



ESA Appeals Guidance for New and Renewal Applicant Families for the 2023-24 School Year

After receiving a denial to participate in the Education Savings Account (ESA) Program, a family has the right to file an appeal for additional application consideration according to [State Board of Education Rule 0520-01-16-.11](#). An appeal allows a family to submit additional documentation to the Tennessee Department of Education (department) for review in alignment with the ESA Program's eligibility criteria outlined in [Tenn. Code Ann. § 49-6-2601 et seq.](#)

This document may be useful in guiding families through completing an appeal form and submitting necessary documentation. Each denial letter sent by the department includes the reason for denial; the table below lists the potential reasons a student's ESA application may be denied.

To appeal a denial, the parent or guardian **must** submit a completed and signed [Appeal Form for Families](#) to the department. Appeal forms can be emailed, mailed, or dropped off at the department's office in Nashville.

- To email: ESA.Questions@tn.gov
- To mail: ESA Program, Division of Choice, 710 James Robertson Parkway, Andrew Johnson Tower, 10th Floor, Nashville, TN, 37243

Appeals must be postmarked or emailed within 10 business days of the denial to be considered.

Although **the submission of any documentation listed below does not guarantee an appeal will be granted**, it may provide beneficial context for unique situations or circumstances when an appeal is considered. The department's decision is based upon applicable state laws and the State Board of Education Rules. Note that in some instances, more than one reason is given on the denial letter, and families should attempt to address each reason provided in the appeal.

Denial reason: Ineligible due to missing field on application: missing the school transcript.

If your application indicates that your child lives or has lived outside of Tennessee during the 2022-23 school year, submit the following with your appeal:

- A school transcript from your child's prior school for the 2022-23 school year.
 - If a transcript is not available, submit a report card from your child's prior school for the 2022-23 school year.
 - The transcript should clearly state the year, child's name, school name, and completion of the grade/promotion to the next grade.
- If the child attended more than one school during the 2022-23 school year, include a list of schools and dates the child was enrolled. For any gaps in enrollment, include an explanation.

Denial reason: Ineligible due to grade entering. Students must be entering grades K-12.

If your application indicates that your child is entering kindergarten for the 2023-24 school year, submit the following with your appeal:

- If your child was born between August 15 and September 30: A letter from a school admissions director indicating your child has completed evaluation and been accepted to the school for the 2023-24 school year.

Denial reason: Ineligible due to prior school year status.

Students must have attended a Tennessee public school for one full school year or be eligible for the first time to attend a Tennessee public school.

If your child was not enrolled in a Tennessee public school for one full year, submit any of the following with your appeal:

- a letter explaining the child's attendance (schools, locations, and dates) along with transcripts from the schools;
- a letter explaining the child's late enrollment in a Tennessee public school for the 2022-23 school year (e.g., transferring schools, moving homes, waiting on enrollment confirmation, unique circumstance) with supporting documentation; or
- a letter explaining the child's early withdrawal from a Tennessee public school for the 2022-23 school year (e.g., moved to a new city, unique circumstance) with supporting documentation.

Denial reason: Ineligible due to missing, incomplete, or incorrect financial documents submitted.

Tax Form 1040 from 2022 not submitted; missing tax document. If your application was missing a tax document, submit any of the following with your appeal:

- A federal tax return from the most recent year (Form 1040, year 2022).
 - A 1040 tax form from Parent 1 **or** Parent 2 (as listed on the application) showing the child as a dependent
- Proof of eligibility for enrollment in the state's Temporary Assistance for Needy Families (TANF) Families First program such as an annual TANF eligibility letter.
- An IRS tax transcript from the most recent year 2022.
 - If this option is selected, families must include copies of social security cards for **all** individuals listed on the transcript.

Based on household size and income as listed on Line 9 of Tax Form 1040, income does not meet income requirement for federal free lunch rate as listed in the income table in the application. If your income was above the requirement and a unique situation is the cause, you may submit any of the following with your appeal:

- A letter explaining why income (as listed on Line 9 of Tax Form 1040) is above the requirement with supporting documentation (e.g., W-2 Forms, 401K Rollover Forms, bank statements, receipts for purchases).
- Proof of expenses for unique circumstances including, but not limited to invoices or receipts for funeral costs, out of pocket healthcare costs, travel costs, moving or relocation costs.

Job change status including documentation to support loss of job, letter from employer explaining reduced work hours, adjusted salary, or other reduced-income documentation.

Note: Tenn. Code Ann. § 49-6-2602(3)(D) only allows the department to consider the student's household income for the **previous year**, prior to application.

TANF letter submitted was outdated or missing critical information such as applicant name. Submit any of the following with your appeal:

- TANF letter from the most recent year (2022)
- A letter explaining why the applicant's name listed on TANF letter is not the same as Parent 1 or Parent 2 (as listed on the application) with supporting documentation

Denial reason: Ineligible due to not meeting residency requirements. Missing acceptable proof of residence.

Residence is not within Memphis-Shelby County Schools (MSCS), Achievement School District (ASD), or Metro Nashville Public Schools (MNPS) zoned school districts. If your residence is listed as outside of MSCS or MNPS zoned school districts, submit the following with your appeal:

- A letter explaining your address change with supporting documentation from the proof of residency list on the application.

Proofs of residence do not match. Both proofs of residence must show the same current address. If the proofs of residence submitted in your application do not have matching addresses, submit **two** of the following with your appeal:

- A valid, non-expired Tennessee driver's license or state ID
- A current lease agreement, signed by tenant and landlord
- A utility bill (water, electric, gas, or internet) from the past 3 months
- A mortgage statement from the past 3 months
- A property tax bill or receipt from the most recent year
- A voter registration card issued within the past year
- A homeowner or renter's insurance bill from the past 3 months
- A vehicle registration from the past year
- A [landlord affidavit of residence](#), signed and notarized within 30 days

Proof of residence is missing a signature and/or notary seal, as required. If your proof of residence is missing a signature and/or notary seal, submit the following with your appeal:

- An affidavit from your landlord or the owner of your current residence signed within the past 30 days. Download the affidavit form here: [Landlord Affidavit of Residence](#).

Denial reason: Ineligible due to lack of signature.

If your application is missing a signature, or the box below the signature has not been checked, submit the following with your appeal:

- Page 6 of the [2023-24 Application for new ESA students](#) or the [23-24 Application for current ESA students](#)
 - You are **required** to check the box below your signature.

ESA Appeals Process for New and Renewal Applicant Families and for the 2023-24 School Year

Families may appeal the Tennessee Department of Education's (department) decision to deny, suspend, or terminate an entity's participation in the Education Savings Account (ESA) Program pursuant to the following two-step appeals process, as required in the rules of the [SBE Chapter 0520-01-16-.11](#):

Step 1: The appeal shall be submitted to the commissioner of education within 10 business days of receipt of the notice of application denial, suspension, termination, and/or removal. Notice of application denial, suspension, termination, and/or removal shall be provided electronically and via first-class USPS mail and be deemed received three (3) business days after the date of postmark. The appeal shall be reviewed by the commissioner of education, or the commissioner's designee, and a decision shall be issued within 45 calendar days. To file a step one appeal, complete the [Appeal Form for Families](#), and email the completed form to ESA.Questions@tn.gov. Appeal forms submitted after the deadline or incomplete appeal forms will not be reviewed.

Step 2: The appellant shall be notified of the commissioner's or commissioner's designee's decision in step one (1) of the appeal process electronically and via first-class USPS mail. Such notice shall be deemed received three (3) business days after the date of postmark. An appeal of the step one decision shall be filed with the commissioner by the appellant within thirty (30) calendar days of receipt and shall be heard as a contested case hearing pursuant to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).

Note: If a family is appealing the decision for multiple children, a separate appeal form must be completed for each child.

To contact a representative from the ESA Program, email ESA.Questions@tn.gov or call 615-741-9360.