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LC001521

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO EDUCATION -- EDUCATION FREEDOM ACCOUNT PROGRAM

Introduced By: Senators E Morgan, Rogers, de la Cruz, DeLuca, Paolino, and Raptakis

Date Introduced: February 16, 2023

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 112

4 EDUCATION FREEDOM ACCOUNT PROGRAM

5 **16-112-1. Short title.**

6 This chapter shall be known and may be cited as the "Education Freedom Account
7 Program."

8 **16-112-2. Legislative purpose.**

9 It is the purpose of this chapter to offer qualified students an opportunity to utilize state
10 education funds to pay for alternative learning experiences, by allowing parents to direct their
11 child's state education funding to private school, courses, materials and educational programs of
12 their choice, instead of attending elementary or secondary public school. The education freedom
13 account program shall be administered by the children's scholarship fund of Rhode Island.

14 **16-112-3. Definitions.**

15 As used in this chapter, the following words and terms shall have the following meanings:

16 (1) "Adequate education funds" means the per-student base amount of educational funding
17 calculated by the Rhode Island department of education (RIDE) and as may be determined by the
18 general assembly on an annual basis.

19 (2) "The children's scholarship fund of Rhode Island" or "the children's scholarship fund"

1 or "CSF" means the organization approved under this chapter to administer and implement the
2 educational freedom account (EFA)

3 (3) "Commissioner" means the Rhode Island commissioner of education.

4 (4) "Curriculum" means the lessons and academic content taught in a specific course,
5 program, or grade level.

6 (5) "Department" or "RIDE" means the Rhode Island department of education.

7 (6) "Education freedom account" or "EFA" means the account to which funds are allocated
8 by the children's scholarship fund and paid to the parent of an EFA student or directly to an
9 education service provider in order to pay for qualifying education expenses under this chapter.

10 (7) "Education service provider" means a person or organization that receives payments
11 from education freedom accounts to provide educational goods and services to EFA students.

12 (8) "EFA student" means an eligible student who is participating in the education freedom
13 account (EFA) program.

14 (9) "Eligible student" means a resident of this state who is eligible to enroll in a public
15 elementary or secondary school and whose annual household income at the time the student's parent
16 applies for the program is less than or equal to two hundred fifty percent (250%) of the federal
17 poverty guidelines as updated annually in the Federal Register by the United States Department of
18 Health and Human Services pursuant to 42 U.S.C. § 9902(2). No income threshold need be met in
19 subsequent years, provided the student otherwise qualifies.

20 (10) "Full-time" means more than fifty percent (50%) of instructional time.

21 (11) "Parent" means a biological or adoptive parent, legal guardian, custodian, or other
22 person with legal authority to act on behalf of an EFA student.

23 (12) "Program" means the education freedom account (EFA) program established in this
24 chapter.

25 (13) "Remote" or "hybrid" means any public school that is not providing instruction in-
26 person where the student or the educator are both not physically present in the traditional classroom
27 due to full-time or part-time classroom or school closure.

28 **16-112-4. Education freedom account program.**

29 (a) The commissioner shall transfer to the CSF the per pupil annual education fund amount
30 calculated by RIDE and determined by the general assembly.

31 (b) Parents of an EFA student shall use the funds deposited in their student's EFA only for
32 the following qualifying expenses to educate the EFA student as follows:

33 (1) Tuition and fees at an elementary or secondary private school;

34 (2) Tuition and fees for non-public online learning programs;

- 1 (3) Tutoring services provided by an individual or a tutoring facility;
- 2 (4) Services contracted for and provided by a district public school, chartered public school,
3 public academy, or independent school, including, but not limited to, individual classes and
4 curricular activities and programs;
- 5 (5) Textbooks, curriculum, or other instructional materials, including, but not limited to,
6 any supplemental materials or associated online instruction required by either a curriculum or an
7 education service provider;
- 8 (6) Computer hardware, Internet connectivity, or other technological services and devices,
9 that are primarily used to help meet an EFA student's educational needs;
- 10 (7) Educational software and its associated applications;
- 11 (8) School uniforms;
- 12 (9) Fees for nationally standardized assessments, advanced placement examinations,
13 examinations related to college or university admission or awarding of credits and tuition and fees
14 for preparatory courses for such exams;
- 15 (10) Tuition and fees for summer education programs and specialized education programs;
- 16 (11) Tuition, fees, instructional materials, and examination fees at a career or technical
17 school;
- 18 (12) Educational services and therapies, including, but not limited to, occupational,
19 behavioral, physical, speech-language, and audiology therapies;
- 20 (13) Fees for transportation paid to a fee-for-service transportation provider for the student
21 to travel to and from an education service provider; and
- 22 (14) Any other educational expense approved by the CSF.
- 23 (c) EFA funds shall not be refunded, rebated, or shared with a parent or EFA student in any
24 manner; provided however, that the funds shall be credited directly to the student's EFA.
- 25 (d) Parents may make payments for the costs of educational goods and services not covered
26 by the funds in their student's EFA. However, personal deposits into an EFA shall not be permitted.
- 27 (e) Funds deposited in an EFA shall not constitute taxable income to the parent or the EFA
28 student.
- 29 (f) An EFA shall remain in force, and any unused funds shall roll over from quarter-to-
30 quarter and from year-to-year until the parent withdraws the EFA student from the EFA program
31 or until the EFA student graduates from high school, unless the EFA is closed because of a
32 substantial misuse of funds. Upon permanent closure of an EFA, any unused funds shall be
33 deposited in the respective city's or town's educational account.
- 34 (g) Nothing in this chapter shall be construed to require that an EFA student must be

1 enrolled, full-time or part-time, in either an elementary or secondary private school or an
2 elementary or secondary nonpublic online school.

3 **16-112-5. Application for an education freedom account.**

4 (a) A parent may apply to the CSF to establish an EFA for an eligible student. The CSF
5 shall accept and approve applications for the fall and spring semesters each year and shall establish
6 procedures for approving applications in an expeditious manner.

7 (b) The CSF shall create a standard form that parents can submit to establish their student's
8 eligibility for the EFA program and shall ensure that the application is publicly available and may
9 be submitted through various sources, electronically and in a hard-copy format.

10 (c) The CSF shall approve an application for an EFA provided:

11 (1) The parent submits an application for an EFA in accordance with application
12 procedures established by the CSF;

13 (2) The student on whose behalf the parent is applying is an eligible student;

14 (3) Funds are available for the EFA; and

15 (4) The parent signs an agreement with the CSF:

16 (i) To provide an education for the eligible student in the core knowledge domains that
17 include science, mathematics, language, government, history, health, reading, writing, spelling, the
18 history of the constitutions of Rhode Island and the United States, and an exposure to and
19 appreciation of art and music;

20 (ii) Not to enroll the eligible student as a full-time student in the public school of their
21 residential district while participating in the EFA program;

22 (iii) To provide an annual record of educational attainment by:

23 (A) Having the student take a nationally-standardized, norm-referenced achievement test
24 and to provide the results to the CSF by the end of each school year that the CSF shall make
25 available to the department as aggregate scores;

26 (B) Having the student take a statewide student assessment test; or

27 (C) Maintaining a portfolio including, but not limited to, a log which designates by title the
28 reading materials used; samples of writings, worksheets, workbooks, or creative materials used or
29 developed by the student. The parent shall have a certified teacher or a teacher currently teaching
30 in a nonpublic school, who is selected by the parent, evaluate the student's educational progress
31 upon review of a portfolio and discussion with the parent or student;

32 (iv) To use the funds in the EFA only for qualifying expenses to educate the eligible student
33 as established by the EFA program; and

34 (v) To comply with the rules and requirements of the EFA program.

1 (d) The signed agreement between the parent and the CSF shall satisfy the compulsory
2 school attendance requirements of the state.

3 (e) The CSF shall annually renew a student's EFA provided the funds are available.

4 (f) Upon notice to the CSF, an EFA student may choose to stop receiving EFA funding and
5 enroll full-time in a public school.

6 (1) Enrolling as a full-time student in the public school of their residential district shall
7 result in the immediate suspension of payment of additional funds into the student's EFA. However,
8 an EFA that has been open for at least one full school year shall remain open and active for the
9 parent to make qualifying expenditures to educate the student from funds remaining in the EFA.
10 When no funds remain in the student's EFA, the CSF may close the EFA.

11 (2) If an eligible student decides to return to the EFA program, payments into the student's
12 existing EFA may resume if the EFA is still open and active. A new EFA may be established if the
13 student's EFA was closed.

14 **16-112-6. Authority and responsibilities of the children's scholarship fund.**

15 The CSF shall have the following additional duties, obligations, and authority:

16 (1) The CSF shall maintain an updated list of education service providers and shall ensure
17 that the list is publicly available through various sources, electronically and in a hard-copy format.

18 (2) The CSF shall provide parents with a written explanation of the allowable uses of EFA
19 funds, the responsibilities of parents, the duties of the CSF, and the role of any financial
20 management firms that the CSF may contract with to administer any aspect of the EFA program.

21 (3) The CSF shall ensure that parents of students with disabilities receive notice that
22 participation in the EFA program is a placement pursuant to 20 U.S.C. § 1412, Individuals with
23 Disabilities Education Act (IDEA), along with an explanation of the rights that parentally placed
24 students possess under IDEA and any applicable state laws.

25 (4) The CSF shall, in cooperation with the department, determine eligibility for
26 differentiated aid subject to any applicable state and federal laws.

27 (5) The CSF may withhold from deposits or deduct from EFAs an amount to cover the
28 costs of administering the EFA program, up to a maximum of ten percent (10%) annually.

29 (6) The CSF shall implement a commercially viable system of payment for services from
30 EFAs to education service providers by electronic or online funds transfer.

31 (i) The CSF shall not adopt a system that relies exclusively on requiring parents to be
32 reimbursed for out-of-pocket expenses, but rather shall provide maximum flexibility to parents by
33 facilitating direct payments to education service providers. The CSF may pre-approve requests for
34 reimbursements for qualifying expenses, including expenses pursuant to §16-112-4(b), but shall

1 not disperse funds to parents without receipt that such pre-approved purchase has been made.

2 (ii) The CSF may contract with a private institution or organization to develop a payment
3 system.

4 (7) The CSF may also seek to implement a commercially viable system for parents to
5 publicly rate, review, and share information about education service providers, preferably as part
6 of the same system that facilitates the electronic or online funds transfers.

7 (8) If an education service provider requires partial payment of tuition or fees prior to the
8 start of the academic year to reserve space for an EFA student admitted to the education service
9 provider, such partial payment may be paid by the CSF, if funds are available, prior to the start of
10 the school year in which the EFA is awarded and deducted in an equitable manner from subsequent
11 quarterly EFA deposits to ensure adequate funds remain available throughout the school year.
12 However, if an EFA student decides not to use the education service provider, the partial reservation
13 payment shall be returned to the CSF by such education service provider and credited to the
14 student's EFA.

15 (9) The CSF shall continue making deposits into a student's EFA until:

16 (i) The CSF determines that the EFA student is no longer an eligible student;

17 (ii) The CSF determines that there was substantial misuse of the funds in the EFA;

18 (iii) The parent or EFA student withdraws from the EFA program;

19 (iv) The EFA student enrolls full-time in the public school of their residential district; or

20 (v) The EFA student graduates from high school.

21 (10) The CSF may conduct or contract for the auditing of individual EFAs, and shall at a
22 minimum conduct random audits of EFAs on an annual basis.

23 (11) The CSF may make any parent or EFA student ineligible for the EFA program in the
24 event of intentional and substantial misuse of EFA funds.

25 (i) The CSF shall create procedures to ensure that a fair process exists to determine whether
26 an intentional and substantial misuse of EFA funds has occurred.

27 (ii) If an EFA student is free from personal misconduct, that student shall be eligible for an
28 EFA in the future if placed with a new guardian or other person with the legal authority to act on
29 behalf of the student.

30 (iii) The CSF may refer suspected cases of intentional and substantial misuse of EFA funds
31 to the attorney general for investigation if evidence of fraudulent use of EFA funds is obtained.

32 (iv) A parent or EFA student may appeal the CSF's decision to deny eligibility for the EFA
33 program to the department.

34 (12) The CSF may bar an education service provider from accepting payments from EFAs

1 if the CSF determines that the education service provider has:
2 (i) Intentionally and substantially misrepresented information or failed to refund any
3 overpayments in a timely manner; or
4 (ii) Routinely failed to provide students with promised educational goods or services.
5 (13) The CSF shall create procedures to ensure that a fair process exists to determine
6 whether an education service provider may be barred from receiving payments from EFAs.
7 (i) If the CSF bars an education service provider from receiving payments from EFAs, it
8 shall notify parents and EFA students of its decision as soon as possible.
9 (ii) Education service providers may appeal the CSF's decision to bar them from receiving
10 payments from the EFA to the department.
11 (14) The CSF may accept gifts and grants from any source to cover administrative costs,
12 to inform the public about the EFA program, or to fund additional EFAs.
13 (15) The department shall adopt rules and regulations that are necessary for the
14 administration of this chapter.
15 (16) The CSF shall adopt policies or procedures that are necessary for the administration
16 of this chapter, including, but not limited to:
17 (i) Establishing or contracting for the establishment of an online anonymous fraud
18 reporting service;
19 (ii) Establishing an anonymous telephone number for fraud reporting;
20 (iii) Requiring a surety bond for education service providers receiving more than one
21 hundred thousand dollars (\$100,000) in EFA funds;
22 (iv) Refunding payments from education service providers to EFAs; and
23 (v) Ensuring appropriate use and rigorous oversight of all funds expended under this
24 program.
25 (17) The CSF shall not exclude, discriminate against, or otherwise disadvantage any
26 education provider with respect to programs or services under this chapter based in whole or in part
27 on the provider's religious character or affiliation, including religiously based or mission-based
28 policies or practices.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- EDUCATION FREEDOM ACCOUNT PROGRAM

1 This act would establish a new program where the per pupil funding, calculated annually
2 by the department of education (RIDE), may be transferred into a newly created educational
3 funding account (EFA) administered by the children's scholarship fund if a student qualifies, to pay
4 for certain educational expenses such as, tuition and fees at a private school, tutoring, textbooks,
5 computers, among other items.

6 This act would take effect upon passage.

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