

Iowa State Board of Education

Executive Summary

September 12, 2024



- Agenda Item:** Education Savings Accounts Appeal (Approval of Proposed Decision)
- State Board Priority:** Goal 2: Promote equity in education by closing achievement and opportunity gaps.
- State Board Role/Authority:** Iowa Code section 257.11B grants authority to the State Board of Education to decide Education Savings Account appeals.
- Presenter(s):** None – consent agenda
- Attachment(s):** Two
- Recommendation:** It is recommended that the State Board adopt the proposed decision as the final decision in this appeal. Iowa Administrative Code r. 281-6.6(3).
- Background:** The administrative law judge issued a proposed decision in this appeal, which denied eligibility for an education savings account. The appellant did not file an appeal of the proposed decision. By rule, the State Board will adopt the proposed decision. Iowa Administrative Code r. 281-6.6(3).

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

BEN AND COURTNEY FOX,)	
Appellants,)	Case No. 24DOE0011
)	DE Admin Doc. No. 5194
v.)	
)	PROPOSED DECISION
IOWA DEPARTMENT OF EDUCATION,)	
Respondent.)	

STATEMENT OF THE CASE

Appellants Ben and Courtney Fox seek a reversal of a decision made by the Respondent Iowa Department of Education finding them ineligible for a Students First Education Savings Account for the 2024-2025 school year.

A telephone hearing was held in this matter on June 10, 2024, before the undersigned administrative law judge, Jasmina Sarajlija, pursuant to agency rules found at Iowa Administrative Code 281—chapter 6. Appellant Courtney Fox appeared for the hearing self-represented. The Department of Education was represented by Iowa Assistant Attorney General Tyler Eason. The contents of the administrative file were identified at hearing and received into evidence.

FINDINGS OF FACT

Ben and Courtney Fox, and their daughter Quinnlyn Fox, reside in the Dallas Center-Grimes (DCG) Community School District. For the 2023-2024 school year, the family applied for Quinnlyn to attend kindergarten at Des Moines Christian School. However, due to high enrollment demand, Quinnlyn was waitlisted at Des Moines Christian. The family therefore enrolled her at a public elementary school in the DCG school district.

In late September 2023, the family was contacted by Des Moines Christian informing them that a spot was available for Quinnlyn. They were required to immediately accept the slot, or it would be given to the next student on the waiting list. The family elected to enroll Quinnlyn at Des Moines Christian at that time. Quinnlyn attended the public elementary school from August 23 through October 3, 2023, and thereafter attended Des Moines Christian. The family inquired about applying for a Students First Education Savings Account (ESA) once Quinnlyn was enrolled at Des Moines Christian, but was informed they missed the application deadline for the 2023-2024 school year.

In April 2024, Ms. Fox applied for an ESA payment for the 2024-2025 school year for Quinnlyn to attend first grade at Des Moines Christian. The application was submitted through Odyssey, a third-party contractor who administers the ESA program on behalf of the Department. The application asked whether Quinnlyn attended a nonpublic school

the prior school year. As Quinnlyn had attended Des Moines Christian from October 3 through the end of the school year, Ms. Fox answered “yes” to this question. As part of the application, Ms. Fox also granted the Department authority to check the household’s income as reported on the previous tax returns.

Following review, Odyssey issued a response stating that the application for Quinnlyn did not meet the eligibility requirements of the ESA program. The response stated the ineligibility could be for one of the following reasons:

- Residency requirements were not met or unable to be confirmed.
- Income requirements were not met or unable to be confirmed.
- Student was claimed by another applicant who has proven their education-making authority.

Ms. Fox appealed the denial. As part of the appeal, she asks the Department to reconsider the denial because the ESA program is new and families are navigating unique situations. As Quinnlyn was waitlisted at Des Moines Christian at the beginning of the 2023-2024 school year, she explained the family had no information that they could or should apply for ESA. Therefore, by the time Quinnlyn had a spot at Des Moines Christian, it was too late to apply for an ESA payment for the 2023-2024 school year. When she applied for an ESA payment for the 2024-2025 school year, Ms. Fox confirmed that her household’s income was above four hundred percent of the poverty income guideline.

CONCLUSIONS OF LAW

Eligibility under the ESA program is outlined in Iowa Code section 257.11B. The sections pertinent to this appeal state:

257.11B Education savings account program.

2. a. (2) For the school budget year beginning July 1, 2024, the following pupils who attend a nonpublic school for that school budget year shall be eligible to receive an education savings account payment:

(a) A resident pupil who is eligible to enroll in kindergarten.

(b) A resident pupil who is eligible to enroll in grades one through twelve and was not enrolled in a nonpublic school for the school year immediately preceding the school year for which the education savings account payment is requested.

(c) A resident pupil who is eligible to enroll in grades one through twelve and was enrolled in a nonpublic school for the school year immediately preceding the school year for which the education savings account payment is requested if the pupil’s household has an annual income less than or equal to four hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services.

(d) A resident pupil who received an education savings account payment in the immediately preceding school budget year.

Paragraph (a) is inapplicable in this case as Quinnlyn will be in first grade during the 2024-2025 school year. Paragraph (d) is also inapplicable because Quinnlyn did not receive an ESA payment for the 2023-2024 school year.

Eligibility under the remaining paragraphs, paragraphs (b) and (c), requires a determination of whether the student applicant was enrolled in a nonpublic school the preceding school year. Under the Department's rules, a student is deemed "enrolled" in a nonpublic school in the immediately preceding school year if they enrolled in and attended a nonpublic school at any point in the immediately preceding school year.¹ A student is deemed to have "attended" a nonpublic school if the student attended the school on a full-time basis.²

Under paragraph (b) of the ESA eligibility criteria, a student is eligible for payment if the student was not enrolled in a nonpublic school the year preceding the school year for which an ESA payment is requested. In this case, Quinnlyn was enrolled at Des Moines Christian, a nonpublic school, during the 2023-2024. Although she started kindergarten at a public school, the Department's rules specify that attending a nonpublic school at any point in the immediately preceding year makes the applicant ineligible for an ESA payment for the current school year. As such, Quinnlyn is not eligible for an ESA payment under paragraph (b).

Under paragraph (c) of the ESA eligibility criteria, a student is eligible for payment if she was enrolled at a nonpublic school for the school year immediately preceding the school year for which an ESA payment is requested, *and* the student's household has an annual income less than or equal to four hundred percent of the current poverty income guidelines published by the United States department of health and human services. In this case, the family's household income exceeds four hundred percent of the current poverty income guidelines. Therefore, Quinnlyn is not eligible for an ESA payment for the 2024-2025 school year under paragraph (c).

The evidence presented shows that Quinnlyn's waitlist status with Des Moines Christian at the start of the 2023-2024 has caused her ineligibility for ESA payments for two school years in a row. Had Quinnlyn received an ESA payment for the 2023-2024 school year, since she would have been eligible as a kindergartener, that would have also made her eligible for an ESA payment for the 2024-2025 school year under paragraph (d), which only requires that the student had received an ESA payment in the immediately preceding year.³ While there is sympathy for the family's situation in this case, the undersigned is required to make a decision based on the facts presented, which show that Quinnlyn is not eligible for an ESA payment under Iowa Code section 257.11B(2)(a)(2). The Department therefore correctly denied the Appellants' application for an ESA payment for the 2024-2025 school year.

¹ Iowa Admin. Code r. 281—20.2(3). A

² Iowa Admin Code r. 20.2(2).

³ Iowa Code §257.11B(2)(a)(1)(a); §257.11B(2)(a)(2)(d).

DECISION

For the reasons discussed, the Department's denial of the Appellants' application for an ESA payment for the 2024-2025 school year is **AFFIRMED**.

Dated this 10th day of July, 2024.



Jasmina Sarajlija
Administrative Law Judge

cc: Ben & Courtney Fox, 2937 NE Brentwood Circle, Grimes, IA 50111,
cfox829@gmail.com (By Mail and Email)
Rebecca Griglione, DOE (By AEDMS)
Tyler Eason, Assistant Attorney General (By AEDMS)

APPEAL RIGHTS

Iowa Admin. Code 281—6.6(4). Any adversely affected party may appeal a proposed decision to the state board within 20 days after issuance of the proposed decision by filing a notice of appeal with the office of the director. The notice of appeal will be signed by the appealing party or a representative of that party, contain a certificate of service (or other evidence of service), and specify:

- a.* The names and addresses of the parties initiating the appeal;
- b.* The proposed decision to be appealed;
- c.* The specific findings or conclusions to which exception is taken and any other exceptions to the decision;
- d.* The relief sought; and
- e.* The grounds for relief.

Case Title: IN RE: BEN AND COURTNEY FOX V. IOWA DEPARTMENT OF
EDUCATION
Case Number: 24DOE0011
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "J. Sarajlija". The signature is written in black ink on a white background.

Jasmina Sarajlija, Administrative Law Judge

BEFORE THE IOWA STATE BOARD OF EDUCATION

BEN AND COURTNEY FOX,)	
)	
Appellants,)	Case No. 24DOE0011
)	DE Admin Doc. No. 5194
vs.)	
)	PROPOSED DECISION
IOWA DEPARTMENT OF EDUCATION,)	
)	
Respondent.)	

On July 10, 2024, the administrative law judge issued a proposed decision, which affirmed the Department of Education’s decision in this matter. The time to appeal the proposed decision has passed, and no appeal was filed. The proposed decision is adopted, as written. Iowa Admin. Code r. 281-6.6(3).

AFFIRMED.

This is final agency action in a contested case proceeding.

Any party that disagrees with the Department’s decision may file a petition for judicial review under section 17A.19 of the Iowa Administrative Procedure Act. That provision gives a party who is “aggrieved or adversely affected by agency action” the right to seek judicial review by filing a petition for judicial review in the Iowa District Court for Polk County (home of state government) or in the district court in which the party lives or has its primary office. Any petition for judicial review must be filed within thirty days of this action, or within thirty days of any petition for rehearing being denied or deemed denied.

Dated: September ____, 2024

Iowa State Board of Education, by:

John Robbins, President

CC by certified mail to parties and counsel