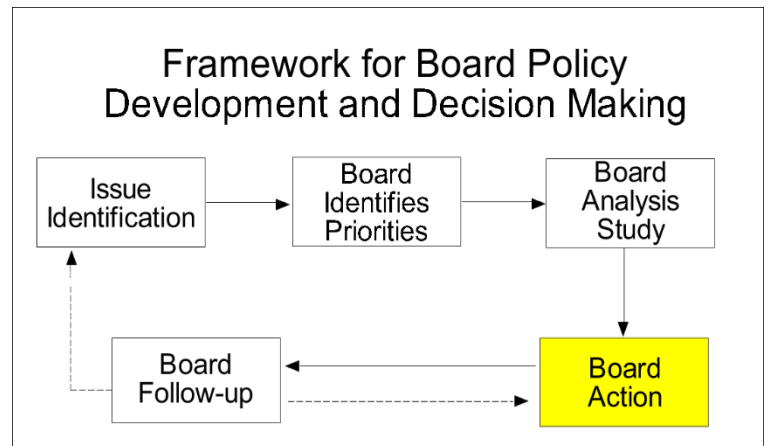


Iowa State Board of Education

Executive Summary

June 19, 2025



Agenda Item: Education Savings Account Appeal – Affirming Proposed Decision: Docket Number 5211

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 affirmed 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).

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

HANNAH ANDRE,)	Case No. 25DOE0007
)	DOE Admin. Doc. No. 5211
Appellant,)	
)	
v.)	
)	PROPOSED DECISION
IOWA DEPARTMENT OF EDUCATION,)	
)	
Respondent.)	

Appellant Hannah Andre seeks reversal of a decision made by the Iowa Department of Education (Department or DOE) finding her ineligible for the Students First Education Savings Account for the 2024–25 school year.

A telephonic hearing in this matter was held on April 9, 2025. Appellant Hannah Andre appeared and testified. Attorney, Jefferson Fink represented the Appellant. Also present on behalf of the Appellant was Tanya Apana with the Main Street School in Norwalk, Iowa. Respondent, DOE was represented by Lindsey Browning. Eric How and Dr. Kassandra Cline also appeared and testified on behalf of the Department.

The administrative law judge took official notice of the administrative file. The Appellant’s exhibit was admitted into the record. The Department’s exhibits 1 through 11 were also admitted into the record.

FINDINGS OF FACT

The Department of Education began its implementation of the Students First Education Savings Account program upon its enactment. This program provides a funding source for children attending a nonpublic accredited school in Iowa. The 2024–25 school year was the first full school year following the enactment of the program. The first year of the program the Department had 30,000 applicants with 27,000 applicants that retained the education savings account (ESA).

The Appellant Hannah Andre lives in Norwalk with her daughter and was one of the ESA applicants. In June 2024, Andre applied for a Students First Education Savings Account for her daughter, B.C. The application was submitted through Odyssey, the Department’s contracted third-party ESA program administrator. During this process, Andre was given the option to select her preferred method of communication from the following options: phone, email, or text message. Andre selected email and provided her email address.

Andre’s daughter, B.C. was approved for a 2024–25 Education Savings Account on June 28, 2024. The Appellant received an automated email from Odyssey notifying her of the approval. Records show that Andre did receive and open this email.

This notification, drafted by the Department, listed the next steps for parents, which directed applicants to “select the accredited nonpublic school your student plans to attend.” The notice then explained that the selected school would either confirm or deny the student’s enrollment. Upon confirmation of the enrollment, the school would be able to charge the tuition and fees through the Odyssey portal. The parent would then confirm the amount of tuition and fees in the Odyssey portal to maintain ESA eligibility. The notice listed the fall ESA tuition and fee deadline as September 30, 2024.

In September 2024, Odyssey, automatically sent reminder emails to applicants that had not selected the school for enrollment or confirmed the tuition amount. These messages stated that to maintain ESA eligibility, the parent would need to select the school and approve the tuition entered by the school no later than September 30, 2024. These reminder emails were sent to Ms. Andre on September 11, 16, 24, and 30, 2024. Andre did not open any of these emails. The Department did not provide notice of the September 30, 2024, deadline by any other means. The Department did not send any physical mail to Andre or provide a phone call to follow-up.

Although the Appellant claimed she did not receive these reminder emails, the record demonstrates otherwise. The Appellant believed the emails were sent to an incorrect email address. The Department witnesses credibly testified that Odyssey sent the emails to Andre using the email address Andre provided to Odyssey. The Department witness explained that confusion arose about the Appellant’s email address only because in a later email between Andre and a Department representative after the appeal was filed, the Department representative referred to an incorrect email address. The Department witnesses confirmed that Odyssey used Ms. Andre’s preferred and correct email address when sending communications, such as the June 28, 2024, approval email and the September 2024 reminder emails. Ms. Andre did not open the September reminder emails, but the Department provided verification that the emails were sent to the correct email address.

Despite the June 28, 2024, approval letter detailing next steps and the September 2024 reminder emails, Andre failed to successfully select the school her daughter would attend or confirm the tuition and fees in the Odyssey portal by September 30, 2024. The Department notified Andre of the denial of eligibility for the ESA in mid-October. Andre learned of the denial from her daughter’s school. Andre was notified that the status of the application was that the ESA was “Approved-did not use.”

Andre contacted the Department in late October 2024 to appeal the Department’s determination. On review of Andre’s appeal, the Department concluded that Andre missed the September 30, 2024, deadline without any mitigating circumstances. The Department stated that Andre received notice of the deadline in the application approval email as well as reminder emails. The Department denied the review request.

The Department maintained its denial of the ESA eligibility was correct due to the missed deadline to select the student’s school and verify the tuition and fees. The Department noted that Andre received multiple communications via email that notified her of the September 30, 2024, deadline.

At hearing, the Appellant claimed she did not have proper notice. The Appellant contended the third-party contractor used an incorrect email address. The Appellant more broadly argued that the Department incorrectly relied on emails as a communication method. The Appellant asserted that email notice is not necessarily a proper notice as it was inherently unjust and denied the Appellant due process.

CONCLUSIONS OF LAW

The education savings account program, enacted in January 2023, is outlined in Iowa Code section 257.11B. For the 2024–25 school year a pupil attending a nonpublic school for the school budget year was eligible to receive an ESA payment if the student was a resident pupil eligible to enroll in kindergarten, a resident pupil who was 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 ESA payment was requested, a resident pupil who was eligible to enroll in grades one through twelve and was enrolled in a nonpublic school year the preceding school year if the pupil’s household had an annual income less than or equal to four hundred percent of the most recently revised poverty income guidelines, or a resident pupil who received an ESA payment in the immediately preceding school budget year.¹

A parent or guardian shall use an ESA payment for the payment of qualified educational expenses. The parent or guardian shall first use the ESA payment for all qualified educational expenses that are tuition and fees for which the parent or guardian is responsible for payment at the student’s nonpublic school.²

The Iowa Code also provides some information regarding the application process for the ESA. The parent or guardian must apply on or after January 1, but on or before June 30 of the school year preceding that for which the ESA payment is requested.³ The Department must notify the parent or guardian of each pupil approved for the following school year within thirty days of the application.⁴ Parents or guardians must annually apply for ESA payments as ESA payments are only approved for one school year.⁵

The Code provisions related to the ESA program also detail the Department’s authority to carry out and effectuate the program. The Code authorizes the Department to make and enter into contracts with third-party entities necessary for administering the program.⁶ The law also authorizes the Department to reduce the possibility of waste, fraud, and abuse and ensure that any technology platform used meets the state’s highest security requirements.⁷ Finally, the Department is authorized to adopt rules for the administration of the fund and the accounts within the fund.⁸

¹ Iowa Code § 257.11B(2)(a)(2).

² Iowa Code § 257.11B(2)(b).

³ Iowa Code § 257.11B(3)(a).

⁴ Iowa Code § 257.11B(3)(b).

⁵ Iowa Code § 257.11B(3)(c).

⁶ Iowa Code § 257.11B(5)(a), (c).

⁷ Iowa Code § 257.11B(5)(e)–(f).

⁸ Iowa Code § 257.11B(5)(g).

A parent may appeal any administrative decision the Department or a third-party entity makes pursuant to the ESA program including eligibility, allowable expenses, and removal from the program.⁹ By rule the Department will take reasonable efforts to verify eligibility of parents, students, nonpublic schools, and providers to participate in the ESA program.¹⁰

The contested issue on appeal is whether the Department properly determined that the Appellant did not retain eligibility for an ESA payment due to her failure to comply with the September 30, 2024, deadline to select the student's nonpublic school and verify the tuition and fees. The Appellant contends the Department's determination was incorrect due to a notice deficiency.

The Department's determination that the Appellant failed to retain eligibility was correct given the circumstances in this case. The Iowa Legislature tasked the Department with implementing the ESA program and allowed the Department to contract with a third-party entity to administer the program. The Department also must attempt to reduce the possibility of waste, fraud, and abuse. In furtherance of these goals, the Department set a September 30 deadline to ensure the student was still eligible for the program as shown by the student's enrollment in a nonpublic school and the verification that the student had tuition and fees owed to the nonpublic school.

The student's enrollment in a nonpublic school is an eligibility requirement under the program. The Department's September 30 deadline to select the student's nonpublic school and require the school to verify that enrollment furthers the goal to ensure that the student is eligible for an ESA payment under the Code.

The parent's verification of tuition and fees by September 30 also furthers the goals of the program. The parent or guardian must use the ESA payment for the payment of qualified educational expenses. The parent or guardian must use the ESA payment for tuition and fees the parent is responsible for paying for the student's nonpublic school. Again, the Department's required verification ensures the student's continued eligibility for the program and assists in the Department's mandated goal of reducing the possibility of waste, fraud, and abuse.

Regardless of the Department's authority and purpose in implementing the September 30 deadline, the Appellant argued the deadline should not apply in this case because of improper notice. The Appellant maintained the notice of the deadline was improper for two reasons, first, Andre did not receive notice as the Department or the Department's third-party administrator Odyssey used the wrong email address. Second, the Appellant contends email notification is not appropriate and denies the Appellant her due process rights. The Appellant's arguments are not persuasive.

The Appellant had notice of the September 30 deadline. The Appellant received the ESA approval email in June 2024. In that email, the Department detailed subsequent steps the parent needed to take and specifically listed the September 30 deadline. The Appellant does not dispute receiving this approval email. Additionally, although the Appellant disputes her receipt of the

⁹ Iowa Code § 257.11B(9)(a).

¹⁰ Iowa Administrative Code (IAC) 281—20.4(1).

September 2024 reminder emails, the record shows the emails were sent to the Appellant's correct email address. The Appellant simply failed to open and read the reminder emails. The record further demonstrates that the Appellant elected to receive communications by email and provided the email address used for these reminder emails. Regardless of the Appellant's actions, these September 2024 emails were simply reminder emails providing additional notice of the September 30th deadline provided in the June 2024 ESA approval email. The Department, through Odyssey, provided notification of the September 30 deadline in the manner chosen by the Appellant, and the Appellant received the notice. The Appellant's argument that she did not receive notice is incorrect and does not provide a basis to reverse the Department's determination.

The Appellant also failed to show that email communication was inadequate or improper in this circumstance. When an applicant for the ESA program created an account with Odyssey to apply for the ESA program, each applicant was given three possible options for communication. In this case, the Appellant selected to receive communications by email and entered the email address to use for these communications. The Appellant now contends that email notice is improper and implies that mail or certified mail would be appropriate.

Iowa case law does not support the Appellant's argument. The Iowa Supreme Court specifically addressed the prevalence and acceptability of email communication. The Court stated that email is one of the primary and accepted forms of sending communications in society and has largely displaced regular mail. The Court further opined that email is not only the expected form of communication today, but like in the Appellant's case, is the preferred form of communication.¹¹ The Court specifically found in that case that the service requirement for petitions for judicial notice was satisfied when an attorney emails a copy of the petition to opposing counsel.¹² The Court added that although email was acceptable in the instant case, substituting email for mail cannot be applied to change a jurisdictional requirement.¹³

This situation raises no such jurisdictional barriers or issues. The Appellant opted to receive communications regarding the ESA program via email. The Department and its third-party administrator, Odyssey, abided by the Appellant's wishes and communicated via email using the email address provided. The Department properly notified the Appellant of the applicable deadlines for retained eligibility for the ESA program. Despite these communications, the Appellant failed to select her daughter's school and verify the tuition and fees in a timely manner as proscribed by the Department in administering the program.

As such, the Department's denial of the Appellant's continued eligibility for the ESA program on behalf of her daughter B.C. for the 2024-2025 school year is correct and AFFIRMED.

¹¹ *Ortiz v. Loyd Roling Construction*, 928 N.W.2d 651, 653 (Iowa 2019).

¹² *Id.* at 655.

¹³ *Id.* at 653-54. *But see Bell v. 3E*, 939 N.W.2d 653, 2019 WL 4298045, at *3 (Iowa Ct. App. September 11, 2019) (unpublished decision) (finding that when jurisdiction is conferred only by mail or personal service, email or filing through EDMS does not confer jurisdiction on the court).

ORDER

For the reasons discussed, the Department's determination of the Appellant's ESA ineligibility for the 2024–2025 school year is **AFFIRMED**.

cc: Hannah Andre, 1019 E 17th St, Apt. 13, Norwalk, IA 50201,
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APPEAL RIGHTS

Any adversely affected party may appeal a proposed decision to the state board within 20 days after issuance of the proposed decision.¹⁴ An appeal of a proposed decision is initiated by filing a timely notice of appeal with the office of the director. The notice of appeal must be signed by the appealing party or a representative of that party, contain a certificate of service, and provide the other necessary information specified in the rule.¹⁵ The requirements for the notice are found at Iowa Administrative Code rule 281—6.6(4). Appeal procedures can be found at Iowa Administrative Code rule 281—6.6(5). The board may affirm, modify, or vacate the decision, or may direct a rehearing before the director or the director's designee.¹⁶

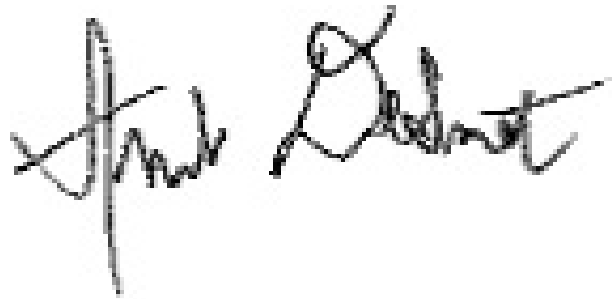
¹⁴ IAC 281—6.6(4).

¹⁵ *Id.*

¹⁶ IAC 281—6.6(6).

Case Title: IN RE: HANNAH ANDRE V. IOWA DEPARTMENT OF
EDUCATION (5211)
Case Number: 25DOE0007
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Amber DeSmet". The signature is written in a cursive, flowing style with a long vertical stroke on the left side.

Amber DeSmet, Administrative Law Judge

BEFORE THE IOWA STATE BOARD OF EDUCATION

HANNAH ANDRE,)	
)	
Appellant,)	Case No. 25DOE0007
)	DE Admin Doc. No. 5211
vs.)	
)	FINAL DECISION
IOWA DEPARTMENT OF EDUCATION,)	
)	
Respondent.)	

On April 16, 2025, 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). PROPOSED DECISION ADOPTED; DEPARTMENT DECISION 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: June 19, 2025

Iowa State Board of Education, by:

John Robbins, President

CC by certified mail to parties and counsel