

HB 1672 - AS INTRODUCED

2022 SESSION

22-2775

10/04

HOUSE BILL                    **1672**

AN ACT                    relative to misuse of education freedom account funds.

SPONSORS:            Rep. Luneau, Merr. 10; Rep. Myler, Merr. 10

COMMITTEE:          Education

---

ANALYSIS

This bill requires the transfer of funds from terminated education freedom accounts to the education trust fund, requires investigation of and ineligibility for misuse of funds, and requires the department of education adopt the rules on policies and procedures for administration of the program.

-----

Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to misuse of education freedom account funds.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       1 Education Freedom Accounts; Program Funds. Amend RSA 194-F:2, VII to read as follows:

2           VII. An EFA shall remain in force, and any unused funds shall roll over from quarter-to-  
3 quarter and from year-to-year until the parent withdraws the EFA student from the EFA program,  
4 ***the student becomes ineligible for the program***, or until the EFA student graduates from high  
5 school, unless the EFA is closed because of a substantial misuse of funds. Any unused funds shall  
6 revert to the education trust fund established in RSA 198:39 and be allocated to fund other EFAs.

7       2 Accounts; Termination. Amend RSA 194-F:3, VI(a) and (b) to read as follows:

8           (a) Enrolling as a full-time student in the resident district public school shall result in  
9 the immediate suspension of payment of additional funds into the student's EFA[~~However, an EFA~~  
10 ~~that has been open for at least one full school year shall remain open and active for the parent to~~  
11 ~~make qualifying expenditures to educate the student from funds remaining in the EFA. When no~~  
12 ~~funds remain in the student's EFA, the scholarship organization may close the EFA~~], ***termination***  
13 ***of the EFA, and the transfer of any remaining funds back to the education trust fund.***

14           (b) If an eligible student decides to return to the EFA program, [payments into the  
15 student's existing EFA may resume if the EFA is still open and active.] a new EFA may be  
16 established [if the student's EFA was closed].

17       3 List of Education Service Providers. Amend RSA 194-F:4, I to read as follows:

18           I. The scholarship organization shall maintain an updated list of education service providers  
19 and shall ensure that the list is publicly available through various sources, including the [Internet]  
20 ***department's website.***

21       4 Scholarship Organization Responsibilities. Amend RSA 194-F:4, XI-XVII to read as follows:

22           XI. The scholarship organization [may] ***shall*** make any parent or EFA student ineligible for  
23 the EFA program in the event of [intentional and] substantial misuse of EFA funds.

24           (a) The scholarship organization shall create procedures to ensure that a fair process  
25 exists to determine whether [an intentional and] ***a*** substantial misuse of EFA funds has occurred.

26           (b) If an EFA student is free from personal misconduct, that student shall be eligible for  
27 an EFA in the future if placed with a new guardian or other person with the legal authority to act on  
28 behalf of the student.

29           (c) The scholarship organization [may] ***shall*** refer suspected cases of [intentional and]  
30 substantial misuse of EFA funds to the attorney general for investigation [if evidence of fraudulent  
31 use of EFA funds is obtained].

(d) A parent or EFA student may appeal the scholarship organization's decision to deny eligibility for the EFA program to the ~~[department]~~ **state board of education**.

XII. The scholarship organization may bar an education service provider from accepting payments from EFAs if the scholarship organization determines that the education service provider has:

(a) ~~[Intentionally and]~~ Substantially misrepresented information or failed to refund any overpayments in a timely manner.

(b) Routinely failed to provide students with promised educational goods or services.

XIII. The scholarship organization shall create procedures to ensure that a fair process exists to determine whether an education service provider may be barred from receiving payments from EFAs.

(a) If the scholarship organization bars an education service provider from receiving payments from EFAs, it shall notify parents and EFA students of its decision ~~[as quickly as possible]~~ **within 5 business days**.

(b) Education service providers may appeal the scholarship organization's decision to bar them from receiving payments from the EFA to the ~~[department]~~ **state board of education**.

XIV. The scholarship organization may accept gifts and grants from any source to cover administrative costs, to inform the public about the EFA program, or to fund additional EFAs.

XV. The department shall adopt rules that are necessary for the administration of this chapter.

~~[XVI. The scholarship organization shall adopt policies or procedures that are necessary for the administration of this chapter.]~~ This may include policies or procedures:

(a) Establishing or contracting for the establishment of an online anonymous fraud reporting service.

(b) Establishing an anonymous telephone number for fraud reporting.

(c) Requiring a surety bond for education service providers receiving more than \$100,000 in EFA funds.

(d) Refunding payments from education service providers to EFAs.

(e) Ensuring appropriate use and rigorous oversight of all funds expended under this program.

~~[XVII.]~~ **XVI.** The scholarship organization shall not exclude, discriminate against, or otherwise disadvantage any education provider with respect to programs or services under this section based in whole or in part on the provider's religious character or affiliation, including religiously based or mission-based policies or practices.

5 Effective Date. This act shall take effect 60 days after its passage.