 47 education scholarships available to award.

Was funding for the ESA program sufficient?

As the result of unused and partially used education scholarship account (ESA) funds in fiscal years 2017 and 2018, the Mississippi Department of Education disbursed only 70% of ESA funds available, while 30% lapsed and was returned to the State Treasury, as were the MDE’s unused administrative funds that lapsed, in the amount of \$230,061. The excess of funds indicates sufficient funding for the ESA program for those years.

Fiscal Year	ESA Disbursements	Percentage Disbursed	Amount Returned	Percentage Returned
2017	\$1,881,656	67%	\$938,344	33%
2018	\$2,057,815	73%	\$762,185	27%
TOTAL	\$3,939,471	70%	\$1,700,529	30%

The Legislature set an education scholarship account amount of \$6,500 in state law for school year 2015–2016, with adjustments based on the Mississippi Adequate Education Program base student cost. For the three other states administering ESA programs in FY 2018—Arizona, Florida, and Tennessee—the amount of the ESA is equal to or 90% of the per-pupil amount the school district or school would have received for the ESA student. In Arizona and Florida, the ESA amount includes additional funds to account for students’ special needs.

Recommendations:

- The Legislature should consider adjusting the ESA formula to align with the Mississippi Adequate Education Program.
- The Legislature should consider removing the lottery requirement and adding further prioritization of those on the ESA waiting list.
- The Legislature should consider allowing unused ESA funds to be reappropriated the following year.
- The Mississippi Department of Education should adopt comprehensive formal policies and procedures for the program to allow for more timely information regarding the status of ESAs.

How did participants utilize ESA funds?

In FY 2017 and FY 2018, participants used 94% of ESA funds on tuition expenses and 6% on nontuition expenses (e.g., tutoring, educational services, or therapies).

What is the fiscal impact on the state and home school districts as a result of the program?

ESA Disbursement	Reduction to MAEP	Net Added Expense to the State
\$2,057,815	\$1,333,741	\$724,074

For FY 2018, the State of Mississippi, through the Mississippi Department of Education, disbursed approximately \$2 million to parents and educational service providers. As a result of ESA participants transferring out of school districts in order to receive ESA funds, the state reduced the amount of MAEP funds distributed to those districts in FY 2018 by \$1.3 million. Therefore, the net added expense to the state for the ESA program for FY 2018 is **\$724,074**.

The fiscal impact on district expenditures resulting from an ESA student leaving the school district is immaterial compared to overall district expenditures. Any fiscal savings would be minimal, if any, because of the small number of students leaving a district.

Has the program been administered as effectively as possible?

The ESA program, as prescribed in the Equal Opportunity for Students with Special Needs Act, lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements and that students with disabilities are receiving the services they need and progressing toward their special needs goals. The law currently prohibits the state from imposing any regulations on eligible schools.

In November 2017, the U. S. Government Accountability Office released a report on “private school choice.” For the four ESA programs operating in school year 2016–2017, the report showed that Arizona and Mississippi’s ESA programs had fewer accountability mechanisms in place than the ESA programs of Florida and Tennessee.

Also, the MDE has not administered the ESA program as effectively as possible. For example, the MDE has not prioritized students with active individualized education programs (IEPs) on its waiting list for an ESA, as required by state law. In addition, PEER found two instances in which the MDE overpaid parents during a fiscal year and identified missing documents needed to verify allowable expenses for reimbursement.

The state does not know what special needs services ESA students receive and to what extent those are provided by the nonpublic school in which the child is enrolled or by the public school district.

In PEER’s survey to nonpublic schools enrolling ESA students, 33% of respondents reported that they employed no special education staff in FY 2018 and 67% indicated that they received services from the public school district, primarily for speech therapy.

Recommendations:

- The Legislature should consider directing the MDE to implement an accountability structure for the ESA program. By December 1, 2019, the MDE should submit to the Senate and House Education Committees recommendations for an accountability system through which the state can assess various aspects of the program.
- The Legislature should consider establishing an appeals process for parents and educational service providers.
- The Legislature should consider imposing additional requirements for tutoring organizations or private tutoring programs.
- The Legislature should consider providing a means for offering more immediate access to ESA funds.
- The MDE should improve in several areas regarding its administration of the ESA program.

Have parents and students been satisfied with the program?

Measure of Satisfaction	Percentage of Respondents
Overall parent satisfaction	91%
Child satisfaction	80%
Satisfaction with special needs services in nonpublic schools	69%
Child showed progress according to special needs goals	78%
Child showed progress in general academic coursework	66%

Survey respondents indicated that they and their children were satisfied with the program and with the special needs services provided by the nonpublic schools. In addition, the respondents believed that their children had shown progress in achieving their special needs and academic goals through participation in the ESA program.

Almost 50% of parents indicated that their child received more one-on-one attention due to smaller class sizes in nonpublic schools, which they believe better served their students’ special needs.