



LEGISLATIVE BRIEF

Understanding Public Chapter 506: Education Savings Accounts

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Public Chapter 506 (2019) creates the Tennessee Education Savings Account (ESA) program, which allows eligible students in Shelby and Davidson counties to use state and local BEP funds toward expenses, such as tutoring services, fees for early postsecondary opportunity courses and examinations, and tuition, fees, and textbooks at approved private schools. This legislative brief answers questions about eligibility, allowable expenses, funding, and accountability for the new program, with updated data where available.

Who is eligible to receive an Education Savings Account (ESA)?

An eligible K-12 student must be a resident of Tennessee who:

- was previously enrolled in and attended a Tennessee public school for one full school year immediately preceding the school year for which a student receives an ESA,
- is eligible for the first time to enroll in a Tennessee school (e.g., kindergarten student or a student that moved to Tennessee from out of state), or
- received an ESA the previous year.

Homeschool students are not eligible to receive ESA dollars.

Income eligibility and verification

ESA-eligible students will come from households with an annual income that is no more than twice the annual income eligibility guidelines for the federal free lunch program. The Tennessee Department of Education’s (TDOE) application materials for the 2020-21 school year used the 2019-20 federal income thresholds.

Household Size	Federal Annual Income Eligibility	ESA Income Limit
2	\$21,983	\$43,966
3	\$27,729	\$55,458
4	\$33,475	\$66,950
5	\$39,221	\$78,442
6	\$44,967	\$89,934
7	\$50,713	\$101,426

Source: Tennessee Department of Education, Tennessee Education Savings Account Program – Frequently Asked Questions for Participating Families, 2020-21 School Year, p. 9.

Parents of students applying for an ESA and student applicants over the age of 18 must provide a federal income tax return from the previous year or proof that the parent of an eligible student is qualified to enroll in the state’s

Temporary Assistance for Needy Families (TANF) program. TANF eligibility stipulates that an applicant must either:

- have a child living in the home of a parent or certain relative who is within a specified degree of relationship to the child, and the child must be under age 19 or complete high school before his or her 19th birthday. The child must be deprived of parental support due to absence, death, incapacity, or unemployment of one or both parents; or
- be a pregnant woman in her third trimester.

All TANF applicants must reside in Tennessee and be a citizen or non-citizen lawfully admitted to the United States, be willing to cooperate with child support, and meet the gross monthly income standard.

The law does not explicitly prohibit non-U.S. citizens from participating in the program.

Zoning and residence requirements

Eligible students must be zoned to attend a school in a school district with 10 or more schools:

- identified as priority schools in 2015;^A
- among the bottom 10 percent of schools in 2017; and
- identified as priority schools in 2018.

Students zoned to attend a school that is in the Achievement School District (ASD) as of the effective date of this law are also eligible to apply for an ESA.

The three school districts that meet these criteria are the ASD, Metro Nashville, and Shelby County.

Students are required to maintain residency in their original school district (i.e., Davidson County or Shelby County) to maintain eligibility for the ESA program.

How many students are eligible to receive an ESA?

During the program's first year, 5,000 students may use an ESA, increasing by 2,500 each subsequent year to a maximum cap of 15,000.^B Total annual participation caps are based on statewide totals, and there is not a minimum or maximum enrollment level for any eligible district.

School Year	ESA Enrollment
Year one	5,000 students
Year two	7,500 students
Year three	10,000 students
Year four	12,500 students
Year five and every year thereafter	15,000 students

^A Schools are identified as priority for one of two reasons: (1) being in the bottom 5 percent in 2015-16 and 2016-17 and not meeting the TVAAS safe harbor, which allows schools to not be identified if they are showing high growth, or (2) having a graduation rate of less than 67 percent in 2017-18.

^B *Tennessee Code Annotated* 49-6-2604(b) requires the ESA program to begin no later than the 2021-22 school year.

It is not possible to determine exactly how many students in the ASD, Metro Nashville, and Shelby County are eligible for the ESA based on the income levels for free or reduced price lunch status because districts no longer collect household income information related to free or reduced price lunch programs due to changes in federal reporting requirements.

In 2017-18 (the most recent data available), a total of 107,419 students from the ASD, Metro Nashville, and Shelby County were classified as economically disadvantaged or direct-certified, meaning the students were participating in a state or federal assistance program, such as the Supplemental Nutrition Assistance Program (SNAP), TANF, and Head Start. Direct certification generally results in a lower count of students who are economically disadvantaged than the counts previously seen when using free or reduced price lunch status to determine the number of such students because not all low-income students apply for state and federal aid programs. Therefore, the economically disadvantaged figure is a low estimate of students eligible for the ESA program; more students may be eligible for the ESA program based on actual income rather than their status as economically disadvantaged.

District	Economically Disadvantaged (#)	Economically Disadvantaged (%)
Metro Nashville	38,636	46.9%
Shelby County	60,521	56.9%
Achievement School District	8,262	75.3%

Source: Tennessee Department of Education, School District Profiles, 2017-18, columns I and J.

How can families use the ESA funds toward their children’s educational expenses?

Funds for an ESA may be used for one or more of the following expenses:

- tuition, fees, textbooks, and school uniforms at a participating Category I, II, or III private school;
- tutoring services provided by a tutor or tutoring facility;
- fees for transportation to and from a participating school or educational provider paid to a fee-for-service transportation provider;
- fees for early postsecondary opportunity courses and examinations required for college admission;
- computer hardware, technological devices, or other technology fees if the item is used for the student’s needs and is purchased through a participating school, private school, or provider;
- tuition and fees for summer education programs and specialized afterschool education programs, not including afterschool childcare;
- tuition, fees, and textbooks at an eligible postsecondary institution;
- educational therapy services provided by therapists; or
- fees for the management of the ESA by a private or nonprofit financial management organization, as approved by TDOE. Fees cannot exceed 2 percent of the student’s annual ESA allocation each year.

Students participating in the ESA program must be enrolled in an approved private school (Category I, II, or III); however, some private schools may not participate in the ESA program. In cases where a participating student attends a nonparticipating school, the student cannot use ESA funds for tuition, fees, textbooks, or school uniforms at the nonparticipating school, but may use the funds for other eligible expenses, such as tutoring services.

How much funding will students receive for an ESA?

Students in ESA-eligible districts will receive approximately \$7,117 for the 2020-21 school year. School districts are funded through the Basic Education Program (BEP), a formula that determines how much state money each district receives. The BEP also requires districts to match a certain amount of local money from local funding sources, such as the local option sales tax or local property taxes.

Students with ESAs will receive their proportionate “share” of their district’s state and local BEP funding, or the amount of BEP money generated for each student in the district. State law caps this per-pupil amount at the average state and local funding for all students across the state. Because Metro Nashville and Shelby County both generate more BEP funding per student than average, next year’s ESA students will receive the lower statewide amount of \$7,572 each, compared to \$8,324 in Nashville and \$7,923 in Shelby County.^C

State law also allows TDOE to hold back 6 percent of the amount given to students as an administrative fee. This fee will help cover the department’s costs of running the program and works out to about \$454 per student. After the fee is deducted, each student will receive roughly \$7,117 to put toward private school tuition or related expenses.

District	Per-Pupil Expenditures*	State BEP Per-Pupil Funding**	Local BEP Required Per-Pupil Funding*	Total State + Local BEP	State Administration Fee (6%)
State Average	\$10,026	\$4,981	\$2,591	\$7,572	(\$454)
Metro Nashville	\$12,895	\$3,618	\$4,705	\$8,324	(\$499)
Shelby County	\$11,976	\$5,562	\$2,361	\$7,923	(\$475)

*Figures based on FY2019 expenditures.

** Figures based on FY 2020 BEP allocations. Actual contribution amounts will be higher if BEP allocations increase in future years due to increases in ADM or increases to the BEP formula.

Two methods of calculating per-pupil expenditures

The per-pupil expenditures included in this report are lower than the figures found on TDOE’s annual State Report Card because of differences in how students are counted and which expenditures are included.

TDOE counts students based on average daily attendance when calculating per-pupil expenditures for the State Report Card. Since not all enrolled students may be present when attendance is taken, a lower count of students usually results. TDOE also includes expenditures for USDA commodities and state-level program and administrative costs in addition to current operating expenditures at the district level when calculating per-pupil expenditures. Taken together, the lower count of students and the inclusion of commodities and state-level costs results in a higher per-pupil expenditure figure.

In contrast, the per-pupil expenditures included in this OREA report are calculated based on student enrollment (average daily membership), not attendance, and only current operating expenditures at the district level are used. This method results in lower per-pupil expenditure figures than those found on TDOE’s annual State Report Card since a higher count of students and a smaller expenditure amount is used in the calculation.

Capital expenditures and debt service are not included in either calculation of per-pupil expenditures.

For more information on attendance counts, expenditure classifications, and per-pupil calculations, see OREA’s 2016 infographic “[How much do we spend on education?](#)”

^C The local portion of the BEP per-pupil funding is based on the local required match amount as calculated in the BEP formula; any additional local funding beyond the required BEP local match will not be included in ESA funding calculations.

What funding mechanisms are in place for districts with students participating in the ESA?

For the first three years of the program, the state will reimburse Metro Nashville and Shelby County for losing students.^D This BEP funding that is given to ESA students will be made up for through a school improvement grant from the state. In the upcoming fiscal year 2020-21, the state budgeted almost \$38 million for reimbursements – enough to cover 5,000 students participating in the ESA program at a cost of \$7,572 each. As the cap on ESA student enrollment rises in subsequent years (e.g., 7,500 students in year two, 10,000 students in year three), the state will increase the amount budgeted to reimburse Metro Nashville and Shelby County to cover the additional students.

During the first three years of the program, any reimbursement money that is left over will be given to school districts with priority schools that do not meet the eligibility criteria for the ESA program. For example, if fewer than 5,000 students enroll in the first year of the program, and money is left over, the state will give the leftover funding to districts with priority schools other than Metro Nashville and Shelby County. As of 2018, this includes Campbell County, Fayette County, Hamilton County, Madison County, and Maury County.

Beginning in year four of the ESA program, the state will stop reimbursing Metro Nashville and Shelby County for losing students. Instead, the state will give grants to all districts with priority schools, including Metro Nashville and Shelby County. The State Board of Education (SBE) and TDOE will be responsible for establishing the rules and administration for distributing such funds to districts in the form of annual school improvement grants, including how the funding will make its way from the state to the local level.

Which private schools are eligible to participate in the ESA program?

Category I, II, or III private schools may apply to TDOE to become a participating school in the ESA program. As of May 2020, TDOE has approved 61 private schools to accept students through the ESA program.

- Category I: schools approved by TDOE
- Category II: schools approved by a private school accrediting agency which has been approved by SBE
Currently, the following agencies have been approved by SBE:
 - ◇ Association of Classical and Christian Schools, Inc.
 - ◇ Association of Christian Schools International (ACSI)
 - ◇ Christian Schools International Accreditation Services
 - ◇ Diocese of Nashville Catholic Schools Office
 - ◇ Mississippi Association of Independent Schools
 - ◇ National Lutheran School Accreditation
 - ◇ Southern Union Conference of Seventh-day Adventists
 - ◇ Tennessee Association of Non-Public Academic Schools
 - ◇ Tennessee Association of Christian Schools (TACS)
- Category III: schools that are regionally accredited (by, for example, the Southern Association of Colleges and Schools)

What happens if a student exits the ESA program?

Students may return to their zoned school district at any time after enrolling in the program. Any remaining funds in a student's ESA must be returned to the state to be used for the BEP funding that goes to districts.

^D Students in the ESA program will continue to be counted in the enrollment figures for the school district in which the student resides. For example, if 200 students participate in the ESA program, those 200 students will count toward the district's total ADM figure used for calculating state and local BEP funding amounts. Any additional local funding beyond the required BEP local match will not be included in ESA funding calculations, but districts must continue to budget sufficient funds to meet maintenance of effort requirements set by the state.

Do students participating in the ESA have to take TN Ready?

Schools that accept ESA students must administer the Tennessee Comprehensive Assessment Program (TCAP), also known as TN Ready tests, for math and English language arts in grades 3-11 each year. If a student is not enrolled full time in a participating school, the parent (or eligible student over 18) is responsible for ensuring the student is administered the tests.

Data from the TCAP tests will be used to determine student achievement growth through the Tennessee Value-Added Assessment System (TVAAS) for private schools participating in the ESA program.

What accountability measures are in place to prevent fraud and measure student success?

TDOE is required to maintain separate ESAs for each participating student and verify that the uses of the funds are permitted by Public Chapter 506. TDOE must also institute fraud protection measures, and some purchases, such as tuition and fees, computer hardware or other technological devices, and tutoring services, must be preapproved by TDOE. Participating schools, providers, and eligible postsecondary institutions must provide parents with receipts for all expenses paid using ESA funds. TDOE may suspend or terminate the participation of a student, school, or provider for failure to comply with any of the measures outlined in the law. Any person that knowingly uses ESA funds with the intent to defraud the program may be subject to criminal prosecution.

The ESA program is subject to annual audit by the Comptroller of the Treasury. The audit may include a sample of ESAs to evaluate the eligibility of the participating students, the funds deposited in the ESAs, and whether ESA funds are being used for authorized expenditures. The audit may also include an analysis of TDOE's ESA monitoring process and the sufficiency of the department's fraud protection measures.

The Comptroller's Office of Research and Education Accountability (OREA) is required to evaluate the success of the ESA program after the third year in which the program enrolls participating students and every year thereafter.



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