



**Request for Information 21-01
INDIANA TREASURER OF STATE**

**For
Legal Services
for the Indiana Education Scholarship Program**

**RELEASE DATE: JULY 07, 2021
DEADLINE FOR INQUIRIES: JULY 14, 2021
DEADLINE FOR SUBMISSION: JULY 21, 2021**

OFFICE OF THE INDIANA TREASURER OF STATE CONTACT

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PURPOSE

The purpose of this Request for Information ("RFI") is to invite qualified counsel to submit information that outlines their ability to provide legal services to the Indiana Education Scholarship Account Program ("Program"), a program of the Indiana Treasurer of State ("TOS"). Counsel will be requested to provide general legal services to the Program, including but not limited to information and requirements gathering, document drafting and review, legal compliance, and preparation for possible litigation.

This is not an Invitation to Bid or a Request for Proposal under the Indiana Procurement Code, I.C. 5-22. The Program creates no obligation, expressed or implied, by issuing this RFI or by receipt of any Responses submitted pursuant hereto. The award of any contract as a result of this RFI shall be at the sole discretion of the TOS. Neither this RFI nor any Response submitted hereto are to be construed as legal offers.

This RFI seeks Responses to provide legal services to the Program only and is not related to any other board, program, or entity related to the Office of the Indiana Treasurer of State.

BACKGROUND OF PROGRAM

The Education Scholarship Account Program is a program of the State of Indiana, administered and overseen by the Treasurer of State (Ind. Code § 20-51.4) charged with establishing education scholarship accounts to provide grants to parents of eligible students or emancipated eligible students that qualify as qualified state tuition programs under Section 529 of the Internal Revenue Code.

The Program was passed during the 2021 legislation session and will launch for the 2022-23 school year. That year, \$10,000,000 will be made available for grants to eligible students.

More information on the Program can be found at IC 20-51.4 attached hereto.

SCOPE OF SERVICES

1. General Requirements

At the request of the Program, TOS, and/or staff:

- A. Advise on legal issues related to Program procedures and governance.
- B. Review and help draft contracts, rules, bylaws, manuals, and other writings for legal compliance.
- C. Advise on programmatic requirements and potential legal challenges.
- D. Advise on responses to subpoenas, court orders, and requests for information from third parties.
- E. Help defend the Program and staff in lawsuits, administrative claims, or other legal claims.
- F. Conduct litigation as necessary.

- G. Provide other legal services as requested by staff.

2. Term of Engagement

The term of services requested will be for two years starting the date an engagement letter is signed and ending June 30, 2023, subject to termination by the Program and TOS at their discretion.

3. Qualifications

Each respondent must be licensed to practice law in the State of Indiana. Respondent should have experience with Indiana's education law framework, including but not limited to funding procedures and special education requirements, a working knowledge of the national education choice landscape and trends, federal and state tax law, and disability benefits issues as well as a working knowledge of Indiana administrative law.

4. Engagement Letters

The attorney(s) selected will be expected to enter into an engagement letter with the TOS. Please include with your Response the form of your engagement letter. The TOS requests the engagement letter include language allowing the TOS entity to terminate without cause the engagement on thirty (30) days' prior written notice. (The engagement letter will not count toward the ten-page response limit, as outlined below in this RFI.)

SPECIFIC RESPONSE REQUIREMENTS

Responses should contain direct replies to the following questions or requests for information and be organized so that the specific questions being answered are readily identifiable. Responses to each question or request for information should each begin on a new page with the questions repeated at the top of the page. Responding individuals or firms are required to reply to all of the following questions and requests for information.

1. Summary (limit to two pages)

Each Response should include a summary which highlights the reasons why you should be selected for legal services. The summary must also contain a statement that the individual signing the Response has the authority to commit the firm to the terms proposed.

2. Basic Information Requirements (limit to one page)

- a. Name of the firm
- b. Name and title of individual preparing and responsible for the Response
- c. Mailing address
- d. Telephone and email

3. Basic Information re: the Respondent (limit to two pages)

TOS RFI 21-01 Request for Legal Services

- a. Name(s) and brief resume(s) of the lawyer(s) who will have daily responsibility for the engagement. Please identify other representations in which they have had an active role which might be relevant to the Program or the TOS.
- b. If applicable, name and brief résumé of the partner who will have oversight responsibility for the engagement.
- c. Name and brief résumés of any additional staff members who will provide support to the individual(s) in item 3(a).
- d. A description of the general capabilities of your firm including information relating to total size and staffing, research capability, professional staff and clerical support.

4. References

References including names, addresses and current telephone numbers of specific individuals should be provided for three clients for whom your firm has served in a capacity related to Program operations. Please include ONLY three (3) references.

5. Fee Proposal

Please provide a fee schedule on a per hour basis with a legal service fee cap for the term of the engagement. This fee cap may be constructed to apply annually, quarterly, or monthly. All fee caps should take the form of not-to-exceed amounts for the applicable time frames. The TOS will also consider other fee structures included in your response (e.g. monthly retainers).

ADDITIONAL INFORMATION

1. Selection

A. Criteria

Selection of board counsel shall be at the sole discretion of the TOS and shall be based upon the following criteria:

1. Experience of attorney(s);
3. Past experience of firm in the role of legal counsel to educational organizations;
4. Fee proposal;
5. Any other quality or characteristic deemed in the best interest of the Program.

B. Selection Date

It is anticipated that a selection will be made during the week of July 19, 2021; however, it may be made before, or after, that date.

TOS reserves the right to reject any and all Responses.

2. Clarification of Information

It is the responsibility of the respondent to inquire about and clarify any aspect of the RFI that is not understood. Questions for clarification must be addressed via email to Ryan Locke, Chief of Staff and Deputy Treasurer of State, at rlocke@tos.in.gov. Written responses will be provided.

Respondents are advised that materials contained in Responses are subject to the Indiana Public Records Act and may be viewed and/or copied by any member of the public, including news agencies and competitors. In accordance with said Public Records Act IC 5-14, respondents claiming a statutory exception to the Indiana Public Records Act must place the putatively confidential documents in a sealed envelope clearly marked "Confidential" and must indicate on the outside envelope of their Response that confidential materials are included and specify which statutory exception provision applies.

3. No Contact

The TOS specifically requests that no contact concerning this RFI be made with any member of the Office of the Treasurer of State (other than Ryan Locke, rlocke@tos.in.gov) during the selection process. Failure to honor this request will be viewed negatively in the selection process.

RESPONSE PREPARATION AND SUBMISSION REQUIREMENTS

1. RFI Response

In order to be considered for selection, respondents must submit a complete signed response to this RFI. Please submit your responses via email to rlocke@tos.in.gov. All Responses must be sent no later than 12:00pm (EDT) on Wednesday, July 21, 2021.

2. Response Preparation

- a. Responses must be signed by an authorized representative of the firm. Failure to submit all information requested may result in the Response being considered "non-responsive," and, therefore, rejected.
- b. Responses should be prepared simply, providing straightforward, concise responses to satisfy RFI requirements. No printed brochures or materials other than written responses to the specific requirements should be provided. The total length of the response must not exceed ten (10) pages.

3. Discretion in Determining Deviations and Compliance

The TOS reserves the right to determine which of the Responses have met the minimum qualifications expressed in this RFI. The TOS shall have the sole right to determine whether any deviation from the requirements of this RFI is substantial in nature, and the TOS may reject unacceptable Responses. In addition, the TOS may reject in whole or in part any and all Responses, may waive minor irregularities, and may negotiate with responsible offers in any manner deemed necessary to serve the best interests of the TOS and the Program.

4. Costs

The TOS and the Program shall not be liable for any expenses incurred in the preparation of the Responses.

5. Notification

The TOS is not required to furnish a statement of the reason(s) why a Response was not deemed to be the most advantageous nor will it be required to furnish any information regarding this RFI other than the original solicitation document.

6. Conflict of Interest

Respondent must disclose any existing or potential conflict of interest relative to the performance of the services resulting from this RFI, including any relationship that might be perceived or represented as a conflict. By submitting a Response in response to this RFI, respondent affirms that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement. Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest will automatically result in the disqualification of the respondent's Response or immediate termination of an awardee's contract. An award will not be made where an actual conflict of interest exists. The TOS will determine whether a conflict of interest exists and whether an apparent conflict of interest may reflect negatively on the TOS, should TOS select the respondent. Further, the TOS reserves the right to disqualify any Response on the grounds of actual or apparent conflict of interest.

IC 20-51.4 **ARTICLE 51.4. INDIANA EDUCATION SCHOLARSHIP
ACCOUNT PROGRAM**

- Ch. 1. Applicability
- Ch. 2. Definitions
- Ch. 3. Administration of Indiana Education Scholarship Accounts
- Ch. 4. Account Program Fund and Accounts
- Ch. 5. Participating Entities
- Ch. 6. Rulemaking

IC 20-51.4-1 **Chapter 1. Applicability**

- 20-51.4-1-1 Application of article

IC 20-51.4-1-1 **Application of article**

Sec. 1. This article applies after June 30, 2021.
As added by P.L.165-2021, SEC.180.

IC 20-51.4-2 Chapter 2. Definitions

20-51.4-2-1	Application of definitions
20-51.4-2-2	"Account"
20-51.4-2-3	"Annual grant amount"
20-51.4-2-4	"Eligible student"
20-51.4-2-5	"Fund"
20-51.4-2-6	"Participating entity"
20-51.4-2-7	"Program"
20-51.4-2-8	"Public school"
20-51.4-2-9	"Qualified expenses"
20-51.4-2-10	"Qualified school"

IC 20-51.4-2-1 Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-2 "Account"

Sec. 2. "Account" refers to an Indiana education scholarship account established by an eligible student's parent or an emancipated (as described in IC 20-26-11-4) eligible student under IC 20-51.4-4-1.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-3 "Annual grant amount"

Sec. 3. "Annual grant amount" refers to the annual grant amount deposited into the eligible student's account under IC 20-51.4-4-2.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-4 "Eligible student"

Sec. 4. "Eligible student" refers to an individual who:

- (1) has legal settlement in Indiana;
- (2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in IC 20-33-2-7;
- (3) is a student with a disability at the time the account is established who requires special education and for whom:
 - (A) an individualized education program;
 - (B) a service plan developed under 511 IAC 7-34; or
 - (C) a choice special education plan developed under 511 IAC 7-49;has been developed; and
- (4) meets the annual income qualification requirement for a choice scholarship student under IC 20-51-1.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-5 "Fund"

Sec. 5. "Fund" refers to the Indiana education scholarship account program fund established by IC 20-51.4-4-3.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-6 "Participating entity"

Sec. 6. "Participating entity" refers to an individual or entity authorized by the treasurer of state to participate in the program under IC 20-51.4-5-2.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-7 "Program"

Sec. 7. "Program" refers to the Indiana education scholarship account program established by IC 20-51.4-3-1.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-8 "Public school"

Sec. 8. "Public school" refers to a school maintained by a school corporation or a charter school.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-9 "Qualified expenses"

Sec. 9. (a) "Qualified expenses" refers to the following expenses provided by a participating entity related to the education of an eligible student for which scholarship money in an account may be used:

- (1) Tuition and fees at a qualified school, public school, or other participating entity.
- (2) Fees for:
 - (A) national norm referenced or criterion referenced examinations;
 - (B) advanced placement examinations, Cambridge International courses, International Baccalaureate courses, or College-Level Examination Program (CLEP) examinations; or
 - (C) statewide assessments associated with industry recognized credentials.
- (3) Educational services for an eligible student who is a student with a disability.
- (4) Payments associated with the use of paraprofessional or educational aides.
- (5) Services contracted for and provided by a school corporation, charter school, magnet school, or qualified school, including:
 - (A) individual classes;
 - (B) extracurricular activities or programs; or
 - (C) additional programs, resources, or staffing defined in the student's education plan.
- (6) Occupational therapy for a student with a disability, provided in accordance with the eligible student's individualized education program developed under IC 20-35 or service plan developed under 511 IAC 7-34.
- (7) Subject to IC 20-51.4-4-7, fees for transportation paid to a fee-for-service transportation provider for the eligible student to travel to and from an approved special education service provider.
- (8) Tuition and fees to attend training programs and camps that have a focus on:
 - (A) vocational skills;
 - (B) academic skills;
 - (C) life skills;
 - (D) independence; or
 - (E) soft job skills that are character traits and interpersonal skills that characterize a person's relationships with other people.
- (9) Additional services and therapies prescribed by the eligible student's treating physician in accordance with generally accepted standards of care to improve outcomes for the student in addition to any services currently being provided by the school, insurance, or the Medicaid program.
- (10) Fees for the management of the account, as described in IC 20-51.4-3-2(c).

(b) This subsection does not apply to subsection (a)(3), (a)(6), (a)(7), or (a)(8). The term includes only services that are provided in person. The term does not include any virtual or distance learning services.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-2-10 "Qualified school"

Sec. 10. "Qualified school" refers to a nonpublic school accredited by either the state

board or a national or regional accreditation agency that is recognized by the state board:
 (1) to which an eligible student is required to pay tuition to attend; and
 (2) that agrees to enroll an eligible student.
As added by P.L.165-2021, SEC.180.

IC 20-51.4-3 Chapter 3. Administration of Indiana Education Scholarship Accounts

20-51.4-3-1	Indiana education scholarship account program
20-51.4-3-2	Administration of the program
20-51.4-3-3	Annual audit
20-51.4-3-4	Annual survey
20-51.4-3-5	Online services for parents
20-51.4-3-6	Advice upon request relating to services; third party provider
20-51.4-3-7	Determination of the number of grant awards

IC 20-51.4-3-1 Indiana education scholarship account program

Sec. 1. The Indiana education scholarship account program is established to provide grants to a parent of an eligible student or an emancipated eligible student under IC 20-51.4-4 after June 30, 2022.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-3-2 Administration of the program

Sec. 2. (a) The program shall be administered by the treasurer of state in consultation with the state board and the department.

(b) The treasurer of state may contract with one (1) or more entities to maintain and manage accounts established under IC 20-51.4-4-1 after issuing a request for proposal under IC 5-22-9. Each entity shall:

- (1) meet qualification requirements established by the treasurer of state; and
- (2) comply with generally accepted accounting principles.

(c) The treasurer of state shall establish reasonable fees for entities described in subsection (b) participating in the program based upon market rates.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-3-3 Annual audit

Sec. 3. (a) The program is subject to annual audit by an independent public accounting firm retained by the treasurer of state.

(b) The treasurer of state shall promptly transmit copies of each annual audit to the governor and, in an electronic format under IC 5-14-6, the general assembly. Upon request, the treasurer of state shall make copies of the audit available to the public.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-3-4 Annual survey

Sec. 4. (a) After June 30, 2023, the treasurer of state shall administer an annual survey of parents of eligible students and emancipated eligible students who maintain an account under IC 20-51.4-4-1. The survey must request information:

- (1) regarding when the account was established and the number of grants received;
- (2) relating to relative satisfaction with the program; and
- (3) regarding opinions on any topics, items, or issues that the treasurer of state determines may improve the effectiveness of the program or the education experience of the eligible student or the eligible student's family.

(b) Not later than November 1, 2023, and each November 1 thereafter, the treasurer of state shall annually provide a summary of the survey administered under subsection (a) to the governor and, in an electronic format under IC 5-14-6, the legislative council.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-3-5 Online services for parents

Sec. 5. The treasurer of state shall provide online services and capabilities including, but not limited to, the following:

- (1) A method for parents to submit an application agreement described in IC 20-51.4-4-1(a).
- (2) A method for a participating entity to submit the intent of the participating entity to participate in the program.
- (3) A method for parents to identify and select participating entities participating in the program.
- (4) A method for parents and participating entities to initiate and receive payments from an eligible student's account.
- (5) A method for parents to rate the parent's experience with a participating entity and the ability for other parents of eligible students to see the rating.
- (6) Methods that are intuitive and allow for contributions to be easily made to an eligible student's account.
- (7) Resources the family of an eligible student can access to learn about advocacy groups available to provide information and resources to the eligible student's family.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-3-6 Advice upon request relating to services; third party provider

Sec. 6. (a) The department shall provide services that offer objective advice upon request to parents of an eligible student or an emancipated eligible student relating to services that can help meet the eligible student's or emancipated eligible student's particular needs.

(b) The department may contract with a third party provider to provide the services described in subsection (a).

As added by P.L.165-2021, SEC.180.

IC 20-51.4-3-7 Determination of the number of grant awards

Sec. 7. For each school year, the treasurer of state shall determine, based on the amount of funds available for the program, the number of grants that the treasurer of state will award under the program. The number of applications approved and the number of grants awarded under this article by the treasurer of state for the school year may not exceed the number determined by the treasurer of state under this section.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4**Chapter 4. Account Program Fund and Accounts**

20-51.4-4-1	Establishment of accounts; application process; agreement
20-51.4-4-2	Eligibility for grant amount; termination of an account
20-51.4-4-3	Indiana education scholarship account program fund; uses; administration
20-51.4-4-4	Calculation of annual grant amount
20-51.4-4-5	Proration of grant amount
20-51.4-4-6	Notice to parent; written explanation of authorized uses
20-51.4-4-7	Limitation on use of grant amount for transportation fees
20-51.4-4-8	Payment of qualified expenses from other sources
20-51.4-4-9	Payment refunds
20-51.4-4-10	Freezing of an account; notice; petition; termination
20-51.4-4-11	Public school not required to provide services
20-51.4-4-12	Tax treatment; qualification for other programs

IC 20-51.4-4-1 Establishment of accounts; application process; agreement

Sec. 1. (a) After June 30, 2022, a parent of an eligible student or an emancipated eligible student may establish an Indiana education scholarship account for the eligible student by entering into a written agreement with the treasurer of state on a form prepared by the treasurer of state. The treasurer of state shall establish a date by which an application to establish an account for the 2022-2023 school year must be submitted. However, for a school year beginning after July 1, 2022, applications must be submitted for an eligible student not later than April 1 for the immediately following school year. The account of an eligible student shall be made in the name of the eligible student. The treasurer of state shall make the agreement available on the Internet web site of the treasurer of state. To be eligible, a parent of an eligible student or an emancipated eligible student wishing to participate in the program must agree that:

- (1) a grant deposited in the eligible student's account under section 2 of this chapter and any interest that may accrue in the account will be used only for the eligible student's qualified expenses;
 - (2) money in the account when the account is terminated reverts to the state general fund;
 - (3) the parent of the eligible student or the emancipated eligible student will use part of the money in the account:
 - (A) for the eligible student's study in the subject of reading, grammar, mathematics, social studies, or science; or
 - (B) for use in accordance with the eligible student's:
 - (i) individualized education program;
 - (ii) service plan developed under 511 IAC 7-34;
 - (iii) choice special education plan developed under 511 IAC 7-49; or
 - (iv) plan developed under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794;
 - (4) the eligible student will not be enrolled in a school that receives tuition support under IC 20-43; and
 - (5) the eligible student will take the statewide assessment, as applicable based on the eligible student's grade level, as provided under IC 20-32-5.1, or the assessment specified in the eligible student's:
 - (A) individualized education program developed under IC 20-35;
 - (B) service plan developed under 511 IAC 7-34;
 - (C) choice special education plan developed under 511 IAC 7-49; or
 - (D) plan developed under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794.
- (b) A parent of an eligible student may enter into a separate agreement under subsection (a) for each child of the parent. However, not more than one (1) account may be established

for each eligible student.

(c) The account must be established under subsection (a) by a parent of an eligible student or an emancipated eligible student for a school year on or before a date established by the treasurer of state, which must be at least thirty (30) days before the fall ADM count date established by the state board under IC 20-43-4-3. A parent of an eligible student or an emancipated eligible student may not enter into an agreement under this section or maintain an account under this chapter if the eligible student receives a choice scholarship under IC 20-51-4 for the same school year. An eligible student may not receive a grant under section 2 of this chapter if the eligible student is currently included in a school corporation's ADM count under IC 20-43-4.

(d) Except as provided in subsections (e) and (f), an agreement made under this section is valid for one (1) school year while the eligible student is in kindergarten through grade 12 and may be renewed annually. Upon graduation or receipt of a certificate of completion under the eligible student's individualized education program, the eligible student's account is terminated.

(e) An agreement entered into under this section terminates automatically for an eligible student if:

- (1) the eligible student no longer resides in Indiana while the eligible student is eligible to receive grants under section 2 of this chapter; or
- (2) the account is not renewed within three hundred ninety-five (395) days after the date the account was either established or last renewed.

If an account is terminated under this section, money in the eligible student's account, including any interest accrued, reverts to the state general fund.

(f) An agreement made under this section for an eligible student while the eligible student is in kindergarten through grade 12 may be terminated before the end of the school year if the parent of the eligible student or the emancipated eligible student notifies the treasurer of state in a manner specified by the treasurer of state.

(g) A distribution made to an account under section 3 of this chapter is considered tax exempt as long as the distribution is used for a qualified expense. The amount is subtracted from the definition of adjusted federal gross income under IC 6-3-1-3.5 to the extent the distribution used for the qualified expense is included in the taxpayer's adjusted federal gross income under the Internal Revenue Code.

(h) The department shall establish a student test number as described in IC 20-19-3-9.4 for each eligible student. The treasurer of state shall provide the department information necessary for the department to comply with this subsection.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-2 Eligibility for grant amount; termination of an account

Sec. 2. (a) An eligible student who currently maintains an account is entitled to an annual grant amount for each school year until the student graduates or obtains a certificate of completion under the student's individualized education program. An eligible student may not receive a grant under this section after graduating or obtaining a certificate of completion. The annual grant amount shall be paid from the fund. The treasurer of state, with notice to the department, shall deposit the annual grant amount under this section, in quarterly deposits, into an eligible student's account in a manner established by the treasurer of state. The treasurer of state may deduct an amount of not more than three percent (3%) from each quarterly distribution to accounts under this article to cover the costs of managing the accounts and administering the program.

(b) Except as provided in subsection (c), at the end of the year in which an account is established, the parent of an eligible student or the emancipated eligible student may roll over for use in a subsequent year a maximum of one thousand dollars (\$1,000). However, for each year thereafter, the parent of the eligible student or the emancipated eligible student may roll over one thousand dollars (\$1,000) plus any amount rolled over in a previous year.

(c) An eligible student's account shall terminate the later of:

(1) the date the student graduates high school; or

(2) July 1 of the year in the year which the student graduates high school.

Any money, including interest that remains in the eligible student's account when it terminates under this subsection reverts to the state general fund.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-3 Indiana education scholarship account program fund; uses; administration

Sec. 3. (a) The Indiana education scholarship account program fund is established for the purpose of providing grants to eligible students under the program. Money appropriated to the fund during the state fiscal year beginning July 1, 2021, and ending June 30, 2022, may only be used for the administrative costs to establish the program. However, money appropriated to the fund during the state fiscal year beginning July 1, 2022, and ending June 30, 2023, may be used to provide grants under this chapter in the manner prescribed in section 2 of this chapter.

(b) The treasurer of state shall administer the fund.

(c) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Interest deposited in the fund under subsection (d).

(3) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(d) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year reverts to the state general fund.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-4 Calculation of annual grant amount

Sec. 4. (a) Subject to sections 5 and 10 of this chapter, the annual grant amount under section 2 of this chapter for an eligible student equals, subject to subsection (b), ninety percent (90%) of the amount determined in the last STEP of the following formula:

STEP ONE: Determine the school corporation in which the eligible student has legal settlement.

STEP TWO: Determine the amount of state tuition support that the school corporation identified under STEP ONE is eligible to receive under IC 20-43-6 for the state fiscal year in which the immediately preceding school year begins. The amount does not include amounts provided for special education grants under IC 20-43-7, career and technical education grants under IC 20-43-8, or grants under IC 20-43-10.

STEP THREE: Determine the result of:

(A) the STEP TWO amount; divided by

(B) the current ADM (as defined in IC 20-43-1-10) for the school corporation identified under STEP ONE for the state fiscal year used in STEP TWO.

(b) An eligible student may choose to receive special education services from the school corporation required to provide the special education services to the eligible student under 511 IAC 7-34-1. However, if an eligible student described in subsection (a) chooses not to receive special education or related services from a school corporation required to provide the services to the eligible student under 511 IAC 7-34-1, the annual grant amount for the eligible student shall, in addition to the amount described in subsection (a), include the amount the school corporation would receive under IC 20-43-7 for the eligible student if the eligible student attended the school corporation.

(c) The annual grant amounts provided in subsection (a) shall be rounded as provided in IC 20-43-3-1(4).

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-5 Proration of grant amount

Sec. 5. If an eligible student's agreement under section 1 of this chapter is in effect for less than an entire school year, the annual grant amount provided under section 2 of this chapter for that school year shall be reduced on a prorated basis in a manner prescribed by the treasurer of state to reflect the length of the agreement. In the event an eligible student's account is terminated because the eligible student enrolls in a school that receives tuition support under IC 20-43, the balance in the account at the time the account is terminated shall be transferred to the school corporation or charter school in which the eligible student enrolls. In the event that special education grant funding under section 4(b) of this chapter has been deposited into the eligible student's account but the eligible student subsequently begins receiving special education services from a school that receives funding under IC 20-43, the balance in the account up to the amount deposited under section 4(b) of this chapter shall be transferred to the school corporation or charter school that provides the special education services to the student.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-6 Notice to parent; written explanation of authorized uses

Sec. 6. Upon entering into or renewing an agreement under this chapter, the treasurer of state shall provide to the parent of an eligible student or an emancipated eligible student a written explanation of the authorized uses of the money in the account and the responsibilities of the parent of an eligible student or an emancipated eligible student and the treasurer of state regarding an account established under section 1 of this chapter.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-7 Limitation on use of grant amount for transportation fees

Sec. 7. A parent of an eligible student may use not more than seven hundred fifty dollars (\$750) of the annual grant amount received under this chapter each school year for fees for transportation paid to a fee-for-service transportation provider for the eligible student to travel to and from an approved service provider. However, the treasurer of state, in consultation with the department, shall establish criteria and a process by which a parent of an eligible student may receive a waiver from the limit imposed on transportation fees under this section.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-8 Payment of qualified expenses from other sources

Sec. 8. This chapter does not prohibit a parent of an eligible student or an emancipated eligible student from making a payment for any qualified expense from a source other than the eligible student's account. The parent of an eligible student or an emancipated eligible student is responsible for the payment of any tuition required by a qualified school that is not paid from the eligible student's account.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-9 Payment refunds

Sec. 9. A participating entity that receives a payment for a qualified expense may not refund any part of the payment directly to the parent of the eligible student or the emancipated eligible student. Any refund provided by a participating entity shall be deposited into the eligible student's account.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-10 Freezing of an account; notice; petition; termination

Sec. 10. (a) The treasurer of state shall freeze the account established under section 1 of

this chapter of any parent of an eligible student or an emancipated eligible student who:

- (1) fails to comply with the terms of the agreement established under section 1 of this chapter;
- (2) fails to comply with applicable laws or regulations; or
- (3) substantially misuses funds in the account.

(b) The treasurer of state shall send written notice to the parent of the eligible student or the emancipated eligible student stating the reason for the freeze under subsection (a). The treasurer of state may also send notice to the attorney general or the prosecuting attorney in the county in which the parent of the eligible student or the emancipated eligible student resides if the treasurer of state believes a crime has been committed or a civil action relating to the account is necessary.

(c) A parent of an eligible student or an emancipated eligible student whose account has been frozen under subsection (a) may petition the treasurer of state for redetermination of the decision under subsection (a) within thirty (30) days after the date the treasurer of state sends notice to the parent of the eligible student or the emancipated eligible student under subsection (b). The petition must contain a written explanation stating why the treasurer of state was incorrect in freezing the account under subsection (a). If the treasurer of state does not receive a timely submitted petition from a parent of an eligible student or an emancipated eligible student under this subsection, the treasurer of state shall terminate the account.

(d) The treasurer of state shall review a petition received under subsection (c) within fifteen (15) business days of receipt of the petition and issue a redetermination letter to the parent of the eligible student or the emancipated eligible student. If the treasurer of state overturns the treasurer of state's initial decision under subsection (a), the treasurer of state shall immediately unfreeze the account. If the treasurer of state affirms the decision under subsection (a), the treasurer of state shall give notice of the affirmation to the parent of the eligible student or the emancipated eligible student and terminate the account.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-11 Public school not required to provide services

Sec. 11. Notwithstanding 511 IAC 7-34-1(d)(4), a public school is not required to make available special education and related services to an eligible student if the eligible student receives funds under section 2 of this chapter and the special education services are provided to the eligible student by the participating entity. This section may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to an individual under the federal Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. 1400 et seq.).

As added by P.L.165-2021, SEC.180.

IC 20-51.4-4-12 Tax treatment; qualification for other programs

Sec. 12. Distributions made to an account under section 2 of this chapter or money in the account may not be treated as income or a resource for purposes of qualifying for any other federal or state grant or program administered by the state or a political subdivision.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-5 Chapter 5. Participating Entities

20-51.4-5-1	Intent
20-51.4-5-2	Application process for participating entities; requirements
20-51.4-5-3	Statewide assessment
20-51.4-5-4	Revocation of participating entity's status; notice
20-51.4-5-5	Participating entities; charges and receipts
20-51.4-5-6	Internet list of participating entities

IC 20-51.4-5-1 Intent

Sec. 1. It is the intent of the general assembly to honor the autonomy of nonpublic schools that choose and are authorized to become participating entities under this article. A nonpublic eligible school is not an agent of the state or federal government, and therefore:

- (1) the treasurer of state, state board, department, or any other state agency may not in any way regulate the educational program of a nonpublic school that accepts money from an account under this article, including the regulation of curriculum content, religious instruction or activities, classroom teaching, teacher and staff hiring requirements, and other activities carried out by the nonpublic school;
- (2) the creation of the program does not expand the regulatory authority of the state or the state's officers to impose additional regulation of nonpublic schools beyond those necessary to enforce the requirements of the program; and
- (3) an accredited nonpublic school that is a participating entity may provide for the educational needs of students without governmental control.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-5-2 Application process for participating entities; requirements

Sec. 2. (a) The following individuals or entities may become a participating entity by submitting an application to the treasurer of state in a manner prescribed by the treasurer of state:

- (1) A qualified school.
- (2) An individual who or tutoring agency that provides private tutoring.
- (3) An individual who or entity that provides services to a student with a disability in accordance with an individualized education program developed under IC 20-35 or a service plan developed under 511 IAC 7-34 or generally accepted standards of care prescribed by the eligible student's treating physician.
- (4) An individual who or entity that offers a course or program to an eligible student.
- (5) A licensed occupational therapist.
- (6) Entities that provide assessments.

(b) The treasurer of state shall approve an application submitted under subsection (a) if the individual or entity meets the criteria to serve as a participating entity.

(c) If it is reasonably expected by the treasurer of state that a participating entity will receive, from payments made under the program, more than fifty thousand dollars (\$50,000) during a particular school year, the participating entity shall, on or before a date prescribed by the treasurer of state:

- (1) post a surety bond in an amount equal to the amount expected to be paid to the participating entity under the program for the particular school year; or
- (2) provide the treasurer of state evidence, in a manner prescribed by the treasurer of state, indicating that the participating entity has unencumbered assets sufficient to pay the treasurer of state an amount equal to the amount expected to be paid to the participating entity under the program during the particular school year.

(d) Each participating entity that accepts payments made from an account under this article shall provide a receipt to the parent of an eligible student or to the emancipated eligible student for each payment made.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-5-3 Statewide assessment

Sec. 3. (a) Each qualified school that is a participating entity that accepts payments for tuition and fees made from an account under the program shall administer to its eligible students, for the applicable grade levels as provided under IC 20-32-5.1, the statewide assessment unless otherwise prescribed by the eligible student's:

- (1) individualized education program;
- (2) service plan developed under 511 IAC 7-34;
- (3) choice special education plan developed under 511 IAC 7-49; or
- (4) plan developed under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794.

(b) Upon receipt of the statewide assessment test results, the department shall, subject to the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and any regulations adopted under that act:

- (1) aggregate the statewide assessment test results according to the grade level, gender, race, and family income level of all eligible students; and
- (2) make the results determined under subdivision (1) available on the department's Internet web site.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-5-4 Revocation of participating entity's status; notice

Sec. 4. (a) The treasurer of state may refuse to allow a participating entity to continue participation in the program and revoke the participating entity's status as a participating entity if the treasurer of state determines that the participating entity accepts payments made from an account under this article and:

- (1) has failed to provide any educational service required by state or federal law to an eligible student receiving instruction from the participating entity; or
- (2) has routinely failed to meet the requirements of a participating entity under the program.

(b) If the treasurer of state revokes a participating entity's status as a participating entity in the program, the treasurer of state shall provide notice of the revocation within thirty (30) days of the revocation to each parent of an eligible student and to each emancipated eligible student receiving instruction from the participating entity who has paid the participating entity from the eligible student's account.

(c) The treasurer of state may permit a former participating entity described in subsection (a) to reapply with the treasurer of state for authorization to be a participating entity on a date established by the treasurer of state, which may not be earlier than one (1) year after the date on which the former participating entity's status as a participating entity was revoked under subsection (a). The treasurer of state may establish reasonable criteria or requirements that the former participating entity must meet before being reapproved by the treasurer of state as a participating entity.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-5-5 Participating entities; charges and receipts

Sec. 5. An approved participating entity:

- (1) may not charge an eligible student participating in the program an amount greater than a similarly situated student who is receiving the same or similar services; and
- (2) shall provide a receipt to a parent of an eligible student or an emancipated eligible student for each qualified expense charged for education or related services provided to the eligible student.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-5-6 Internet list of participating entities

Sec. 6. The treasurer of state shall annually make available on the treasurer of state's Internet web site a list of participating entities.

As added by P.L.165-2021, SEC.180.

IC 20-51.4-6 Chapter 6. Rulemaking

20-51.4-6-1 Rules

IC 20-51.4-6-1 Rules

Sec. 1. (a) The treasurer of state shall adopt rules under IC 4-22-2 necessary to administer this article.

(b) The state board shall adopt rules under IC 4-22-2 to establish a procedure to establish an Indiana education scholarship account education service plan for an eligible student.

As added by P.L.165-2021, SEC.180.