

ESA Scholarships Model Policy

Simple revisions to existing law could increase the funding for, and expand the availability of, the MOScholars program.

*In the model policy that follows, **bold type** is used to indicate text added to a current statute, and ~~struck through text enclosed within brackets~~ indicates text that would be removed.*

166.700. Definitions. — As used in sections [166.700 to 166.720](#), the following terms mean:

- (1) **"Curriculum"**, a complete course of study for a particular content area or grade level, including any supplemental materials;
- (2) **"District"**, the same meaning as used in section [160.011](#);
- (3) **"Educational assistance organization"**, the same meaning as used in section [135.712](#);
- (4) **"Parent"**, the same meaning as used in section [135.712](#);
- (5) **"Private school"**, a school that is not a part of the public school system of the state of Missouri and that charges tuition for the rendering of elementary or secondary educational services;
- (6) **"Program"**, the same meaning as used in section [135.712](#);
- (7) **"Qualified school"**, a home school as defined in section [167.031](#) or any of the following entities that is incorporated in Missouri and that does not discriminate on the basis of race, color, or national origin:
 - (a) A charter school as defined in section [160.400](#);
 - (b) A private school;
 - (c) A public school as defined in section [160.011](#); or
 - (d) A public or private virtual school;
- (8) **"Qualified student"**, any elementary or secondary school student who is a resident of this state ~~and resides in any county with a charter form of government or any city with at least thirty thousand inhabitants~~ who:
 - (a) Has an approved "individualized education plan" (IEP) developed under the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400, et seq., as amended; or

ESA Scholarships Model Policy

- (b) Is a member of a household whose total annual income does not exceed an amount equal to ~~two~~ three hundred percent of the income standard used to qualify for free and reduced price lunches, and meets at least one of the following qualifications:
 - a. Attended a public school as a full-time student for at least one semester during the previous twelve months; or
 - b. Is a child who is eligible to begin kindergarten or first grade under sections [160.051](#) to [160.055](#).

166.705. Missouri empowerment scholarship account, written agreement, contents — renewal — withdrawal from program, effect of — moneys tax exempt to parents. — 1. A parent of a qualified student may establish a Missouri empowerment scholarship account for the student by entering into a written agreement with an educational assistance organization. The agreement shall provide that:

- (1) The qualified student shall enroll in a qualified school and receive an education in at least the subjects of English language arts, mathematics, social studies, and science;
- (2) Except for a qualified student who is in the custody of the state, the qualified student shall not be enrolled in a public school operated by, or a charter school located within, the qualified student's district of residence and shall release the district of residence from all obligations to educate the qualified student while the qualified student is enrolled in the program. This subdivision shall not be construed to relieve the student's district of residence from the obligation to conduct an evaluation for disabilities;
- (3) The qualified student shall receive a grant, in the form of moneys deposited in accordance with section [135.714](#), in the qualified student's Missouri empowerment scholarship account equal to the current year student adequacy target (SAT) multiplied by any applicable foundation formula weights for low-income students, students with disabilities, or English- language learners;
- (4) The moneys deposited in the qualified student's Missouri empowerment scholarship account shall be used only for the following expenses of the qualified student:
 - (a) Tuition or fees at a qualified school;
 - (b) Textbooks required by a qualified school;
 - (c) Educational therapies or services from a licensed or accredited practitioner or provider including, but not limited to, licensed or accredited paraprofessionals or educational aides;
 - (d) Tutoring services;

ESA Scholarships Model Policy

- (e) Curriculum;
 - (f) Tuition or fees for a private virtual school;
 - (g) Fees for a nationally standardized norm-referenced achievement test, advanced placement examinations, international baccalaureate examinations, or any examinations related to college or university admission;
 - (h) Fees for management of the Missouri empowerment scholarship account by firms selected by the educational assistance organization;
 - (i) Services provided by a public school including, but not limited to, individual classes and extracurricular programs;
 - (j) Computer hardware or other technological devices that are used to help meet the qualified student's educational needs and that are approved by an educational assistance organization;
 - (k) Fees for summer education programs and specialized after-school education programs;
 - (l) Transportation costs for mileage to and from a qualified school; and
- (5) Moneys deposited in the qualified student's Missouri empowerment scholarship account shall not be used for the following:
- (a) Consumable educational supplies including, but not limited to, paper, pens, pencils, or markers;
 - (b) Tuition at a private school located outside of the state of Missouri; and
 - (c) Payments or reimbursements to any person related within the third degree of consanguinity or affinity to a qualified student.
2. Missouri empowerment scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. Notwithstanding any changes to the qualified student's multidisciplinary evaluation team plan, a student who has previously qualified for a Missouri empowerment scholarship account shall remain eligible to apply for renewal until the student completes high school and submits scores to the state treasurer from a nationally standardized norm-referenced achievement test, advanced placement examination, international baccalaureate examination, or any examination related to college or university admission purchased with Missouri empowerment scholarship account funds.
3. A signed agreement under this section shall satisfy the compulsory school attendance requirements of section [167.031](#).

ESA Scholarships Model Policy

4. A qualified school or a provider of services purchased under this section shall not share, refund, or rebate any Missouri empowerment scholarship account moneys with the parent or qualified student in any manner.
5. If a qualified student withdraws from the program by enrolling in a school other than a qualified school or is disqualified from the program under the provisions of section [166.710](#), the qualified student's Missouri empowerment scholarship account shall be closed and any remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students. Under such circumstances, the obligation to provide an education for such student shall transfer back to the student's district of residence.
6. Any funds remaining in a qualified student's Missouri empowerment scholarship account at the end of a school year shall remain in the account and shall not be returned to the educational assistance organization. Any funds remaining in a qualified student's Missouri empowerment scholarship account upon graduation from a qualified school shall be returned to the educational assistance organization for redistribution to other qualified students.
7. Moneys received under sections [166.700 to 166.720](#) shall not constitute Missouri taxable income to the parent of the qualified student.

166.710. Annual audits of accounts — disqualification from program, when — referral for misuse of money — rulemaking authority. — 1. Beginning in the 2023–24 school year and continuing thereafter, the state treasurer shall conduct or contract for annual audits, and may conduct or contract for random and quarterly audits as needed, of Missouri empowerment scholarship accounts to ensure compliance with the requirements of subsection 1 of section [166.705](#).

2. A parent, qualified student, or vendor may be disqualified from program participation if the state treasurer, or the state treasurer's designee, finds the party has committed an intentional program violation consisting of any misrepresentation or other act that materially violates any law or rule governing the program. The state treasurer may remove any parent or qualified student from eligibility for a Missouri empowerment scholarship account. A parent may appeal the state treasurer's decision to the administrative hearing commission. A parent may appeal the administrative hearing commission's decision to the circuit court of the county in which the student resides.
3. The state treasurer may refer cases of substantial misuse of moneys to the attorney general for investigation if the state treasurer obtains evidence of fraudulent use of an account.
4. The state treasurer shall promulgate rules containing the following to implement and administer the program:

ESA Scholarships Model Policy

- (a) Procedures for conducting examinations of use of account funds;
 - (b) Procedures for conducting random, quarterly, and annual reviews of accounts;
 - (c) Creation of an online anonymous fraud reporting service;
 - (d) Creation of an anonymous telephone hotline for fraud reporting; and
 - (e) A surety bond requirement for educational assistance organizations.
5. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of [chapter 536](#) and, if applicable, section [536.028](#). This section and [chapter 536](#) are nonseverable and if any of the powers vested with the general assembly pursuant to [chapter 536](#) to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

166.715. Misuse of moneys, penalty — financial institutions immunity from liability, when.

— 1. A person commits a class A misdemeanor if the person is found to have knowingly used moneys granted under section [135.714](#) for purposes other than those provided for in sections [166.700 to 166.720](#).

2. No financial institution shall be liable in any civil action for providing a scholarship account's financial information to the state treasurer unless the information provided is false and the financial institution providing the false information does so knowingly and with malice.

166.720. Government control or supervision over qualified schools prohibited, when — qualified schools not agents of state — transfer of student, effect of. — 1. Sections [166.700 to 166.720](#) shall not be construed to permit any governmental agency to exercise control or supervision over any qualified school in which a qualified student enrolls other than a qualified school that is a public school.

2. A qualified school, other than a qualified school that is a public school, that accepts a payment from a parent under sections [166.700 to 166.720](#) shall not be considered an agent of the state or federal government due to its acceptance of the payment.
3. A qualified school shall not be required to alter its creed, practices, admissions policy, or curriculum in order to accept students whose parents pay tuition or fees from a Missouri empowerment scholarship account to participate as a qualified school.

ESA Scholarships Model Policy

- *4. (1) Any qualified student receiving a Missouri empowerment scholarship who leaves a public school or charter school, as such terms are defined in [chapter 160](#), in the qualified student's resident school district to enroll in a qualified school that is not the qualified student's resident school district shall continue to be counted in the resident public school or charter school's weighted average daily attendance as a resident student for the purposes of determining state and federal aid for the qualified student's resident school district or charter school.
- (2) The qualified student will continue to be counted for such purpose as provided:
- (a) For ~~five~~ two years after the qualified student no longer attends school in the qualified student's resident school district;
 - (b) Until any calendar year that the qualified student no longer receives grant money in their scholarship account;
 - (c) Until the qualified student is counted in the weighted average daily attendance for a public school or charter that they are a resident student in;
or
 - (d) Until the qualified student graduates.
- (3) The educational assistance organization and the state treasurer shall provide the necessary information to the department of elementary and secondary education to allow the federal and state aid to continue to the public school or charter school in the qualified student's resident school district previously attended by the qualified student.
- (4) The provisions of this subsection shall terminate five years after August 28, 2021.
5. In any legal proceeding challenging the application of sections [166.700 to 166.720](#) to a qualified school, the state shall bear the burden of establishing that the law is necessary and does not impose any undue burden on qualified schools.
6. The provisions of section [23.253](#) of the Missouri sunset act shall not apply to sections [166.700 to 166.720](#).