# RSAI Testimony Regarding Proposed Rules

# HF 68 Education Savings AccountsJune 13, 2023

Thank you for the opportunity to comment on the proposed rules ACR 7023C Notice of Intended Action before the Administrative Rules Review Committee on June 13.

The Department (DE) was granted emergency rulemaking authority in Sec. 2 of HF 68:

Sec. 2. Section 256.9, Code 2023, is amended by adding NEW SUBSECTION. 66. Adopt rules relating to the administration of, and applications for, the education savings account program pursuant to section 257.11B, *including but not limited to* application processing timelines and information required to be submitted by a parent or guardian.

In addition to technical and clarification comments, RSAI leaders believe this broader authority not only allows but encourages rules on program accountability (assessments required in the legislation) and specific reporting back to public schools regarding the impact of ESA participation on public school enrollment (which impacts staffing and budgets).

**20.1(6)** (a) **Education Therapies:** **Definitions** RSAI supports including subsection (a), which appropriately defines “education therapies” with a training expectation and prohibition of “therapies” provided by the students’ family members. This is a good step in preventing waste, fraud and abuse experienced in other states implementing ESA programs.

**20.1(6) (b) Online Education:** Subsection (b) states: For purposes of this definition, approvable “online education programs” means online education programs provided by online education providers approved by the DE under Administrative Rules [Chapter 281-15](https://www.legis.iowa.gov/docs/iac/chapter/281.15.pdf), Subsection 12(6). Under current law, students are first enrolled in a public or accredited nonpublic school that has an online program. Approved program providers, which would market to and enroll students directly, are not eligible for tuition paid by public schools, or under HF 68, paid by ESAs. The rules should specify the expectation more clearly. There is good reason for this process; the public or nonpublic school has the responsibility to ensure that the private provider has Iowa-licensed teachers and meets reporting requirements. Although online private providers are “approved by the DE”, they do not meet the definition of “accredited nonpublic school” which Chapter 281-15 specifies must have a “brick and mortar” presence in order to offer online opportunities for some students.

**Proposed 20.1(6)(d)** **Service providers for students with disabilities:** should be amended to set the expectation that the “accredited provider” is accredited to provide services for students with disabilities and either holds the credential through the BOEE or any other credential issued by the State of Iowa to provide services in the student’s Individual Education Plan (IEP).

**Proposed 20.2(3)** **Eligible Students Residency:** since residency matters for categorical fund purposes for the public school district of residence, it is critical that the state or the third-party provider is diligent in confirming residence. We support the definition of enrollment in a nonpublic school as having attended the nonpublic school at any point in the immediately preceding school year.

**Omission of Rules re: Participation in State/Federal Assessments**: The Proposed Rule ARC 7023 does not include requirements for nonpublic schools to implement state and federal assessments which HF 68 mandated by taken by ESA recipient students. Since HF 68 mandates that the private school report test scores to parents and the DE, and mandates that DE is required to include assessment information in the Annual Condition of Education Report, processes for valid assessments should be clarified and expected via rulemaking.

**Omission of DE Reporting of ESA Student Counts to Public Schools**: The Proposed Rule ARC 7023 does not include any reference or expectation that the DE notify public school districts of resident students enrolled in an accredited nonpublic school and granted participation in the ESA Program. This reporting is critical. Public schools staff classrooms and apportion budgets and programs based on student needs and enrollment. Adjustments made early, before school starts, are the least disruptive and most efficient in helping to minimize the financial impact that will soon follow.

**We appreciate the opportunity to provide comments. Thank you for undertaking the work of emergency rulemaking required by the statute, which had to be hastily accomplished, while engaging in this thorough process to encourage public input.**

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