



October 3, 2023

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

Re: **Amendments to the Children's Educational Opportunity Act - 23-0026**

Dear Ms. Renteria:

The following are the amendments to the previously submitted Children's Educational Opportunity Act (CEO Act) 23-0026, for requested review, title and summary.

This amendment includes grammatical changes plus a minor wording change highlighted in red. The paper copy with the proponents signatures will be mailed via USPS on October 7, 2023.

These changes are submitted prior to the deadline of October 18, 2023 for such revisions and amendments.

Any questions, my cell number is 818-434-7234

Amendment to the Submitted Children's Educational Opportunity Act (CEO Act)

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69995.1. DEFINITIONS

For purposes of this article, the following terms are defined as follows:

(f) "Eligible school" means any of the following:

(1) The California Community College, the California State University, and the University of California.

(2) A private primary or secondary school, providing education for any grades TK-12, whether for-profit or not-for-profit, as described in Education Code Section 48222, operating in California or any other US state. To be eligible the school must **have a minimum enrollment of 10 students and** meet one of the following qualifications:

(i) accredited by a regional, national or religious accreditation organization (or)

(ii) shall perform nationally norm-referenced academic testing of all students (except IEP

students) to occur at minimum biennially, beginning no later **than** the fourth grade.

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(g) The Legislature may appropriate additional funds to the ESA Trust, which shall be divided equally among all eligible ESA accounts. The Legislature may appropriate additional funds to the ESA Trust for Special Needs students, which shall be divided among **on** all Special Needs students with eligible ESA accounts.

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(5) Adopting regulations to implement this article.

(d) The ESA trust may allocate the following **ing** percentages of each installment of the total ESA funding amount received from the state to the Administrative Fund: Please reflect the Attorney General's review to include these amendments of the proposed ballot measure.

Please direct all correspondence and inquiries regarding this measure to:

Children's Educational Opportunity Act
Info@EducationOpportunity.org
(818) 434 - 7234

Thank you for your time and attention processing this request.

Sincerely,



Kevin McNamee

encl: 1) Text of Proposed Measure with Amendments

2) Proponent Affidavits

Kevin McNamee, Marion A. Marshall, Maria Flores, Cecilia Iglesias, Benito Bernal

CHILDREN'S EDUCATIONAL OPPORTUNITY ACT OF 2024

SECTION 1. STATEMENT OF FINDINGS AND DECLARATION OF PURPOSE

The People of California find and declare as follows:

- (a) Our future depends on the education of our children. Quality education empowers individuals, breaks the poverty cycle, and reduces inequalities. Parents are seeking alternatives to failing public schools. But charter schools are limited; private schools are unaffordable; and home-based education demands a stay-at-home parent.
- (b) California government-run schools have a de facto monopoly on K-12 education, with no school choice programs available for its students. This lack of competition and innovation in education has resulted in rapidly rising costs and deterioration in the quality of K-12 education in this state.
- (c) California spends about \$23,000 per student on K-12 public education, including about \$17,000 per student from state funds, primarily California Constitution Proposition 98 funds. Over the past decade, spending on K-12 public education has nearly doubled, while total enrollment has declined.
- (d) California's public schools, once among the best, have declined to become among the nation's worst, with deterioration of student performance and erosion of academic standards.
- (e) Increased funding has not solved California's public education crisis. Empowering parents to select the best school for their child will foster competition, leading to improved quality education in all school types.
- (f) The current government education system undermines the family and impedes the natural right of parents to choose the best educational opportunity for their children. Laws in California limit parental input or control over curriculum, books, medical consent, policies and activities. Parents, as the first educators, should have the freedom to guide their children's education and development. Parents should be allowed to select the best school for their child. Hence, funding should follow the child, ensuring parental control without government interference or economic coercion.
- (g) Therefore, the people hereby enact the Children's Educational Opportunity Act to do all of the following:
 - (1) Create an Education Savings Account (ESA) for every school age child upon the request of that child's parents or legal guardian, or upon the request of the eligible student themselves if they have attained the age of majority or are emancipated;
 - (2) Fund each ESA with \$17,000 for each student adjusted annually, using the funds the State is currently obligated to spend on public education at no additional cost to taxpayers;

- (3) Empower parents to use the funds in the ESA to enroll and pay tuition and other education expenses necessary to attend the private religious or non-religious school of their choice, including home-based education through a private school;
- (4) Ensure that funds can only be used to pay for other TK-12 eligible educational expenses for the eligible student; and
- (5) Allow any unused funds in the ESA and the investment earnings of such funds to rollover in the account for future educational expenses including post-secondary education.

SECTION 2. ESTABLISHMENT OF THE EDUCATION SAVINGS ACCOUNT PROGRAM

Article 19.1 (commencing with Section 69995) is added to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, to read:

Article 19.1 Children's Educational Opportunity Act of 2024

69995. This article shall be known, and may be cited, as the Children's Educational Opportunity Act of 2024.

69995.1. DEFINITIONS

For purposes of this article, the following terms are defined as follows:

- (a) "Administrative fund" means the fund within the Education Savings Account (ESA) Trust from which the costs of administration, including investment management fees, of the ESA Trust shall be paid.
- (b) "Audit" means annual, independent financial audit report which shall employ generally accepted accounting principles, conducted by an independent auditor, the cost of which is borne by the school seeking eligibility under this act.
- (c) "Beneficiary of the Trust or Trust Beneficiary" of the account means the eligible student for whom an ESA account was created by the ESA Trust Board.
- (d) "Costs of administration" means the actual costs of the ESA Trust Board to administer ESAs, subject to the statutory limit, pursuant to Section 69995.3.(d) and (e).
- (e) "Education Savings Account or ESA funding amount" means the amount calculated pursuant to subdivision (e) of Section 69995.2.
- (f) "Eligible school" means any of the following:
 - (1) The California Community College, the California State University, and the University of California.
 - (2) A-private primary or secondary school, providing education for any grades TK-12, whether for-profit or not-for-profit, as described in Education Code Section 48222, operating in California or any other US state. To be eligible the school must have a

minimum enrollment of 10 students and meet one of the following qualifications:

- (i) accredited by a regional, national or religious accreditation organization (or)
- (ii) shall perform nationally norm-referenced academic testing of all students (except IEP students) to occur at minimum biennially, beginning no later than the fourth grade.

Primary education shall include Pre-K education if the state funds Pre-K education with Proposition 98 funds. Primary and secondary education and schools shall have the same meaning as interpreted in 2023.

(3) A private college or university, in-state or out-of-state, accredited by an agency recognized by any state or the United States Department of Education.

(4) A public college or university, in-state or out-of-state, accredited by an agency recognized by the state that operates it or the United States Department of Education.

(5) A vocational education or training institution, in-state or out-of-state, accredited by an agency recognized by any state or the United States Department of Education.

(g) "Eligible student" means every person eligible to enroll in a TK-12 public school or enrolled in a TK-12 eligible school. This includes emancipated minors or otherwise eligible students who have attained the age of majority.

(h) "ESA Trust" means the Education Savings Account program established by subdivision (b) of Section 69995.2.

(i) "ESA Trust Board" means the Education Savings Account Trust Board established by subdivision (a) of Section 69995.3.

(j) "TK-12 eligible education expenses" mean the expenses typically associated with the education of a TK-12 pupil in an eligible school, other than tuition, including, but not limited to, curriculum, books, online courses, religious and academic course materials, school supplies and equipment, academic tutoring, academic testing fees, special needs services of a special needs beneficiary, and transportation to and from school and school activities. A faith-based educational curriculum shall not be excluded.

(k) "Parent or legal guardian" includes an eligible student who is either emancipated or has attained the age of majority.

(l) "Participation agreement" means the uniform contract created by the ESA Trust Board that must be executed by the ESA Trust and the parent or legal guardian of an eligible student that directs the ESA Trust to disburse funds to an eligible school on behalf of the beneficiary of the account.

(m) "Post-secondary eligible education expenses" mean the expenses typically associated with vocational training, undergraduate or graduate education at an eligible school, other

than tuition, including, but not limited to, books, school supplies and equipment, academic tutoring, special needs services of a special needs beneficiary, any additional school fees, and room and board.

(n) "Program fund" means the fund created in the ESA Trust from which monies transferred from the General Fund and investment earnings, and other grants, gifts, or appropriations are maintained and segregated into accounts for eligible beneficiaries.

(o) "Tuition" means the amount charged by an eligible school to enroll a student at the school for a particular grade level and registration fees associated with application and enrollment.

(p) "Unclaimed funds" means funds remaining in an account that are not disbursed to an eligible school at the time of the ESA Trust beneficiary's death.

69995.2. ESA PROGRAM

(a) This act shall be construed liberally in order to effectuate its legislative intent. The purposes of this act and all of its provisions with respect to powers granted shall be broadly interpreted to effectuate that intent and purposes and not as to any limitation of powers.

(b) There is hereby established an instrumentality of the State of California to be known as the Education Savings Account Trust ("ESA Trust").

(c) Every student eligible to be enrolled in public school transitional kindergarten (TK), kindergarten (K) and grades 1-12, inclusive, shall be entitled to an ESA, pursuant to this article, upon the request of that eligible student's parent or legal guardian, or upon the request of the eligible student themselves if they have attained the age of majority or are emancipated.

(d) Every person for whom an ESA has been created and a participation agreement has been submitted, shall receive a credit to their account for grades TK-12 to be expended at the discretion of the parent, legal guardian, or the beneficiary (if the beneficiary has attained the age of majority or is emancipated) for eligible TK-12 and post-secondary tuition and eligible education expenses.

(e) Commencing with the first fiscal year following the enactment of this Act, on July 1 of each year, the Department of Finance shall determine the annual ESA funding amount for the upcoming school year. The per-child ESA funding amount for the 2025-2026 school year shall be \$17,000. In each following year, the Department of Finance shall calculate the annual per-pupil ESA funding amount by dividing the total Prop 98 funding as required by Section 8 of Article XVI of the California Constitution (Proposition 98) by the estimated total enrollment in government TK-12 schools plus the estimated total number of eligible ESA students for the upcoming fiscal year.

- (1) The annual per-pupil ESA funding amount shall not be less than it would have been under the law and procedures in effect in 2022-2023.
- (2) In addition, the annual per-pupil ESA funding amount shall not decrease by a greater percentage than the percentage decrease, if any, in the total state funding of primary and secondary education.
- (3) The state shall use the same numbers for Proposition 98 funding and total enrollment in government primary and secondary schools for all purposes including determination of the per-pupil ESA funding amount. If the state provides additional funding to government primary and secondary schools in the same fiscal year, based on revised, changed or updated Proposition 98 funding and/or total enrollment in government primary and secondary schools, then the state shall provide additional funds to the ESA Trust based on those revised, changed or updated Proposition 98 funding or total enrollment.
- (f) For each school year on July 8, the State Controller shall transfer an amount from the General Fund to the ESA Trust equal to half the annual per-pupil ESA funding amount multiplied by the number of eligible ESA accounts established. No later than November 30, the ESA Trust Board shall submit to the State Controller an updated number of eligible ESA accounts. No later than December 15, the State Controller shall transfer to the ESA Trust Fund half the annual ESA funding amount multiplied by the updated estimated number of eligible ESA accounts. The individual ESA accounts shall be funded from the ESA Trust Fund as soon as reasonably possible and no later than August 1 and December 31.
- (g) The Legislature may appropriate additional funds to the ESA Trust, which shall be divided equally among all eligible ESA accounts. The Legislature may appropriate additional funds to the ESA Trust for Special Needs students, which shall be divided equally among all Special Needs students with eligible ESA accounts.
- (h) Within the ESA Trust, there shall be two funds, which shall be identified as the ESA Trust Program Fund and the ESA Trust Administrative Fund. Notwithstanding Section 13340 of the Government Code, the ESA Trust Program Fund is hereby continuously appropriated, without regard to fiscal years, to the ESA Trust Board for the purposes of this article. Moneys in the ESA Trust Administrative Fund shall be available for expenditure, upon appropriation, for the purposes specified in this article. Monies in the ESA Trust may be used only for the purposes of this Act and may not be taken, used, borrowed, or collateralized for any other purpose.
- (i) The state shall fund all reasonable and necessary start-up costs for the ESA Trust Program. Without limitations to the total amount of reasonable and necessary start-up costs, the state shall pay to the ESA Trust Administrative Fund no later than December 15, 2024. The ESA Trust shall repay from the Administrative Fund the start-up costs paid by the state evenly amortized without interest over 10 years, in annual installments beginning December 15, 2025.

69995.3. ESA TRUST BOARD

(a) The purposes, powers, and duties of the ESA Trust are vested in, and shall be exercised by, the ESA Trust Board, which is hereby established.

(b) The ESA Trust Board shall consist of members who are actively affiliated with five eligible non-religious private schools, six eligible parochial/religious schools of different religions or denominations and two parents or legal guardians of a child with an ESA receiving home-based education. The Proponents of this initiative shall appoint the initial Board members, and the ESA Trust Board shall appoint replacements and fill vacancies. The ESA Trust Board shall endeavor to appoint a members that reflect a cross-section of participants in the program. Except as provided herein, Board members may be appointed for a maximum of two four-year terms. However, six of the initially-appointed members shall serve a two-year term and shall be eligible to be appointed to two additional four-year terms. If a Board member leaves the Board during his or her term, the replacement shall be appointed to a four-year term. The ESA Trust Board may appoint additional ex officio non-voting members, including members of the Scholarshare Investment Board, as provided in subparagraph (B) of paragraph (2) of subdivision (a) of Section 69984.

(c) Without limitation, the ESA Trust Board shall have all the powers and authority provided to the Scholarshare Investment Board under Article 19 (commencing with Section 69980), including, but not limited to, all of the following:

(1) The investment of monies in the ESA Trust for the benefit of the program, the beneficiaries of accounts within the Trust, and the public reporting of investments and investment performance. Investment strategies shall ensure the availability of monies necessary to fully fund each ESA Trust account as determined in this Act.

(2) The distribution of funds from individual eligible ESAs, and the audit of accounts to ensure that all funds disbursed to eligible schools are used by and for the beneficiary of the account and in furtherance of the program.

(3) Accepting any grants, gifts, appropriations, and other monies from any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund, or the program fund;

(4) Redistribution of unclaimed funds within the ESA Trust for purposes imposed by this Act;

(5) Adopting regulations to implement this article.

(d) The ESA Trust may allocate the following percentages of each installment of the total ESA funding amount received from the state to the Administrative Fund:

(1) 3% for the first 500,000 eligible ESA accounts

(2) 2% for the next 500,000 eligible ESA accounts

(3) 1.5% for the next 1,000,000 eligible ESA accounts.

(4) 1% for all additional eligible ESA accounts.

(5) The remainder of each installment of the total ESA funding amount shall be allocated to the Program Fund and shall be allocated equally among all eligible ESA accounts.

(e) All costs of administration, including investment management fees, of the ESA Trust shall be paid out of the Administrative Fund. If notwithstanding diligent efforts to operate the ESA Trust within the ESA Administrative funding above, and the ESA Trust Board reasonably determines in its discretion, that additional administrative funding is necessary, then ESA Trust Board may apply to the Superior Court in the county in which the principal office is located, for determination that additional administrative funding is necessary and the amount of necessary funding.

69995.4. STUDENT ESA ACCOUNT APPLICATION

(a) The ESA Trust Board shall create an online application for a parent or legal guardian to request an ESA and a participation agreement, pursuant to this article. The application and agreement shall also be accepted by the ESA Trust Board by mail.

(b) Pursuant to section 69995.2 (d) applications shall be accepted, and participation agreements executed on an ongoing basis. An application and execution of a participation agreement must be completed by April 1 in order to receive the full ESA funding amount for the next succeeding school year. Applications and participation agreements executed between April 2 through October 1 shall receive an ESA deposit on December 31 in an amount prorated for the remaining number of months in the school year beginning with January. Any applications received between October 2 through the following April 1 shall receive the full ESA funding amount for the following school year.

(c) The parent or legal guardian shall identify the eligible student as the trust beneficiary and execute the participation agreement. They may also designate a contingent beneficiary for the account before the student attains the age of majority or is emancipated.

(d) Once an application and participation agreement have been completed, the ESA Trust Board shall confirm that the applicant is an eligible student eligible to be or is enrolled in an eligible school. Upon confirmation, ESA Trust Board shall transmit a copy of the participation agreement to the eligible school. If the eligible student is transferring from public school or public charter school, then ESA Trust Board shall notify the public school of his disenrollment from the public school.

(e) So long as the beneficiary remains eligible to receive the ESA funding amount and to direct the expenditure of funds pursuant to this article, no additional application or agreement shall be required. However, an application and agreement shall be amended by the parent or legal guardian if the beneficiary enrolls in a different eligible school.

(f) The ESA Trust Board shall create an online process for any person or eligible school to report that a beneficiary is no longer eligible or no longer enrolled in an eligible school. Such process shall provide for establishing identification of the reporting party and safeguards against malicious actors. Upon receipt of a report, the ESA Trust Board shall provide adequate notice to the parent or legal guardian of the beneficiary and the school, that the beneficiary's eligibility is under review and provide an opportunity for both to be heard. If the ESA Trust Board determines that a beneficiary is no longer eligible, written findings of the determination shall be provided to the school, parent or legal guardian, or the beneficiary (if the beneficiary has attained the age of majority or is emancipated). Such a determination may be appealed by the parent or legal guardian on behalf of the beneficiary, or by the beneficiary (if the beneficiary has attained the age of 18 or is emancipated), pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(g) Any account balance shall be maintained in the account and continue to be available for use by the beneficiary at an eligible school, provided the beneficiary meets the requirements of eligibility under this act. Should the parents or legal guardians subsequently enroll the student in a public school, the ESA funding and participation agreement shall be suspended during the student's period of public school enrollment, but the account balance shall be preserved in the account for future education expenses at an eligible school.

69995.5. PARTICIPATING SCHOOL APPLICATION

(a) The ESA Trust Board shall create an online application for a school to become eligible to receive funds from an account pursuant to this article and shall receive said applications and verify eligibility under this Act.

(b) The ESA Trust Board shall publish, and update semi-annually, both online and in writing, a list of eligible schools by name that includes address, contact information, web address, grades served, accreditation information, academic testing results summary and the tuition charged for each grade level for each eligible school. The disclosed tuition cost should include the school's administrative costs for servicing the ESA program for the student.

(c) The ESA Trust Board shall create a written notice of the rights and benefits afforded to all eligible students under this act. The Superintendent of Public Instruction and California public school districts shall ensure that this notice regarding the rights and benefits afforded to all eligible students under this Act is mailed to the parents and posted on the department website, district websites and at each public school site in conspicuous locations that can be seen by parents, legal guardians, and by students enrolled in the school. The notice of rights and benefits, as well as the list of eligible schools described in section (b) of this provision, shall be made available either digitally or in print at each public-school site upon request by a parent, legal guardian, or student.

(d) No agent or employee of a public school, school district, county office of education, or of the Department, shall intimidate, harass, malign, abuse, retaliate against or in any other way inhibit a parent, legal guardian, or student who inquiries regarding the rights and benefits afforded under this Act, nor shall they attempt to dissuade a parent, legal guardian, or student from exercising their respective rights under this Act.

(e) The ESA Trust Board shall create an online process for a parent or legal guardian, public school district, eligible school, or any other person, to report that a school is no longer eligible to receive funds pursuant to this article. Such process shall provide for establishing identification of the reporting party and safeguards against malicious actors. Upon receipt of such a report, the ESA Trust Board shall inquire and confirm the eligibility status of the school by providing adequate notice to the school and the parents or legal guardians of the beneficiary enrolled in the school, and an opportunity for both to be heard. If the ESA Trust Board determines that a school is no longer eligible, written findings of the determination shall be provided to the school and the ESA parents, legal guardians, or the trust beneficiary (if the beneficiary has attained the age of majority or is emancipated) attending that school. Such determination may be appealed by the school pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

69995.6. ADDITIONAL ESA TRUST BOARD RESPONSIBILITIES

(a) The ESA Trust Board shall provide for the creation of accounts within the program fund for each eligible pupil who has requested an account, shall enter into participation agreements pursuant to this article, shall credit each account with the appropriate ESA deposit amount for that eligible pupil, and shall credit investment earnings of the program fund to each account, as appropriate.

(b) The ESA Trust Board shall provide parents and legal guardians, or the beneficiary (if the beneficiary has attained the age of majority or is emancipated), with secure online review of account activity, including account deposits or credits, investment earnings, and disbursements to an eligible school on behalf of the beneficiary. The Board shall protect the privacy of parents, legal guardians, and the beneficiary of an account.

(c) The ESA Trust Board shall, pursuant to the terms of the participation agreement, distribute funds on behalf of the beneficiary to an eligible school in nine (9) equal monthly installments commencing August 15 and ending May 15. However, the Board may, by agreement with an eligible school, provide for a different distribution schedule.

(d) The ESA Trust Board shall provide for the random audit of student eligibility, student enrollment, student attendance, and school eligibility.

(e) The ESA Trust Board shall obtain the refund from the participating school of any ineligible payment made. No refund, reimbursement, or recovery of ineligible payments shall be sought or recovered from a parent or legal guardian, or from the beneficiary unless it is determined that such payments were obtained fraudulently or illegally.

(f) The ESA Trust Board shall provide a uniform participation agreement for use by the Board, parents and legal guardians, and the eligible student (if the student has attained the age of majority or is emancipated). An eligible school identified in a participation agreement shall be a third-party beneficiary of the agreement.

(g) The ESA Trust Board shall establish an on-line list of educational vendors to which parents, guardians or adult students may make direct expenditures from the ESA account for eligible TK-12 educational expenses as delineated in 69995.1. (j) and (m). This list should be regularly-updated based on recommendations of participating schools and parents/guardians of participating ESA students. A mechanism shall be developed to reimburse a parent, guardian or the beneficiary (if the beneficiary has attained the age of majority or is emancipated) from the beneficiary's ESA for eligible educational expenses for the beneficiary, for which direct ESA payment was not made. To receive reimbursement of eligible educational expenses from vendors not on this list requires approval from the participating school in which the child is enrolled.

69995.65. The ESA Trust Board shall adopt regulations to implement this article.

69995.7. PROTECTIONS – LIMITATIONS ON REFUSAL TO FUND

(a) The ESA Trust Board shall only distribute funds from an account to an eligible school selected by a parent, or legal guardian, or beneficiary. No funds shall be distributed to a parent or legal guardian, or beneficiary, except as provided in section 69995.10. (a) and 69995.6. (g).

(b) The State shall not limit the number of eligible schools, the number of students enrolled in an eligible school, nor impose any condition on the eligibility of any private school, college, or university to receive funds other than the following:

(1) Periodic certification that an eligible student is enrolled and attending the eligible school.

(2) Periodic certification that the amount paid is only used for tuition and eligible education expenses.

(3) Annual certification of accreditation or submission of the school's academic testing results as defined in section 69995.1. (f)(2). The schools shall annually provide certification of accreditation or a summary of the current academic testing results to the ESA Trust Board and to parents of enrolled and prospective students.

(4) Annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles. An eligible school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year to the Board by December 15 of each year.

(5) Compliance with the general health and safety standards applicable to the facilities of all private schools operating in California if students are served in-person at a physical location owned and operated by the school.

(c) Participating private schools and parents providing home-based education are free to teach or not teach subject, content and information as they deem appropriate.

(d) The State shall not impose upon private eligible schools any curriculum or subject matter mandates, student or faculty disciplinary policies, academic policies, or teacher credentialing requirements. Nor shall any private religious school be denied participation in the program because of faith or religious requirements of the students or faculty. Educational institutions controlled by a religious organization shall have the protections of Education Code Section 221 in regard to Education Code Section 220 and any similar provisions in California law or the California Constitution. This protection includes participating in and receiving money as eligible schools under this Act.

(e) Academic and disciplinary policies and standards are not unlawful or discriminatory based on disparate impact if such policies and standards are subject to reasonably diligent efforts to apply them equally to all persons concerned.

(f) Neither the ESA Trust Board nor any agency of the state shall withhold, suspend or interrupt the accrual or expenditure of trust funds mandated by this Act, or otherwise deprive an eligible student of the benefits of this legislation for any reason or on any grounds other than:

- (1) failure to meet the eligibility criteria set forth in Section 69995.1. (g); or
- (2) engage in prohibited transactions as set forth in Section 69995.10.; or
- (3) engage in any other conduct prohibited by this act.

Specifically, a student enrolled in a participating private school for home-based education shall not be deprived eligibility or funding of their ESA account because of state immunization requirements as specified in Health and Safety Code, Division 105, Part 2, Chapter 1, 120335. (f).

(g) The State, any other government bodies or agency, and ESA Trust Board shall not impose undue burdens or regulations on participating schools, providers of educational services or products, families, or trust beneficiaries.

69995.8. POST SECONDARY EDUCATIONAL INSTITUTION PARTICIPATION

(a) The California Community Colleges, the California State University, and the University of California, and each campus, branch, and function thereof, shall accept funds from an ESA for tuition and eligible educational expenses of the beneficiary attending that school.

(b) A private college or university, in-state or out-of-state, may choose to become an eligible school upon application filed with the ESA Trust Board, and may accept funds from an account for tuition and eligible educational expenses of the beneficiary attending that school.

(c) A vocational education or training school, in-state or out-of-state, may choose to become an eligible school upon application filed with the ESA Trust Board and may accept funds from an ESA for tuition and eligible educational expenses of the beneficiary attending that school.

(d) Any state college or university outside of California may choose to become an eligible school upon application filed with the ESA Trust Board and may accept funds from an ESA for tuition and eligible educational expenses of the beneficiary attending that school.

69995.9. HOME-BASED EDUCATION ELIGIBILITY

(a) A student enrolled in an eligible private school to facilitate home-based education or a hybrid (partly on-campus and partly home-based) education shall be eligible for an ESA in accordance with this Act and use those funds for eligible educational expenses for TK-12 education and post-secondary education.

(b) Private school facilitated home-based or hybrid education shall not be subject to the Child Day Care Act (Health & Safety Code § 1570 et seq.), the jurisdiction of the California Department of Social Services, or otherwise be subject to any licensing requirements by the State, counties, or municipalities.

69995.10. PROHIBITED TRANSACTIONS

(a) An eligible school shall not share, refund, or rebate any funds received from an account with or to the parent, legal guardian, or eligible student in any manner.

(b) The ESA Trust Board may terminate and suspend an account and participation agreement if the parent, legal guardian, or eligible student fails to comply with the terms of the participation agreement with the intent to defraud or misuse the funds distributed on behalf of a beneficiary upon notice to the parent, legal guardian, and eligible student and an opportunity to be heard. If the Board terminates or suspends an account, that determination may be appealed by the parent, legal guardian, or eligible student pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

69995.11. ALLOCATION OF CERTAIN COSTS OF ADMINISTRATION

(a) The Legislature shall provide for the allocation of costs associated with this Act as follows:

(1) For the cost of providing ESA funding for an eligible student not enrolled in a K-12 public school prior to the enactment of this Act, the Legislature shall rebase, as necessary, the minimum funding guarantee for K-12 schools as provided in section 8 of article XVI of the California Constitution, including the inclusion of such eligible children in the definition of "average daily attendance" as amended by this Act.

(2) For the costs of providing ESA funding for an eligible student, the program cost for that deposit shall be apportioned between the General Fund and the public school district

in which the student resides, on the same ratio of General Fund and local property tax revenue that would have been used to educate that student in their public school district. The Legislature shall provide for the transfer of funds from a school district or the State as necessary to carry out this provision.

SECTION 3. INCOME TAX EXCLUSION

Section 17132.2 is added to the Revenue and Taxation Code to read:

17132.2. (a) For purposes of this section, the following terms have the following meanings:

(1) "Beneficiary of the account" has the same meaning as set forth in subdivision (b) of Section 69995.1 of the Education Code.

(2) "Education Savings Account or ESA" means an education savings account established under the Children's Educational Opportunity Act (Article 19.1 (commencing with Section 69995) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code).

(3) "Parent or legal guardian" has the same meaning as set forth in subdivision (l) of Section 69995.1 of the Education Code.

(4) "Participation agreement" has the same meaning as set forth in subdivision (h) of Section 69995.1 of the Education Code.

(b) For taxable years beginning on or after the enactment of the Children's Educational Opportunity Act, gross income of a beneficiary of the account or the parent or legal guardian of a beneficiary of the account shall not include any of the following:

(1) Any distribution or earnings under an ESA participation agreement, as provided in Article 19.1 (commencing with Section 69995) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code.

(2) Any contribution to an Education Savings Account.

SECTION 4 EDUCATION SAVINGS ACCOUNT FUND TRANSFERABILITY

A trust beneficiary of an Education Savings Account (ESA) is hereby granted the authority to:

a. Transfer, either partially or in its entirety, the account balance to another ESA held by a family member related by blood or marriage or a participating educational institution at any time during their lifetime after the age of majority or emancipation. This transfer may be made without incurring any tax or penalty, ensuring that the funds are used for educational purposes as intended by the CEO Act.

b. Direct the ESA balance to another ESA of family member(s) as defined in (a) above or participating educational institution upon death of the beneficiary by designation of

contingent beneficiary(ies) on the ESA participation agreement or through estate planning instruments, including but not limited to wills or trusts, at their death. This provision ensures that the account holder can leave a lasting educational legacy by designating a recipient who will benefit from the ESA funds for educational expenses.

c. The beneficiary shall have the option to update the contingent beneficiary at any time during their lifetime.

SECTION 5 AMENDMENT OF CALIFORNIA STATE CONSTITUTION

Section 8.5 of Article IX is added to the California Constitution to read:

8.5. Notwithstanding any other provision of this Constitution, including Section 8 of this article and Section 5 of Article XVI, the State, and every agency or political subdivision of the State, may disburse funds pursuant to an agreement between the State and a parent or legal guardian of an eligible student for tuition and education related expenses, as provided by statute, and to provide tax or other public benefits to educational institutions, irrespective of religious affiliation, to further the purposes of Section 1 of this article.

Section 8.1 of Article XVI is added to the California Constitution to read:

8.1 For purposes of section 8 of this article and section 8 of Article XIII B, the term "average daily attendance" shall include all students enrolled in a K-12 public school and all students who are otherwise eligible to enroll in a K-12 public school but have chosen to fund TK-12 education with an Education Savings Account funded pursuant to Article 19.1 (commencing with Section 69995) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code. Notwithstanding any other provision of this Constitution, including section 25.5 of article XIII, the Legislature may, by statute, require the allocation of ad valorem property tax revenue pursuant section 69995.10 of the Education Code.

SECTION 6 GENERAL PROVISIONS

(a) If any provision of this Act, or any part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

(b) This Act is intended to be comprehensive. It is the intent of the people that in the event this Act or acts relating to the same subject shall appear on the same statewide election ballot, the provisions of the other act or acts shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other act or acts shall be null and void.

(c) Section 2 and 3 of this Act may be amended by a statute passed by each house of the Legislature by roll call vote entered into the journal, seven-eighths of the membership concurring, provided that the statute is consistent with and furthers the purposes of this Act.

(d) If an action is brought challenging, in whole or in part, the validity of this Act, in addition to the complying with the mandates of California Government Code section 12511.7, the following shall apply:

(1) The Executive Branch and Legislature shall continue to comply with the Act unless it is declared unconstitutional pursuant to a final judgment of an appellate court.

(2) Except as provided in paragraph (3) below, the Attorney General shall defend against any action challenging, in whole or in part, the validity of this Act, and shall have an unconditional right to intervene in any action to defend the validity of this Act.

(3) If the Attorney General declines to defend the validity of the Act in any action, the Attorney General shall nonetheless file an Answer or other responsive pleading in any action challenging the Act, as well as an appeal from, or seek review of, any judgment of any court that determines that the Act is invalid, in whole or in part, if necessary or appropriate to preserve the State's standing to defend the law in conformity with the Attorney General's constitutional duty to see that the laws of the State are adequately enforced.

(4) The official proponent(s) of the Act have an unconditional right to participate, either as interveners or real parties in interest, in any action affecting the validity or interpretation of the Act. Where the Governor and Attorney General have declined to defend the validity of the Act, the official proponents are also authorized to action the State's behalf in asserting the State's interest in the validity of the Act in any such action and to appeal from any judgment invalidating the Act.

(5) Nothing in this section precludes other public officials from asserting the State's interest in the validity of the Act.