



## **Rules Governing the Special Education Grants for Children with Disabilities Program**

A Program of the State of North Carolina  
Administered by the State Education Assistance Authority  
10 T.W. Alexander Drive  
Research Triangle Park, NC 27709

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## Table of Contents

<b>PART I.....</b>	<b>4</b>
<b>SHORT TITLE, PURPOSE, AND DEFINITIONS .....</b>	<b>4</b>
<i>.0100. Short Title. ....</i>	<i>4</i>
<i>.0101. Purpose and Scope. ....</i>	<i>4</i>
<i>.0102. Definitions. ....</i>	<i>4</i>
<b>PART II.....</b>	<b>8</b>
<b>STUDENT ELIGIBILITY.....</b>	<b>8</b>
<i>.0200. Student Eligibility.....</i>	<i>8</i>
<i>.0201. Disability Determination Requirements .....</i>	<i>9</i>
<i>.0202. Applications.....</i>	<i>9</i>
<i>.0203. Application Deadlines.....</i>	<i>10</i>
<i>.0204. Transfers.....</i>	<i>10</i>
<b>PART III.....</b>	<b>11</b>
<b>SCHOOL ELIGIBILITY .....</b>	<b>11</b>
<i>.0300. Requirements Related to Nonpublic Schools.....</i>	<i>11</i>
<i>.0301. Requirements Related to Home Schools. ....</i>	<i>11</i>
<i>.0302. Duty to Update Contact Information. ....</i>	<i>11</i>
<b>PART IV.....</b>	<b>12</b>
<b>GRANTS FOR TUITION BY DIRECT DISBURSEMENT .....</b>	<b>12</b>
<i>.0400. General Provisions.....</i>	<i>12</i>
<i>.0401. Parent Requirements.....</i>	<i>12</i>
<i>.0402. Requirements for Eligible Schools to Receive Direct Disbursement of Grants for Tuition. ....</i>	<i>12</i>
<b>PART V.....</b>	<b>17</b>
<b>EXPENSE REIMBURSEMENT REQUIREMENTS .....</b>	<b>17</b>
<i>.0500. Expense Requirements .....</i>	<i>17</i>
<i>.0501. Exclusions .....</i>	<i>18</i>
<i>.0502. Educational Technology .....</i>	<i>19</i>
<b>PART VI.....</b>	<b>20</b>
<b>REIMBURSEMENT FOR EXPENSES PROCEDURES .....</b>	<b>20</b>
<i>.0600. Completion of a Form W-9 .....</i>	<i>20</i>
<i>.0601. Documentation of Attendance .....</i>	<i>20</i>
<i>.0602. Documentation of the Use of Educational Technology.....</i>	<i>20</i>
<i>.0603. Submittal of Documentation of Expense.....</i>	<i>20</i>
<i>.0604. Verification .....</i>	<i>20</i>

**PART VII..... 22**  
**FAILURE TO COMPLY..... 22**  
    *.0700. Failure to Comply..... 22*  
**PART VIII..... 23**  
**INTERPRETIVE GUIDANCE ..... 23**  
    *.0800. The Authority as Program Administrator..... 23*  
    *.0801. Interpretive Guidance..... 23*

## Part I

### Short Title, Purpose, and Definitions

#### **.0100. Short Title.**

The Rules Governing the Special Education Grants for Children with Disabilities Program may hereinafter be cited as the “Rules.”

#### **.0101. Purpose and Scope.**

The Special Education Grants for Children with Disabilities Program, also known as the “Disabilities Grant Program,” was established by the 2013 General Assembly. The Authority administers the Program as directed by the General Assembly. Funding for the Program is contingent each year upon appropriations made available to the Authority by the General Assembly.

#### **.0102. Definitions.**

Unless the context clearly indicates some other meaning, the following capitalized words and phrases shall have the corresponding meanings in the Rules:

- (a) “*Academic Year*” means two Semesters, beginning with the fall Semester.
- (b) “*Act*” means Part 1H of Article 9 of Chapter 115C of the North Carolina General Statutes, any revision, amendment or extension thereof, and any subsequent budget or appropriations act affecting the Program.
- (c) “*Active Uniformed Service*” means an individual on full-time duty in the active uniformed service of the United States as that term is defined in 37 U.S.C. §101(3), including the United States Air Force, Army, Coast Guard, Marine Corps, or Navy, as well as any member of a reserve component of the foregoing who is on active duty orders pursuant to 10 U.S.C. §12301 *et seq.* or 10 U.S.C. §12401 *et seq.* or any member of the National Guard who is on active orders pursuant to 10 U.S.C. §12301 *et seq.* or 10 U.S.C. §12401 *et seq.*
- (d) “*Authority*” means the State Education Assistance Authority, a political subdivision of the State, created under Article 23 of Chapter 116 of the North Carolina General Statutes.
- (e) “*Child with a Disability*” means a child with at least one Disability who because of that Disability requires Special Education and Related Services.

- (f) *“CPA”* means a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners.
- (g) *“Department of Defense School”* means a Department of Defense domestic dependent elementary and secondary school established pursuant to 10 U.S.C. §2164 and located within the State of North Carolina.
- (h) *“Disability”* includes mental retardation; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; serious emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments, specific learning disability, or other disability as may be required to be included under IDEA; and for a child ages three through seven, this term also includes developmental delay.
- (i) *“Domicile”* means the state in which the student has his or her fixed, permanent and principal home, and to which place, whenever absent, the student has the intention of returning.
- (j) *“Educational Technology”* means an item, piece of equipment, material, product, or system which may be purchased commercially off the shelf, modified, or customized and that is used primarily for education purposes for a Child with a Disability as identified by the Authority in accordance with Rule .0502.
- (k) *“Eligible School”* means a North Carolina nonpublic school as defined in G.S. § 115C-112.5(3) or a North Carolina public school for which the payment of tuition is required that has completed the Program registration process established by the Authority, if applicable.
- (l) *“Financial Review”* means a financial review as that term is defined by the American Institute of CPAs.
- (m) *“Graduation Rate”* means the percentage of Program recipients who started the fall Semester of their senior year and graduated.
- (n) *“Grant”* means funds awarded under the Program as defined in G.S. § 115C-112.5(4).
- (o) *“Home School”* means a nonpublic school consisting of the children of not more than two families or households, where the parents or legal guardians or members of either household determine the scope and sequence of academic instruction, provide academic instruction, and determine additional sources of academic instruction.
- (p) *“IDEA”* means The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., as amended, and federal regulations adopted under the IDEA Act.

- (q) "*Individualized Education Program*" or "*IEP*" means a written statement for each Child with a Disability that is developed, reviewed, implemented, and revised consistent with IDEA and State law.
- (r) "*Licensed Psychologist*" means an individual who has been issued a license pursuant to the North Carolina Psychology Practice Act, N.C. Gen. Stat. § 90-270.1 *et seq.*, whose license is in good standing and permits him or her to engage in the practice of psychology as defined in N.C. Gen. Stat. § 90-270.2(6) and who maintains a practice with a focus on school psychology.
- (s) "*Licensed Psychiatrist*" means an individual who has been issued a medical license by the North Carolina Medical Board, whose license is in good standing in the State of North Carolina and permits him or her to engage in the practice of psychiatry.
- (t) "*Local Educational Agency*" or "LEA" includes any of the following State entities that are located within North Carolina and that provides Special Education and Related Services to children with disabilities:
- a. A local school administrative unit;
  - b. A charter school;
  - c. The Department of Health and Human Services;
  - d. The Division of Adult Correction of the Department of Public Safety;
  - e. The Division of Juvenile Justice of the Department of Public Safety; and
  - f. Any other State agency or unit of local government.
- (u) "*Nationally Standardized Test*" means a published, nationally normed test or other nationally standardized equivalent measurement which provides a valid and reliable measure of a student's present achievement level in comparison with age or grade and also measures achievement in the areas of English grammar, reading, spelling, and mathematics.
- (v) "*Nonpublic School*" means an Eligible School that is a nonpublic school as defined in G.S. § 115C-112.5(3).
- (w) "*Opportunity Scholarship Program*" means the scholarship program as established in Part 2A of Article 39 of Chapter 115C of the General Statutes.
- (x) "*Parent*" means an applicant for the Grant who is:
- a. A natural, adoptive, or foster parent;
  - b. A guardian, but not the State if the child is a ward of the State;

- c. An individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative, and with whom the child lives;
  - d. An individual who is legally responsible for the child's welfare; or
  - e. A surrogate if one is appointed under G.S. § 115C-109.2.
- (y) "*Participation Agreement*" means the agreement, in a form acceptable to the Authority, by which an Eligible School agrees to comply with the Act and the Rules and otherwise meets the requirements for receiving Grants on behalf of students who are eligible for the Program.
- (z) "*Program*" means the Disabilities Grant Program.
- (aa) "*Related Services*" means related services as defined in the IDEA at 34 C.F.R. 300.34 and G.S. § 115C-112.5(3a).
- (bb) "*Semester*" means one of two semesters, the Fall semester is the first half of the school year consisting of days in which school attendance is required as determined by the Eligible School between July and January and the Spring semester is the second half of the school year consisting of days in which school attendance is required as determined by the Eligible School between January and June; for Home School students the spring semester is January 1 through June 30 and the fall semester is July 1 through December 31.
- (cc) "*Special Education*" means specially designed instruction to meet the unique needs of a Child with a Disability and includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings.
- (dd) "*State*" means the State of North Carolina.

## Part II

### Student Eligibility

#### **.0200. Student Eligibility.**

Student eligibility is determined each Academic Year. A student qualifies to receive a Grant if the student:

- (a) Is a legal resident of North Carolina;
- (b) Is a Child with a Disability;
- (c) Satisfies the disability determination requirements in Rule .0201;
- (d) Will not be enrolled in a North Carolina public school to which he or she has been assigned as provided in G.S. § 115C-366 for the semester in which the student is receiving the Grant;
- (e) Is enrolled in an Eligible School in a grade level no lower than kindergarten;
- (f) Has reached or will reach the age of 5 on or before August 31;
- (g) Is eligible to attend a North Carolina public school pursuant to G.S. § 115C-364 and 366;
- (h) Is younger than 22 as of the date of the beginning of the Semester;
- (i) Has not been placed in an Eligible School or facility by a public agency at public expense;
- (j) Has not been enrolled full-time in a postsecondary institution;
- (k) Does not have a high school diploma or its equivalent; and
- (l) Meets at least one of the following criteria:
  - 1. Received a Grant the previous Semester;
  - 2. Was a full-time student assigned to and attending a North Carolina public school pursuant to G.S. § 115C-366 or a Department of Defense school located in North Carolina for at least 75 school days of the prior Spring Semester;
  - 3. Received Special Education or Related Services through the North Carolina public schools as a preschool Child with a Disability during the previous Semester;
  - 4. Is identified as a Child with a Disability prior to the end of the Spring Semester of initial enrollment in kindergarten or first grade in a North Carolina public school and provides the documentation required under Rule .0201 prior to the end of the year of initial enrollment in kindergarten or first grade;

5. Is a child whose Parent is in the Active Uniformed Service; or
6. Is a child who has his or her Domicile in the State and has maintained his or her Domicile in the State for at least six months prior to submitting the Program application.

**.0201. Disability Determination Requirements.**

(a) Initial Determination.

The Parent shall submit documentation of the determination by the student's LEA dated within three (3) years from the date of submission that the student is a Child with a Disability and is eligible for Special Education or Related Services, in a manner established by the Authority.

(b) Continuing Eligibility Determination.

Each eligible student receiving Grant funds shall be assessed for continuing eligibility at least every three years to verify that the student continues to be a Child with a Disability by one of the following methods:

1. The LEA shall assess if the student continues to be a Child with a Disability and verify the same in a manner acceptable to the Authority; or
2. A Licensed Psychologist or a Licensed Psychiatrist shall evaluate if the student has improved his or her educational performance and would continue to benefit from placement in the Eligible School. The assessment shall be verified in a manner acceptable to the Authority.

**.0202. Applications.**

- (a) To apply for a Grant, the student's Parent shall complete an application as instructed by the Authority.
- (b) Grants for reimbursement of Tuition, Special Education, Related Services, and Educational Technology expenses are disbursed to the Parent who completes the application.
- (c) The Parent shall complete a new application for renewal each Academic Year.

- (d) A copy of the student's most recent IEP documentation in the format determined by the Authority dated within three (3) years of submission shall be submitted to the Authority before the application can be approved.
- (e) The Authority may require the Parent to submit documentation or additional information to substantiate information presented in the application.
- (f) The Parent shall comply with any processes established by the Authority to verify information on the Parent's application.
- (g) Failure to cooperate with the verification process by the Parent may result in the denial of the application for a Grant.
- (h) If any information presented on the applicant's initial or renewal application changes, the Parent is responsible for notifying the Authority of any such change.

**.0203. Application Deadlines.**

The Authority may set the application deadlines for the Program for each Academic Year. An application for a Scholarship received after the applicable deadline may not be considered for a Scholarship.

**.0204. Transfers.**

A student who transfers from one Eligible School to another Eligible School during the Academic Year may be entitled to a pro-rata share of any unexpended portion of a Grant, in accordance with the policies of the Authority, to be used at the Eligible School to which the student transfers, depending upon when during the Semester the transfer occurs.

## Part III

### School Eligibility

#### **.0300. Requirements Related to Nonpublic Schools.**

- (a) The Nonpublic School shall be identified by the Division of Nonpublic Education as meeting the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (b) The Nonpublic School shall be physically located in North Carolina.

#### **.0301. Requirements Related to Home Schools.**

- (a) The Home School shall be identified by the Division of Nonpublic Education as meeting the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (b) The Home School shall be physically located in North Carolina.

#### **.0302. Duty to Update Contact Information.**

- (a) Each Eligible School shall update the Authority within five (5) days of any change in its contact information, including the name of the school administrator, the email address, the street address and phone numbers.

## Part IV

### Grants for Tuition by Direct Disbursement

#### **.0400. General Provisions.**

- (a) The Authority will disburse Grants for tuition directly to the Eligible Schools that comply with all requirements for direct disbursement set forth in Rule .0402.
- (b) Grants for tuition by direct disbursement shall be for a student that meets the eligibility requirements in Rule .0200.
- (c) Disbursement of Grants for tuition directly to Eligible Schools will be made only after the Authority receives all documentation required under Rules .0401 and .0402 and in a manner acceptable to the Authority.
- (d) Disbursements shall not be made until the Authority receives the Disabilities Grant Program Endorsement Form signed by the Parent from the School.
- (e) Disbursements shall be made after the beginning of each Semester at a date established by the Authority.
- (f) Home School students are not eligible for Grants for tuition.

#### **.0401. Parent Requirements.**

- (a) The Parent shall sign an endorsement form each Semester for the direct deposit of the Grant into the Eligible School's account, in person and on-site at the Eligible School.
- (b) The Parent shall not designate any entity or individual associated with the Eligible School to act as the Parent's attorney-in-fact to perform the endorsement.

#### **.0402. Requirements for Eligible Schools to Receive Direct Disbursement of Grants for Tuition.**

- (a) Applicability. In order to be paid tuition by direct disbursement, Eligible Schools must complete a registration process as established by the Authority, including completing each and every subpart of the initial registration process as set forth in this Rule.

(b) General Responsibilities.

1. Execute a Participation Agreement.
  - a. To receive direct disbursement of Grants for tuition, the Eligible School must sign a Participation Agreement.
  - b. The agreement shall remain in effect until it is terminated pursuant to the terms of the Participation Agreement.
2. Other Required Forms.
  - a. The Eligible School shall complete and submit an Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification, prior to disbursement of the Grant for tuition.
  - b. The Authority may require the Eligible School to complete and submit other forms as necessary to disburse the Grants for tuition in accordance with the Act.

(c) Tuition and Fees.

1. The Eligible School shall provide the Authority with a complete copy of its tuition and fee schedule for each Academic Year prior to the Authority disbursing Grant funds to the Eligible School for tuition.
2. The Eligible School shall provide the Authority with documentation of the required tuition charged to the student prior to the Authority's disbursing Grants for tuition for that student.
3. The Eligible School shall not require payment of any additional fees based on the status of the student as a recipient of a Grant.

(d) Grant Endorsement.

1. An employee of the Eligible School shall witness the Parent's signature and certify, in a manner satisfactory to the Authority, that the Parent endorsed the Grant for tuition in person, at the Eligible School.
2. The Eligible School shall transmit a record of the Parent's endorsement in the manner prescribed by the Authority and retain the original of the endorsement.

(e) Crediting the Student Account.

The Eligible School shall credit the student's account within ten (10) days of the receipt of a Grant.

(f) Refund Policy.

Each Eligible School shall comply with the Authority's policies for return of funds for the Program, including the Disabilities Grant Withdrawal and Refund policy.

(g) Nonpublic School Requirements.

1. Criminal Background Check.

- a. Each Nonpublic School shall conduct a criminal background check in a manner established by the Authority, national in scope and dated within one year of submission, for the staff member with the highest decision-making authority at the Nonpublic School as defined by the bylaws, articles of incorporation, or other governing document of the Nonpublic School to ensure that the person has not been convicted of any crime listed in G.S. § 115C-332(a)(1). A Nonpublic School shall notify the Authority if the staff member with the highest decision-making authority is charged or convicted of any crime listed in G.S. § 115C-332(a)(1) within five business days of the charge or conviction.
- b. A Nonpublic School shall notify the Authority within five (5) business days of employing a new staff member with the highest decision-making authority as defined by bylaws, articles of incorporation, or other governing document of the Nonpublic School and shall obtain a criminal background check on that person as required by this sub-subsection of Rule .0402(g)(1).

2. Financial Reporting Requirements.

- a. Each Nonpublic School that receives more than \$300,000 in Grant funds in a single Academic Year shall contract with a CPA to perform a Financial Review consistent with generally accepted accounting principles and in a format acceptable to the Authority.
- b. A copy of the Financial Review report prepared by the CPA must be submitted annually to the Authority in electronic format within ninety (90) days of the end of

the Nonpublic School's fiscal year.

- c. If the Financial Review report documents significant findings regarding the Nonpublic School's administration of Program funds, the Authority may withhold Program funds from the Nonpublic School until the findings are resolved.

3. Academic Progress Reporting Requirements.

a. Nationally Standardized Test.

- i. At least once a year, each Nonpublic School shall administer a Nationally Standardized Test, selected by the chief administrative officer of the Nonpublic School, to all students in grades three and higher whose tuition and fees are paid in whole or in part by the Program.
- ii. Each Nonpublic School shall report the scores of the Nationally Standardized Tests to the Authority by July 15 of each year in the manner prescribed by the Authority.

- b. Each Nonpublic School that enrolls more than twenty-five (25) students receiving Grants for tuition shall report Nationally Standardized Test scores in the aggregate to the Authority by July 15 of each year in a manner prescribed by the Authority.

- c. Each Nonpublic School shall report Graduation Rates to the Authority by July 15 of each year in a manner prescribed by the Authority.

- d. Each Nonpublic School will provide the Parent of each student who receives a Grant for tuition with a written explanation of the student's progress, including the Nationally Standardized Test scores, at least annually.

(h) Inspection, Retention, Review and Audit of Program Records.

1. Inspection of Records.

Each Eligible School shall provide the Authority with access to all records related to the administration of the Program upon request.

2. Retention of Records.

Each Eligible School shall retain all Program records for five years from the end of the Academic Year or until all audit findings are resolved, whichever is longer.

3. Review and Audit.

Each Eligible School shall be subject to examination by the Authority and any other audit process designated by the Authority to determine whether it has administered the Program in accordance with the Act and the Rules.

## Part V

### Expense Reimbursement Requirements

#### **.0500. Expense Requirements.**

In order to qualify for a Grant, the Parent shall submit documentation to the satisfaction of the Authority to demonstrate that the expense meets all of the following requirements:

(a) Generally. The expense shall be for a student that meets the eligibility requirements in Rule .0200.

(b) Tuition Reimbursement.

1. The Parent shall provide documentation that the student was enrolled in an Eligible School for which payment of tuition is required for at least 75 days of the Semester for which the Parent seeks reimbursement.
2. Tuition reimbursement is only available to families whose children attend schools that do not participate in the Opportunity Scholarship Program and that do not register to receive tuition by direct disbursement in the manner set forth in Rule .0402.
3. Students attending an Eligible School that also participates in the Opportunity Scholarship Program or an Eligible School that complies with Eligible School requirements for direct disbursement in Rule .0402 are not eligible to be paid tuition by the parent tuition reimbursement method set forth under this subsection.
4. Home School students are not eligible for reimbursement of tuition.

(c) Special Education Reimbursement.

1. The Parent shall receive reimbursement for Special Education only if the Parent provides documentation that the student received Special Education for at least 75 days of the Semester for which the Parent seeks reimbursement.
2. Special Education providers shall hold current State-approved, or State-recognized, qualifications or their equivalent as applicable to their respective professional disciplines.

3. Special Education providers shall not be a member of the student's immediate family and, if the student is a Home School student, shall not be a member of the households of the student's Home School.

(d) Related Services Reimbursement.

1. The Parent shall receive reimbursement for Related Services only if the Parent provides documentation that the student also received Special Education for at least 75 days of the Semester for which the Parent seeks reimbursement.
2. Related Services providers shall hold current State-approved, or State-recognized, qualifications as applicable to their professional discipline.
3. Related Services providers shall not be a member of the student's immediate family and, if the student is a Home School student, shall not be a member of the households of the student's Home School.

(e) Educational Technology Reimbursement.

1. The Parent shall receive reimbursement for Educational Technology only if the Parent provides documentation that the student used the Educational Technology for at least 75 days of the Semester for which the Parent seeks reimbursement.
2. The Educational Technology must meet the requirements in Program Rule .0502.

(f) The expense shall have been incurred during the Semester for which the Grant was approved.

(g) The reimbursable amount of the expense is limited to the amount incurred by the Parent.

(h) The expense shall be paid for by the Parent and may not be subject to reimbursement by other sources.

**.0501. Exclusions.**

(a) A student is not eligible for a Grant if the student's Special Education or Related Services are provided by the student's LEA, unless it is a Special Education or Related Service provided by the North Carolina Department of Public Instruction to a Child with a Disability in the Eligible School by the LEA, as required by 34 CFR Part 300.132.

(b) The Authority shall disapprove any expense submitted by a Parent for reimbursement if the Authority determines that the expense is inconsistent with the purpose of the Program, the Program Rules, and the Act.

**.0502. Educational Technology.**

- (a) Educational Technology shall assist the student to benefit from Special Education and be used primarily for educational purposes.
- (b) Educational Technology shall be used for at least 75 days of the semester for which the parent seeks reimbursement for the Educational Technology expense.
- (c) A list of approved Educational Technology shall be posted on the Program website.
- (d) Any updates to the list of approved Educational Technology will apply retroactively to the Academic Year in which the update is made.

## Part VI

### Reimbursement for Expenses Procedures

#### **.0600. Completion of a Form W-9.**

The Parent shall complete and submit an Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification, prior to disbursement of the Grant.

#### **.0601. Documentation of Attendance.**

The Parent shall provide documentation in a manner established by the Authority that the student was enrolled in an Eligible School for at least 75 school days of the Semester for which the Parent seeks reimbursement for Special Education and Related Services.

#### **.0602. Documentation of the Use of Educational Technology.**

The Parent shall provide documentation in a manner established by the Authority that the student used or will use the Educational Technology for at least 75 days of the Semester for which the Parent seeks reimbursement for the Educational Technology expense.

#### **.0603. Submittal of Documentation of Expense.**

- (a) Documentation of expenses shall be submitted in a manner established by the Authority.
- (b) Documentation of expenses shall verify that the expense incurred meets the applicable requirements of Part V of the Rules.
- (c) The Authority may require the Parent to complete and submit other forms as necessary to disburse the Grant to the Parent in accordance with the Act.

#### **.0604. Verification.**

- (a) The Parent shall comply with any processes established by the Authority to verify information on the Parent's application or documentation of the Parent's expenses.
- (b) The Authority may require additional information to verify documentation of the Parent's expenses.

- (c) The Parent shall provide consent for the release of the student's information from the student's Special Education providers, Related Services providers, schools, and other entities as may be necessary for the Authority to complete the verification process.
- (d) The Authority shall not approve reimbursement for any expenses until the verification process is complete.

## Part VII

### Failure to Comply

#### **.0700. Failure to Comply.**

- (a) If the Authority determines that an Eligible School has failed to comply with any requirement of the Act, the Rules, or Program policies, the Eligible School may be ineligible to participate in the Program or any other program administered by the Authority.
- (b) Upon receiving notice that the Eligible School is ineligible to participate in the Program, the Eligible School must notify the Parent of any enrolled student scheduled to receive or receiving a Grant for tuition that the school is no longer eligible to participate in the Program.
- (c) A school that is deemed ineligible to participate in the Program may be required to return a pro-rata share of the Grant that was to be used for tuition for the student to attend the Eligible School, depending upon when during the Semester the school is deemed ineligible, and as determined in accordance with the policies of the Authority.

## **Part VIII**

### **Interpretive Guidance**

#### **.0800. The Authority as Program Administrator.**

The Authority is hereby authorized and directed to develop, adopt and implement such policies, procedures, and forms as necessary from time to time in order to administer the Program in accordance with the Act and Rules.

#### **.0801. Interpretive Guidance.**

The Authority may, from time to time, issue guidance for interpreting the Program Rules in the form of policy memoranda or questions and answers. All interpretative guidance shall have the force and effect of the Rules.

*I, Elizabeth V. McDuffie, Executive Director and Secretary of the Board of Directors of the State Education Assistance Authority, DO HEREBY CERTIFY that the foregoing is a true and exact copy of the Rules Governing the Special Education Grants for Children with Disabilities Program as amended and restated effective July 1, 2016, adopted by the Board of Directors of the Authority on September 23, 2016 and as approved as final pursuant to the authority delegated to me; these Rules are in full force and effect.*

*WITNESS my hand and seal of the Authority, this the September 23, 2016.*



Elizabeth V. McDuffie

Executive Director and Secretary of the Board of Directors