

Student Policy

STU-03 Appeal Process - Student Ineligible to Participate in EFA Program

1. Purpose

This policy establishes a fair and consistent process when the Children's Scholarship Fund (CSF) determines that a student is ineligible to participate or continue participating in the EFA Program.

The policy provides a parent, guardian, or EFA student with notice of the basis for the determination made, an opportunity to request reconsideration, and notice of the right to appeal an applicable decision to the Parent and Education Service Provider Advisory Commission the New Hampshire Department of Education (NHED) pursuant to RSA 194-F, Chapter Ed 800, and applicable provisions of Ed 200.

2. Scope

This policy applies when CSF determines that a student does not meet or no longer meets a requirement necessary to participate in the EFA Program.

An ineligibility determination may include a determination that:

- The student does not satisfy the definition of an eligible student under RSA 194-F;
 - The student does not meet New Hampshire residency requirements;
 - The student is not eligible to enroll in a New Hampshire public elementary or secondary school;
 - Required eligibility documentation is missing or establishes that the student does not satisfy a program requirement;
 - Information submitted in an application, renewal, or during continued participation establishes ineligibility;
 - The student has graduated or otherwise ceased to satisfy a requirement for continued EFA participation;
- The student has been exited from the EFA program due to a determination of suspected intentional and substantial misuse of EFA funds.

4. Notice of Ineligibility

When CSF determines that a student is ineligible to participate or continue participating in the EFA Program, CSF will provide notice to the parent or guardian.

The notice should include:

- The student's name;
- A statement that CSF has determined that the student is ineligible to participate or continue participating in the EFA Program;
- The principal factual basis for the determination
- Instructions to appeal or request reconsideration

5. Determinations of Suspected Intentional and Substantial Misuse

If a determination of suspected intentional and substantial misuse of EFA funds is made, CSF will notify the NHED, the NH State Board of Education, the NH Attorney General's Office and Local or State Law Enforcement as required by ED 806.01, within the time period prescribed. Please see

ADM-05, Procedure for Investigation of Suspected Intentional Misuse of EFA Funds for more information.

6. Grounds for Review or Appeal

A parent, guardian, or EFA student may challenge an eligibility determination when the person believes that:

- Material information was incomplete or misunderstood;
- Relevant documentation was not considered;
- CSF incorrectly applied an eligibility requirement;
- A record or administrative error materially affected the determination;
- New documentation establishes that the student satisfied the applicable eligibility requirement at the relevant time; or
- Another factual, legal, or procedural error materially affected the determination.

Disagreement with an eligibility requirement established by statute or administrative rule, standing alone, does not authorize CSF to disregard or waive that requirement.

7. Internal Reconsideration

A parent, guardian, or EFA student may request that CSF reconsider an ineligibility determination.

The request should:

- Identify the student;
- Identify the determination being challenged;
- Explain why the determination is believed to be incorrect; and
- Include supporting documentation or information relevant to the disputed eligibility requirement.

A request for reconsideration should be submitted to CSF in writing through the method identified in the notice of ineligibility.

Internal Review Is Not a Prerequisite to an External Review and Recommendation or Appeal

A parent, guardian, or EFA student is not required to complete CSF's internal reconsideration process before exercising an applicable right of appeal to NHED.

Requesting reconsideration from CSF does not constitute the filing of an appeal with NHED and does not extend an NHED or State Board of Education filing deadline unless authorized by the applicable law, rule, or reviewing authority.

8. Review of Internal Reconsideration

CSF will review the determination based upon the administrative record and any additional relevant information submitted with the request.

The reviewer may consider:

- The student's application or renewal;
- Eligibility verification documentation;
- Information supporting the original determination;
- Information submitted with the reconsideration request;
- Relevant EFA program records;
- Applicable provisions of RSA 194-F & Ed 800;
- Applicable EFA policies and program guidance; and

- Other verified information directly relevant to the student's eligibility.

The purpose of reconsideration is to determine whether the eligibility requirement was correctly applied to the relevant facts and whether the original determination should be affirmed, reversed, or modified.

9. Additional Documentation

CSF may request additional documentation ~~when reasonably~~ necessary to resolve a material eligibility question. CSF will request only information reasonably necessary to determine the eligibility issue.

Failure to provide requested documentation may result in confirmation of the determination when the available record is insufficient to establish that the student satisfies the applicable eligibility requirement.

10. Internal Reconsideration Decision

Following review, CSF will notify the parent affirming, reversing, or modifying the original determination.

Reversal

If CSF determines that the student was eligible, CSF will, as applicable:

- Reverse the ineligibility determination;
- Restore or continue the student's participation as permitted by law;
- Correct relevant EFA program records;
- Notify the parent or guardian; and
- Notify NHED when necessary to correct or update a previously reported determination.

Affirmation

If CSF determines that the student remains ineligible, the decision will:

- State that the determination is affirmed;
- Explain the principal basis for the decision;
- Identify the controlling eligibility requirement;
- Provide notice of applicable external appeal rights.

Modification

CSF may modify an eligibility determination when the record supports a result other than complete affirmance or reversal, provided that the modified determination is authorized by RSA 194-F and Chapter Ed 800.

11. External Review and Recommendation - Parent and Education Service Provider Advisory Commission

The parent or guardian may file a written request for appeal to the Parent and Education Service Provider Advisory Commission. The scholarship organization may request the commission to meet, in person or virtually, to the appeal and to provide a recommendation to CSF.

The appeal request must be mailed within thirty (30) calendar days of denial. Emailed appeals requests will not be accepted. Appeal Requests of before the Advisory Commission may not be made relative to determinations of suspected intentional and substantial misuse.

The request should:

- Identify the student;
- Identify the determination being challenged;
- Explain why the determination is believed to be incorrect; and
- Include supporting documentation or information relevant to the disputed eligibility requirement.

Mail requests to the following

CSF New Hampshire
Director of Compliance
180 Loudon Road
Concord, NH 03301

12. Appeal to the New Hampshire Department of Education

A parent or EFA student may appeal an applicable CSF decision concerning EFA eligibility to NHED as provided by RSA 194-F, Ed 806.01, and applicable provisions of Ed 200.

The person filing the appeal is responsible for complying with applicable NHED or State Board of Education filing requirements, including any applicable deadline, required contents, method of filing, and service requirements.

Upon receiving notice of an external appeal, CSF will reasonably cooperate with NHED or the State Board of Education and provide relevant program records as authorized or required by law.

13. Status of Student and Account During Review or Appeal

The filing of an internal reconsideration or external appeal does not, by itself, establish eligibility or entitle the student to additional EFA funding.

During review, CSF will administer the student's participation and account in accordance with RSA 194-F, Chapter Ed 800, applicable direction from NHED, and CSF policy.

CSF will separately consider, as applicable:

- The student's eligibility for continued participation;
- Eligibility to receive additional EFA funding;
- Suspension or termination of account activity;
- Pending transactions;
- Funds already deposited into the EFA; and
- Any recovery or return of funds required by law.

Funds will not be forfeited, recovered, released, or otherwise disposed of solely because an appeal has been filed. The treatment of EFA funds will be determined according to applicable law and the circumstances underlying the eligibility determination.

14. Confidentiality

Eligibility reviews and appeals may contain confidential student, family, financial, educational, or other protected information.

CSF will maintain, use, and disclose information associated with an eligibility determination or appeal in accordance with applicable federal and state law, EFA program requirements, and CSF privacy and records-management policies.

3. Governing Principles

Eligibility Determined Under Law and Rule

CSF will determine student eligibility according to RSA 194-F, Chapter Ed 800, and applicable EFA program requirements relevant to the student eligibility determination.

Distinguishing Incomplete Applications from Ineligibility

CSF will distinguish between an application that is incomplete and a determination that a student is ineligible. If CSF receives an incomplete application, the applicant shall be notified within 15 days of receipt of the application what is missing.

Independent Review

When practicable, internal reconsideration will be reviewed by an appropriate CSF employee other than the person who made the initial determination or will receive secondary managerial review.

Preservation of External Appeal Rights

CSF's internal reconsideration process is an administrative mechanism intended to identify and correct errors efficiently. It does not replace, restrict, or waive an appeal right established by RSA 194-F, Ed 806.01, Ed 200, or other applicable law.

15. Statutory and Regulatory Authorities

- RSA 194-F:1 - Definitions
- RSA 194-F:3 - Application for an Education Freedom Account
- RSA 194-F:4 - Authority and Responsibilities of the Scholarship Organization
- Chapter Ed 800 - Education Freedom Account Program
- Ed 803 - Scholarship Organization Requirements
- Ed 805 - Application and Enrollment
- Ed 806.01 - Termination of EFAs
- Ed 200 - Rules of Practice and Procedure

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