



Montana

Education Savings Account
for Students with Special Needs
Parent Handbook

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Contact Info & Resources

OPI Employees are here to help:

- Whitney Williams, ESA Program Budget Analyst: opiesa@mt.gov or 406-444-3408
- Kiera Moog, Family Engagement Specialist: kiera.moog@mt.gov or 406-594-7135
- John Gorton, Special Ed School Improvement Unit Manager: john.gorton@mt.gov or 406-459-4281
- Mandi Gibbs, Early Assistance Program Director: mgibbs@mt.gov or 406-444-5664

Resources:

- [OPI's Education Savings Account Website](#)
- [Legislation HB 393](#)
- [Application](#)

Education Savings Accounts for Students with Special Needs

The Education Savings Account is a reimbursement program for parents of a qualified student with a disability under the Individuals with Disabilities Education Act, 20. U.S.C 1400, et seq. The purpose of this program is to provide flexibility for parents in their child's education. Find more information on the Students with Special Needs Equal Opportunity Act [HERE](#).

Education Savings Account Steering Committee

Thank you to the Education Savings Account Steering Committee for their input and assistance. The committee provided strategic advisory support to ensure the administrative process of the ESA program meets the needs of students and families enrolled in the program. Read more about the committee in the [Steering Committee Overview](#).

Committee members:

- Alba Pimentel, Parent/Guardian from Billings
- Amanda Christofferson, Education Service Provider from Havre
- Brad Tschida, Educator from Missoula
- Chas Haggerty, Education Service Provider from Billings
- Clifton Grilley, Parent/Guardian from Power
- Jean Curtiss, Community Member from Missoula
- Jennifer Duray, Parent/Guardian from Billings
- Katherine Walter, Parent/Guardian from White Sulphur Springs
- Lisa Gunderson, Parent/Guardian from Choteau
- Louisa Libertelli Dunn, Community Member from Great Falls
- Rebecca Richards, Parent/Guardian from Great Falls
- Robin Urbaska, Parent/Guardian from Billings
- Sarah Whitney, Parent/Guardian from Great Falls
- Stephanie Keeth, Parent/Guardian from Billings
- Sue Furey, Educator from Missoula

Eligibility

To be eligible to participate in the ESA program, a student must meet the following requirements as stated in law:

A "Qualified student" means a resident of the state who meets the requirements of (a) (b), and (c) below:

- (a) In the current school year:
 - (i) is identified as a "child with a disability" under the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.; **and**
 - (ii) is between the ages of 5 and 19 on September 10;
- (b) is not currently enrolled in a school operating for the purpose of providing educational services to youth in department of corrections commitment programs or in the Montana school for the deaf and blind; **and**
- (c)
 - (i) was counted during the previous school year for purposes of school district ANB funding;
 - (ii) was enrolled during the previous school year in a program listed in subsection (7)(b); **or**
 - (iii) is eligible to enter a kindergarten program pursuant to 20-7-117, MCA.

To determine student eligibility, the OPI will request an evaluation report, IEP, or private place-service plan during the program application process.

The information provided to the Office of Public Instruction is intended only for the purposes of the Education Savings Account application. All information provided will be kept secure and confidential to protect privacy.

Federal Individuals with Disabilities Education Act (IDEA):

Under the federal law a child is eligible if their school performance is “adversely affected” by a disability in one of the 13 categories below.

Autism
Deafness
Other Health Impairment
Developmental Delay
Emotional Disturbance
Specific Learning Disability
Cognitive Delay
Hearing Impairment
Speech Language Impairment
Deaf-Blindness
Orthopedic Impairment
Traumatic Brain Injury
Visual Impairment

How to Participate

A parent who chooses to participate in the program is required to notify to the Office of Public Instruction (OPI) by submitting an online application (paper copy available upon request). Once the student is determined eligible, the parent will sign a contract with OPI.

- The application includes:
 - Parent and student names, student birthdate, student state school ID number, resident district, district enrolled in prior year.
- An example of the application can be found in the Appendix and the fillable application will be available upon request.
- An example of the contract can be found in the Appendix.
- If a parent would like a paper application, please contact Whitney Williams at opiesa@mt.gov or 406-444-3408.

Timeline:

- Applications will be accepted beginning on May 1, 2024
- Application deadline is June 1, 2024
- OPI will notify parents within 30 days of the close of the application window and will provide a contract for the parent of an eligible student to sign.
- Upon receipt of the signed contract, parents can begin to submit receipts for allowable expenses incurred on/after July 1, 2024.
- By August 1, 2024, OPI will notify districts of families participating in the program.
- Contact/questions: Whitney Williams, opiesa@mt.gov.

Reimbursement process:

How to Submit Reimbursement Requests:

Upon receipt of the signed contract, parents may begin to submit receipts for allowable expenses incurred on/after July 1, 2024. Parents will utilize an Electronic Management System to submit reimbursement requests for students.

To ensure timely processing, all reimbursement requests must be completed and submitted to OPI by the 25th of the month for processing after the 10th of the following month. The OPI will review all receipts for accuracy, request additional information as necessary, and verify that sufficient funding is available in the trust account. Once approved, payment will be processed after the 10th of the following month.

The first round of approved reimbursement requests submitted to OPI between July 1 and August 25, 2024, will be paid after September 10, 2024.

Required Documentation for Reimbursement

When submitting a reimbursement request through the Electronic Management System, parents must upload all allowable receipts when submitting to the OPI. Parents will be required to submit a signed W-9 form with their contract. This W-9 form is for Montana state administrative purposes only and is not considered taxable income.



Expenses

Allowable Expenses:

Below are examples of generally allowable expenses for reimbursement under the ESA program. Expenses must only be for the benefit of the qualified student for whom the account was created. All expenses are subject to the Office of Public Instruction approval.

- Qualified school tuition, fees, textbooks, software, or other instructional materials or services.
- Electronic educational program or course or distance learning programs.
- Curriculum materials
- Tutoring
- Educational therapies including occupational, behavioral, physical, speech, and audiology therapies from a licensed or certified provider.
- State of nationally recognized assessment tests, advanced placement exams, entrance exams for eligible post-secondary institutions.
- Services provided by a public school in the state, including classes and extracurricular activities.
- Eligible postsecondary institution tuition, books, online course, or certain fees.
- No more than \$50 annually in consumable education supplies such as paper, pens, and markers.
- Transportation required for another allowable education service. Transportation costs will be reimbursed at the federal per diem rate.
- Fees for a cooperative educational program.

Unallowable Expenses:

Expenses must be for educational purposes. The following types of expenses are generally unallowable for reimbursement under the ESA program. This list is not exhaustive. The Office of Public Instruction reserves the right under statute to deny unallowable expenses.

- Entertainment
- Primarily noneducational devices
- Televisions
- Telephones
- Video game consoles and accessories
- Home theater and audio equipment
- Amusement Park tickets
- Baby grand pianos
- BBQ Grills, Smokers & Fixed fire pits
- Bounce houses & Water slides
- Commercial grade items
- Day care fees
- Fuel (Outside the mileage reimbursement for transportation required for allowable education services)
- Garden sheds
- Gift cards of any kind
- Go-carts, Motorized scooters, kayaks
- Home furnishings & Fixtures
- Hotel, Lodging, Groceries

- Inappropriate explicit material
- Jewelry & Precious metals
- Land / Real property
- Large appliances
- Large chicken coops & Runs
- Large green houses
- Large outdoor shade structures
- Large trampolines
- Live animals
- Medical services & Supplies

- Medications, Vitamins & Supplements
- Pizza ovens
- Planes, Automobiles, Motorcycles & Boats
- Playground & Lawn equipment
- Restaurants
- Solar panels or Systems
- Swimming pools, Saunas & Ponds
- Trailers (of any kind)
- Weapons & Ammunition

Unallowable Therapies and Services:

- Acupuncture
- Blood work (labs)
- Chiropractors
- Craniosacral Therapy
- Dental exams or Services
- Eye exams
- Health exams
- Hyperbaric Oxygen Therapy
- Massage Therapy
- Medical Equipment / Services
- Nutritionists
- Physical exams

Fraud:

If an individual believes he/she has knowledge or evidence of fraudulent or inappropriate use of Education Savings Account funds they should contact the OPI legal team.

<https://opi.mt.gov/Leadership/Management-Operations/Legal-Division>

If an individual believes that the fraud is Medicaid related, please contact DPHHS.

- To report Medicaid Member/Client Fraud call DPHHS, Fraud Hotline: (800) 201-6308
- <https://dphhs.mt.gov/montanahealthcareprograms/fraudandabuse>

Renewal & Withdrawal

Withdrawal or Termination

Parents may re-enroll their student in public school at any time, which will effectively terminate the ESA.

The Office of Public Instruction will remove a student from eligibility under the following circumstances:

- If a student re-enrolls in a public school district. Under this circumstance, the parent should notify OPI of the new enrollment.
- If a parent fails to comply with the terms of the signed contract.
- If a parent knowingly misuses account funds.
- If a parent knowingly fails to comply with the term of the contract with the intent to defraud.

Termination Process:

Under the above circumstances, the parent will be notified in writing that the student may be terminated from the program and no further reimbursements will be allowed after termination. The notification will include the reason for the termination.

The parent has 10 business days to respond. A parent may appeal OPI's decision by notifying the OPI in writing. A parent may also appeal OPI's decision under the Administrative Procedure Act.

If the parent refuses or fails to contact OPI within the 10-day period, then the student will be removed from the program.

Fraudulent use of account funds may result in the case being referred to the Attorney General for investigation.

FAQ

1. What if I have two qualified students who want to participate from the same household?

A parent may have more than one student enrolled in an ESA program. The parent will need to submit an application for each student, and sign a contract for each individual student, as well as submit reimbursements for individual students. Funds cannot be shared between students.

2. What happens if a student is determined ineligible for the ESA program?

The legislation does not allow for an appeal process for eligibility. Parents may reapply during the next application window.

3. If we lived in Montana, and my student was not enrolled in a MT public school the prior year, what are my options for participating?

- a. The law requires that a student was counted during the previous school year for purposes of school district ANB funding;

- i. was enrolled during the previous school year in a program listed in subsection (7)(b);
- ii. did not reside in the state in the previous school year; or
- iii. is eligible to enter a kindergarten program pursuant to 20-7-117.

4. What happens if an expense is denied reimbursement?

If a parent believes that an expense was incorrectly determined ineligible, the parent may request a review by informing OPI in writing within 10 days of denial. The parent may provide additional documentation to show eligibility of the expense. OPI's decision will be final for reimbursement determinations.

5. My child doesn't have an IEP but has a designation/ diagnosis for a disability, are they eligible?

To determine eligibility, the OPI will review documentation that confirms a child's IDEA designation. This documentation is either an evaluation report, IEP, or private place service plan.

6. What is the status of my application?

The parent will receive an email confirming the receipt of the application. OPI will notify the parent of eligibility within 30 days of the application window closing date. If the parent does not receive notification of receipt of a determination within 30 days of the application window closing, please contact Whitney Williams at opiesa@mt.gov.

7. How will I be notified?

Parents will be notified via email for the receipt of application and confirmation or denial of eligibility. Parents will receive a contract to sign upon confirmation of eligibility. Postal mail notifications can be provided if requested by the parent. If a parent is determined ineligible, OPI will notice the parent in writing.

8. How much money is available per year for allowable reimbursement?

- a. The ESA student amount is outlined in 20-7-1703, MCA.
- b. OPI prepared a table with sample amounts depending on student resident district. It is included in the appendix. (Student amount available to parents is subject to an administrative fee per 20-7-1703, MCA.)

Glossary & Appendix:

Appendix documents are subject to change

Glossary:

Qualified school:

- A nonpublic school serving any combination of grades kindergarten through 12.
- It must be in compliance with applicable local health and safety regulations.
- Hold an occupancy permit (if required by the municipality)
- Does not discriminate on the basis of race, creed, religion, sex, marital status, color, age, disability, or national origin.
- Requires that an employee who has unsupervised access to children be subject to a criminal background check.
- Meet requirements for Montana nonpublic schools.

Eligible Postsecondary Institution: An accredited postsecondary institution located in Montana.

ANB (Average Number Belonging): means a student count used for school funding purposes. It is the formula based on factors that include enrollment on two count dates, PIR days, and an average school year of 180 days.

Parent: means a biological parent, adoptive parent, legal guardian, custodian, or other person with legal authority to act on behalf of a qualified student, and whose parental rights have not been terminated.

Resident school district: means the school district in which a student resides.

Sample Application

Sample Contract

ESA Student Amounts per Resident District



Education Savings Account Program Application

(HB 393) now 20-7-17, MCA, established a Montana Special Needs Equal Opportunity Education Savings Account Program (ESA). Qualified Students are those identified as a “child with a disability” under the Individuals with Disabilities Education Act, 20 U.S.C 1400, et seq, and may be eligible for reimbursement of allowable education expenses. The purpose of this program is to provide flexibility for parents in their child’s education. To be eligible, students must meet eligibility requirements and would not be enrolled in a Montana public school during the 2024-2025 school year. For more information on qualified students and eligible reimbursements go to the OPI ESA webpage (opi.mt.gov/Leadership/Academic-Success/Every-Student-Succeeds-Act-ESSA)

An ESA Program Application is required for each student. Custodial Parent/Guardians applying for multiple students, please submit one application per student.

The application period for the ESA opens May 1, 2024, and closes June 1, 2024. OPI will notify parents within 30 days of the application window closing date, June 1, 2024, and will provide a contract for the parent/guardian to review and sign.

Mailed applications should be sent to:

Office of Public Instruction
Education Savings Program: attn Whitney Williams
PO Box 202501
Helena, MT 59620

Questions regarding the ESA can be directed to Whitney Williams via email at OPIESA@mt.gov or 406-444-3408.

Copies of child’s disability qualification documents (evaluation report, IEP, or private-place plan), and proof of address will need to be included with the completed application. If you have questions in regard to obtaining these requested items from your school district, please contact Whitney Williams at opiesa@mt.gov or 406-444-3408.

The information provided to the Office of Public Instruction is intended only for the purposes of the Education Savings Account application. All information provided will be kept secure and confidential to protect privacy.



Enter Student Information

First Name _____

Last Name _____

Address _____

Birthdate (MM/DD/YYYY) _____

Enter Custodial Parent/Guardian Information

First Name _____

Last Name _____

Phone Number _____

Email (for account access) _____

Montana school attended in previous school year.

Entering Kindergarten

New to Montana

County _____

District _____

School _____

Resident school district for the designated school year.

Same as previous

County _____

District _____

School _____



If not residing in a Montana school during (designated) school year, check “Yes” if applying for (upcoming) school year.

Yes

No

I verify that I will include proof of address as defined in 23-3-183, MCA.

Yes

No

Do you intend for the student to return to public school during the current or upcoming school year?

Yes

No

To determine if your student is a qualified student for this program, please include Evaluation Report, IEP, or private place-service plan from your resident school district. I verify that I will include documentation.

Yes

No

Be sure to include all appropriate documentation before mailing your application.

The information provided to the Office of Public Instruction is intended only for the purposes of the Education Savings Account application. All information provided will be kept secure and confidential to protect privacy.



Contract # Budget #

Education Savings Account Contract

Parties. This Contract is entered into between

Superintendent of Public Instruction (“OPI”),
1300 11th Avenue,
Helena, Montana, 59601

and

John and Jane Doe (“Parents of Qualified Student”),
(address),
xxxxxx, MT 59xxx

Terms and Conditions

1. Term.

1.1 Term of Contract.

The term of this Contract is from the date it is executed through (date), the Qualified Student’s 24th birthday, unless it is terminated sooner as provided in this Contract (this Contract is not subject to the 7-year limit under Mont. Code Ann. § 18-4-313).

1.2 Authorized Signatures.

In no event is this Contract binding on OPI unless the Superintendent of Public Instruction or her designee has signed it. The OPI Legal Counsel signature approving legal content of this Contract and the Contract and Procurement Manager signature approving the form of this Contract do not constitute an authorized signature.

2. Students With Special Needs Equal Opportunity Act.

2.1 Background.

In 2023, the Montana Legislature enacted the Students With Special Needs Equal Opportunity Act (hereinafter “the Act”), Mont. Code Ann. § 20-7-1701 through 1710, which established the Education Savings Account program and requires the parents of qualified students to sign a contract with the superintendent of public instruction.

2.2 Definitions.

The terms used in this Contract are defined in § 20-7-1702 of the Act (a complete copy of the Act is attached as Exhibit A to this Contract).

2.3 Parents of Qualified Student Responsibilities.

In accordance with the Act, the undersigned Parents of Qualified Student agree to do the following:

- A. utilize account funds to procure allowable educational resources under § 20-7-1704 of the Act to develop the qualified student's full educational potential;
- B. release the resident school district from all obligations to educate the qualified student, including any requirements that the district provide a free and appropriate education to the qualified student or develop an individualized education program for the qualified student;
- C. submit to the superintendent of public instruction copies of receipts for allowable educational resources for reimbursement;
- D. if the qualified student is re-enrolled in a public school, immediately notify the superintendent of public instruction; and
- E. if the qualified student enrolls at a qualified school, ensure that the qualified student:
 - (1) remains in attendance unless excused by the qualified school for illness or other good cause; and
 - (2) complies with the qualified school's published policies.

2.4 Superintendent of Public Instruction Responsibilities.

In accordance with the Act, the Superintendent of Public Instruction agrees to do the following:

- A. reimburse Parents of Qualified Student for the purchase of allowable educational resources from a Qualified Student's Education Savings Account;
- B. terminate payments for the Qualified Student to the Education Savings Account if the Qualified Student re-enrolls fulltime in a public school district;
- C. remove the Qualified Student from eligibility for an Educational Savings Account if the Parents of Qualified Student fail to comply with the terms of this Contract signed, knowingly misuse Educational Savings Account funds, or knowingly fail to comply with the terms of this Contract with intent to defraud.
 - (1) If the Qualified Student is removed from eligibility, the Superintendent of Public Instruction shall suspend the Qualified Student from the program and shall notify the Parents of Qualified Student in writing that the Qualified Student has been suspended and that no further reimbursements from the Educational Savings Account will be allowed.
 - (2) The notification must specify the reason for the suspension and state that the Parents of Qualified Student have 10 business days to respond and take corrective action. If the Parents of Qualified Student refuse or fail within the 10-day period to contact the Superintendent of Public Instruction or provide information or make a report that is required for reinstatement, the Superintendent of Public Instruction may remove the Qualified Student from the program. The Parents of Qualified Student may appeal the Superintendent

of Public Instruction's decision pursuant to Mont. Code Ann. title 2, chapter 4, part 6; and

- D. refer cases of substantial misuse of Education Savings Account funds to the Montana Attorney General for investigation if the Superintendent of Public Instruction obtains evidence of fraudulent use of an Education Savings Account.

3. Payment from Educational Savings Account.

3.1 Reimbursement Procedure.

The Parents of Qualified Student must submit requests for reimbursement to the Superintendent of Public Instruction in accordance with procedures set forth in the applicable rules established by the Superintendent of Public Instruction.

3.2 Electronic Payment.

To facilitate State payment by electronic funds, Parents of Qualified Student must complete a Department of Administration State Accounting Bureau Form 204-Electronic Funds Transfer Sign Up, and if required, provide a voided check, or a direct deposit form (not a deposit slip) completed by Parents of Qualified Student's bank at the time of contract execution. Parents of Qualified Student will receive a payment advice through e-mail. If an e-mail address is not provided on form W-9, Parents of Qualified Student will not receive a payment advice.

4. General.

4.1 Incorporations.

All attachments are incorporated into this Contract.

4.2 Entire Agreement.

Parents of Qualified Student acknowledges that they have read and understood the terms and conditions of this Contract and will be bound by them. Parents of Qualified Student further acknowledge that this Contract, including any attachments incorporated by reference, is the complete and exclusive statement of the Contract between the parties. It supersedes all previous proposals, oral or written, and all other communications between the parties relating to this Contract's subject matter.

4.3 Modification of Contract.

Additions, deletions, amendments, or changes are collectively called "modifications." This Contract can only be modified in writing, contain an explicit statement that it constitutes a modification of this Contract, and be signed by an authorized individual with the authority to enter in contracts between OPI and Parents of Qualified Student.

4.4 Authority.

This Contract is issued under the authority of Mont. Code Ann. Title 18, Mont. Code Ann. § 20-7-1705, and the Administrative Rules of Montana, Title 2, Chapter 5.

4.5 Severability.

In the event of a declaration by any court or any other binding legal source holding any part of this Contract to be unenforceable, the rest of the Contract remains fully

enforceable, unless the provisions are mutually and materially dependent.

4.6 Headings.

Headings are for convenience only and do not affect the interpretation of this Contract.

4.7 Choice of Law and Venue.

Montana law applies to this Contract without regard to any choice-of-law rules that might direct the application of the laws of any other jurisdiction. The parties agree the venue for any litigation concerning this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana. Each party shall pay its own costs and attorney fees.

5. Contract Termination.

5.1 Termination by Parents of Qualified Student.

This Contract may be terminated by Parents of Qualified Student at any time, subject to the notice requirement set forth in paragraph 2.3.D, above.

5.2 Termination by Superintendent of Public Instruction.

This Contract may be terminated by the Superintendent of Public Instruction in accordance with paragraphs 2.4.B & C. above.

5.3 Reduction in Funding.

The Superintendent of Public Instruction must terminate this Contract at any time if OPI's funding is eliminated or diminished such that continued support of this Agreement is unworkable. Mont. Code Ann. § 18-4-313(4). Such termination does not constitute a breach of this Contract. OPI shall provide Parents of Qualified Student the contract termination effective date. OPI shall not be liable to Parents of Qualified Student for any payment that would have been payable had the Contract not been terminated under this provision. OPI shall be liable to Parents of Qualified Student only for the payment, or prorated portion of that payment, owed to Parents of Qualified Student up to the date OPI's termination takes effect. This is Parents of Qualified Student's sole remedy. OPI shall not be liable to Parents of Qualified Student for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages.

6. Event of Breach—Remedies.

6.1 Event of Breach by Parents of Qualified Student.

Acts or omissions which constitute an event of material breach of this Contract by Parents of Qualified Student and the remedies available to the Superintendent of Public Instruction are set forth in paragraphs 2.4.C & D, above.

7. Contract Liaison.

All contract management on OPI's behalf must be through a single point of contact designated as OPI's liaison. A party may change the Contract Liaison by written notice to the other party. Parents of Qualified Student designates the individual listed below as the Parents of Qualified Student's liaison who will be the single point of contact for this Contract.

OPI Liaison
????????????
P.O. Box 202501
Helena MT 59620-2501
Phone: (406) 444-????
Email: ?????????@mt.gov

Parents of Qualified Student Liaison
(name of one parent)
(address)
?????, MT 59???

Phone: (xxx) xxx-xxxx
Email: ?????????@?????.com

(The remainder of this page is intentionally left blank)

DRAFT

The parties, through their authorized agents, have executed this Contract on the dates set out below.

By: _____ Date: _____
(liaison parent name)
(liaison parents email address)

By: _____ Date: _____
(other parent name), if applicable
(email address)

By: _____ Date: _____
Superintendent Elsie Arntzen
Montana Office of Public Instruction

APPROVED AS TO FORM ON BEHALF OF OPI

By: _____ Date: _____
Heather Davidson
Contracts and Procurement Manager
Montana Office of Public Instruction

APPROVED AS TO LEGAL CONTENT

By: _____ Date: _____
Legal Counsel
Montana Office of Public Instruction