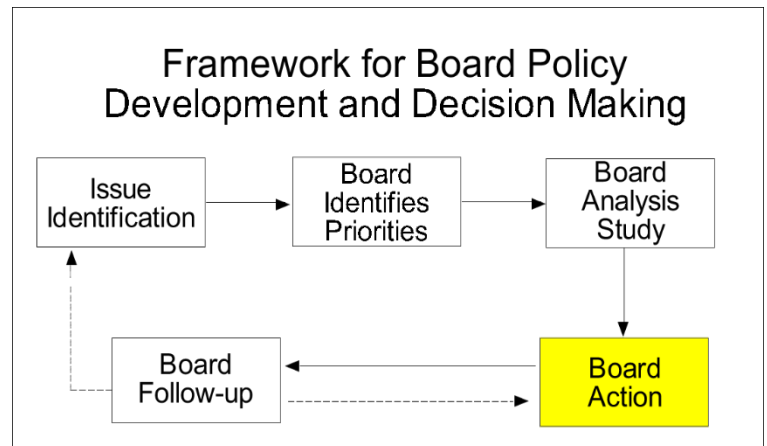


Iowa State Board of Education

Executive Summary

May 8, 2025



Agenda Item: Education Savings Account Appeal – Affirming Proposed Decision: Docket Number 5210

State Board Priority: Goal 2

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 in this matter.

Background: The administrative law judge issued a proposed decision in this appeal, which reversed the Department of Education's decision denying eligibility for education savings accounts. There was no appeal of the proposed decision. By rule, the State Board will adopt the proposed decision. Iowa Administrative Code r. 281-6.6(3).

BEFORE THE IOWA STATE BOARD OF EDUCATION

JACK & MEGHAN DAUGHERTY,)	
)	
Appellants,)	Case No. 25DOE0006
)	DE Admin Doc. No. 5210
vs.)	
)	FINAL DECISION
IOWA DEPARTMENT OF EDUCATION,)	
)	
Respondent.)	

On March 24, 2025, the administrative law judge issued a proposed decision, which reversed 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). PROPOSED DECISION ADOPTED; DEPARTMENT DECISION REVERSED.

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: May 8, 2025

Iowa State Board of Education, by:

John Robbins, President

CC by certified mail to parties and counsel

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

JACK AND MEGHAN DAUGHERTY,)	
Appellants,)	Case No. 25DOE0006
)	DE Admin Doc. No. 5210
v.)	
)	PROPOSED DECISION
IOWA DEPARTMENT OF EDUCATION,)	
Respondent.)	

STATEMENT OF THE CASE

Appellants Jack and Meghan Daugherty seek a reversal of a decision made by the Respondent Iowa Department of Education (Department) finding them ineligible for Students First Education Savings Accounts for the 2024-2025 school year.

A telephone hearing was held in this matter on February 21, 2025, before the undersigned administrative law judge, Jasmina Sarajlija, pursuant to agency rules found at Iowa Administrative Code 281—chapter 6. Appellant Jack Daugherty appeared self-represented. The Department of Education was represented by Iowa Assistant Attorney General Angela Stuedemann. Respondent exhibits 1 through 16 were received into evidence. Department of Education Executive Officer Eric How and Appellant Jack Daugherty testified at the hearing.

FINDINGS OF FACT

Jack and Meghan Daugherty reside in Des Moines with their three children. On June 24, 2024, they applied for a Students First Education Savings Account (ESA) for two of their children, T.D. and C.D. The application was submitted through Odyssey, the Department's contracted third-party ESA program administrator.

Upon submission, the application was placed under "manual review" to verify the household's income. Meghan is employed and her recent paystub was uploaded to the Odyssey portal. Jack is a business owner. At the time of application, the Daugherty's 2023 tax returns were not completed. On June 26, Jack signed and uploaded the following signed statement to the Odyssey portal:

This narrative is provided to fulfil the request for income verification. Please consider the following information.

We have filed an extension for our 2023 personal taxes and do not expect to file for a month or two. Our household is 5 members (two parents and 3 children).

A recent paystub for Meghan has been uploaded to our file on the Odyssey website.

Jack is self-employed and does not have a guaranteed/regular income. A copy of our 2022 tax return has been uploaded to our file on the Odyssey website. We expect the income shown on our 2023 tax return to be very similar to the income shown on our 2022 return which is under \$146,320.

Odyssey reviewed the submission the same day and escalated the application to the Department with the following note, "Filed an extension on 2023 taxes, they have attached 2022 1040 for household size of 5." Following review, the Department returned the application to Odyssey on June 30 with a note to "request a written and signed attestation to the husband's 2023 income so it can be added to the wife's 2023 information." Odyssey relayed this note to Jack on July 10, after he contacted Odyssey regarding the status of his application. Specifically, Odyssey asked Jack to provide a "written and signed attestation" of his income.

On July 16, 2024, in response to Odyssey's July 10 request, Jack signed and uploaded the following statement:

This narrative is provided to fulfil the request for income verification. Please consider the following information.

We have filed an extension for our 2023 personal taxes and do not expect to file for a month or two.

Our household is 5 members (two parents and 3 children)

A letter similar to this one dated 06/26/2024 verifies Meghan Daugherty's income and has been uploaded to our file on the Odyssey website.

Jack is self-employed and does not have a guaranteed/regular income. On our 2022 taxes, Jack reported \$18,390 in guaranteed payments and \$(23,162) in business loss. Jack's total income for 2022 was -\$4,772. A copy of our 2022 tax return has been uploaded to our file on the Odyssey website. We expect the income shown on our 2023 tax return to be very similar to the income shown on our 2022 return which is under \$146,320.

The application was escalated back to the Department on July 25 with the additional signed statement. Following review on August 11, the Department denied the application with a note to Odyssey that the "information provided is insufficient to establish income requirements were met."

Odyssey sent notification to Jack on August 11 advising that his ESA applications were reviewed and determined not eligible for the 2024-2025 school year. The August 11 notification from Odyssey to Jack did not provide a reason for the ineligibility determination.

On August 23, Jack called Odyssey but the phone was not answered. He followed up by email to Odyssey and stated:

I would like to dispute that [denial] decision. I have been given no information on why my applications were denied. Please respond to tell me why I was not approved.

Odyssey responded the same day, August 23, advising:

After evaluation, it was determined that your application did not meet the necessary income requirements. The application was escalated to the state, and the state denied the application on the basis that the provided information was insufficient to establish the needed income criteria.

Jack was further advised he could dispute the decision by submitting a dispute form through the Odyssey portal. Odyssey sent automated emails for three consecutive days indicating Jack's support ticket would be assumed resolved unless an additional response was received. On August 26, Jack responded to Odyssey that the issue was not resolved because he asked for a response regarding the reason for the denial of the applications. Odyssey did not provide further response.

On September 6, Jack again contacted Odyssey regarding his ESA applications. His email stated:

I am again asking for an explanation of why the provided information was insufficient to establish the needed income criteria and approve an ESA for [T.D. and C.D.].

I have uploaded the requested documents in the portal. I have appealed on the portal. I have been sent several vague emails that you will see below. I have called and the only thing the person on the phone will tell me is to send an email.

I am eligible for this account and I need to know what you need from me to prove it.

Please review my account and the emails below and let me know why the submitted information was not sufficient and what additional information you need from me.

On September 8, Odyssey responded to Jack's email, stating the "provided information did not meet the income documentation requirement set by the Iowa Department of Education." On September 9, Odyssey called Jack and left a voicemail. He returned Odyssey's call the same day, but his call was not answered.

Odyssey sent Jack an email on September 12, advising that his applications were escalated to the Department. Odyssey's communication further indicated the Department determined the applications were ineligible due to "Information provided is insufficient to establish income requirements were met." Jack responded that he would have his 2023 tax return completed by September 17. He asked, "if I submitted that, will my application be reconsidered?" Odyssey responded on September 14, stating "regarding your submission of the 2023 tax return by 09/17, if your application was submitted in a timely manner, it should be reviewed before the deadline at the end of the day." Odyssey did not provide the deadline date.

Jack and Meghan completed their 2023 tax returns on October 10. On that same day, Jack emailed the Department's ESA support team, advising that they had completed their 2023 tax returns. Jack asked whether he could upload the information for his applications to be reconsidered. The Department did not respond to Jack's email. Jack sent the same correspondence through the Odyssey portal on October 14. Odyssey responded on October 15, informing Jack "the deadline has passed" and Odyssey was "unable to accept any new documents or make changes to applications at this time." Odyssey stated the 2023 tax return "was not submitted soon enough to meet the deadline." Jack was further advised that the deadline to appeal the denial had also passed. Odyssey did not provide the deadline date.

On November 7, the Department's ESA support team contacted Jack following his dispute request to Odyssey. In its explanation, the Department stated the Daugherty's "ESA applications could not be approved due to the State's inability to determine your income based solely on your handwritten note(s) that were uploaded on 6/26/24 and 7/16/24." Jack was instructed how to file an appeal and instructed to upload supporting documentation for his appeal, including the 2023 tax returns if he wished to have those reviewed by the Department. Jack filed an appeal with the Department on November 14, and provided his 2023 tax returns. The submitted tax returns showed the household's income is below the four hundred percent of the poverty income guideline for a five-member household, which was \$146,320.

The Department maintains its denial of the ESA applications was correct due to untimely income verification provided by the family. Mr. How testified that ESA use must be established by September 30. He indicated that schools must report student information by October 1, and thus the September 30 deadline for establishing ESA use allows schools to accurately report that information. Mr. How testified Jack's signed statements were insufficient because he failed to also submit "related documentation" proving his income. When asked what documentation would be sufficient to submit in Jack's situation, Mr. How testified an explanation of the situation and any type of business documents that would show his income from the business.

At hearing, Mr. Daugherty asserted that the denial of his ESA applications is incorrect. His household meets all eligibility requirements. Mr. Daugherty testified he was only asked to provide a written attestation of his income, which he timely provided. He asserts Odyssey never asked for "related documentation." Mr. Daugherty stated that he reached out to Odyssey multiple times to find out what he could provide to prove his income, but

was given no response or vague responses that just stated his provided documentation was insufficient. Mr. Daugherty testified he still does not understand what “related documentation” he could have provided in his situation. He further asserted that the Department’s evidence in this case shows the Department still does not know what “related documents” he could provide to verify his income.

CONCLUSIONS OF LAW

The ESA program eligibility is outlined in Iowa Code section 257.11B. Provisions relating to the application process state:

257.11B Education savings account program.

3. *a.* On or after January 1, but on or before June 30, preceding the school year for which the education savings account payment is requested, the parent or guardian of an eligible pupil may request an education savings account payment by submitting an application to the department of education.

b. Within thirty days following submission of an application, the department of education or third-party entity shall notify the parent or guardian of each pupil approved for the following school year and specify the amount of the education savings account payment for the pupil, if known at the time of the notice. As soon as practical following the processing of all applications, the department of education or third-party entity shall determine the number of pupils in each school district approved for the school budget year and provide such information to the department of management.

c. Education savings account payments shall only be approved for one school year and applications must be submitted annually for payments in subsequent school years.

A household must meet residency and income criteria to be eligible for ESA payments.¹ For the 2024-2025 school year eligibility, a household’s annual income cannot exceed four hundred percent of the poverty income guidelines established by the federal government.² Relevant to this case, the income limit for a five-person household was \$146,320.

The contested issue in this case is whether the Daugherty’s provided timely and sufficient information to verify their household income.

Pertaining to timeliness, the Department asserts the applicant was required to submit sufficient income verification no later than September 30. Notably, Iowa Code chapter 257, Financing School Programs, makes no reference to a September 30 deadline for any submission, including submissions pertaining to the ESA program. As outlined above, the

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

² Iowa Code §257.11B(2)(a)(2).

only statutorily-established deadline for the ESA program is a June 30 deadline for application submission. As asserted at hearing, the Department asserts the September 30 deadline is derived from the statutorily established deadline of October 1 for establishing actual student enrollment.³ The Department asserts schools have an obligation to report student information to the Department by October 1, and having an ESA use deadline of September 30 allows schools to accurately report this information. However, under Iowa Code §257.6(1)(b), the statute directs that a “school district shall certify its actual enrollment to the department of education by October 15 of each year, and the department shall promptly forward the information to the department of management.” Thus, while October 1 is used for establishing actual enrollment, the deadline for certifying this information to the Department is October 15. The undersigned is unable to find statutory support for the Department’s enforcement of a September 30 deadline pertaining to ESA application processing.

However, even if the Department has established a September 30 deadline in its administration of the ESA program, the record is devoid of any indication that this deadline was communicated to the Daugherty’s. In its communication to Jack, Odyssey would reference a “deadline” but repeatedly failed to communicate that the specific deadline for submitting documentation was September 30. Even after this date passed, Odyssey advised the Daugherty’s that they “missed the deadline” for submitting additional documentation but failed to again articulate the deadline was September 30.

The other aspect of the parties’ dispute in this matter is whether the Daugherty’s provided sufficient information to verify their household income. The Department has provided guidance on what information a household can provide to verify its income eligibility. The guidance list contains four options:

Option 1 - Proof of enrollment in an Iowa program that has an income eligibility component below the income threshold.

- Eligible programs: SNAP, child care assistance, cash assistance, or Iowa Medicaid
- Required documentation: Iowa HHS Notice of Decision or image of SNAP card with matching parent name

Option 2 – Written and signed narrative stating claim of net income and household size, and most recent pay stub for both parents/guardians and letter from each employer verifying annual income for the employee.

Option 3 – State or Federal 2023 Tax Return

Option 4 - If the information above is not available: Other situation requires (1) written and signed narrative of situation from parent/guardian, (2) stated claim of net income and household size, and (3) related

³ “Actual student enrollment is determined annually on October 1, or the first Monday in October if October falls on a Saturday or Sunday.” Iowa Code §257.6(1)(a).

documentation proving net income and/or household size (e.g., divorce decree in the case of divorce, unemployment letter in the case of unemployment).

In the Daugherty's case, option 1 was inapplicable and option 3 was unavailable as the family had not filed its 2023 tax returns. Option 2 only applied to Meghan as she was employed and could provide a copy of her recent paystub. The Department accepted Meghan's recent paystub as sufficient evidence to prove her income.

For Jack's income, he had to utilize option 4 as he is a self-employed business owner. Upon applying, Jack submitted a written and signed statement that explained his situation as a business owner, and attested that his 2023 business income would be "very similar" to the income shown on his 2022 tax returns. He attested he would be under the \$146,320 income limit for their household size. Jack provided a copy of his 2022 tax returns as supporting documentation. The Department deemed this insufficient and requested "a written and signed attestation" of his 2023 income. Other than the attestation, the record does not show that Jack was not asked to provide any additional information or documentation.

To comply with the Department's request, Jack signed another written statement and submitted it on July 16. He stated his 2022 business income and loss. Jack attested that the family's 2023 income would be similar to the income shown on their 2022 tax returns, which would be below their household's income limit. From July 16 until August 11, neither the Department nor Odyssey asked for any additional information. Jack was not asked for any "related documentation" to support his income attestation as the Department now asserts he was required to provide.

On August 11, Jack was notified his ESA applications were determined ineligible. Notably, the denial notification did not provide a reason for ineligibility. From the denial on August 11 through September, Jack sent multiple communications to Odyssey asking for further explanation and what additional information he needed to provide to establish the household's income eligibility. Odyssey only provided vague responses that the information already provided was insufficient to establish income requirements. Odyssey and the Department repeatedly failed to provide the Daugherty's with any specific guidance on what documentation would be sufficient verification in their situation.

The Department was similarly unable to articulate at hearing what specific documentation the Daugherty's could provide to show their 2023 income. The Department asserted the family could have provided a narrative explanation of the situation and "business documents" showing Jack's income. The narrative explanation was provided twice. In terms of providing "business documents," other than the completed tax returns, the undersigned is unaware and the Department has not articulated what those business documents are that could prove a business owner's income for an entire calendar year.

Upon review of the evidence presented, the undersigned concludes that the Daugherty's provided all the information that was requested of them prior to August 11. The

Department only requested a signed attestation of Jack's income, and he promptly provided that information. The Department deemed his submission insufficient, but repeatedly failed to inform the applicant what documentation would be sufficient to verify the household income given their specific situation. The Department was fully aware of the family's situation and despite the family's request for specific guidance, they received none before or after the denial of the ESA applications. Under the record presented, the family was also not advised that the Department enforced a September 30 deadline for submitting additional documentation.

For the reasons discussed, the undersigned concludes that the Department's denial of the Daugherty's ESA applications for T.D. and C.D. for the 2024-2025 school year is incorrect and must be reversed.

DECISION

For the reasons discussed, the Department's denial of the Appellants' ESA applications for the 2024-2025 school year is **REVERSED**.

Dated this 24th day of March, 2025.



Jasmina Sarajlija
Administrative Law Judge

cc: Jack & Meghan Daugherty, 1706 Pennsylvania Ave., Des Moines, IA 50316,
jackcedaugherty@gmail.com (By Mail and Email)
Rebecca Griglione, DOE (By AEDMS)
Angela Stuedemann, 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: JACK & MEGHAN DAUGHERTY V. IOWA
DEPARTMENT OF EDUCATION (5210)
Case Number: 25DOE0006
Type: Proposed Decision

IT IS SO ORDERED.

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

Jasmina Sarajlija, Administrative Law Judge