

**141.506 Application to establish an education opportunity account for eligible students -- Renewal -- Process to cease funding student account. (See LRC Note below)**

- (1) To establish an EOA for an eligible student, the parent shall submit an application to an AGO.
- (2) The AGO shall approve an application for an EOA if:
  - (a) An AGO verifies that the student on whose behalf the parent is applying is an eligible student;
  - (b) Funds are available for the EOA; and
  - (c) The parent signs an agreement with the AGO:
    1. To use the funds in the EOA only for the covered qualifying expenses;
    2. Not to establish any other EOA for the eligible student with any other AGO;
    3. To comply with the rules and requirements of the EOA program; and
    4. Not to use EOA funds to cover the cost of educational materials or services if they are currently receiving the same types of materials or services through the school district in which the student is enrolled.
- (3) The AGO shall annually renew a student's EOA if funds are available unless the student's family income has increased above two hundred fifty percent (250%) of the amount of household income necessary to establish eligibility for reduced-price meals based on size of household as determined annually by the United States Department of Agriculture applicable to the Commonwealth, pursuant to 42 U.S.C. secs. 1751 to 1789.
- (4) In the event that an eligible student becomes ineligible for reasons other than fraud or misuse of funds, the AGO may cease funding for the student's EOA provided that:
  - (a) The AGO immediately suspends payment of additional funds into the student's EOA. For EOAs that have been open for at least one (1) full school year, the EOA shall remain open and active for the parent to make qualifying expenditures to educate the student from funds remaining in the EOA. When no funds remain in the student's EOA, the AGO may close the EOA;
  - (b) If a parent reapplies to the AGO and signs a new written agreement, payments into the student's existing EOA may resume if the EOA is still open and active. A new EOA may be established if the student's EOA was closed; and
  - (c) An AGO shall adopt policies to provide the least disruptive process possible for EOA students desiring to leave the EOA program.

**Effective:** June 29, 2021

**History:** Created 2021 Ky. Acts ch. 167, sec. 8, effective June 29, 2021.

**Legislative Research Commission Note** (12/15/2022). On December 15, 2022, the Kentucky Supreme Court ruled that the Education Opportunity Account Act, KRS 141.500 to 141.528, as enacted in 2021 HB 563 (2021 Ky. Acts ch. 167), "violates the proscription in Section 184 of the Kentucky Constitution on the raising or collecting of 'sums[s]' for 'education other than in common schools.'" *Commonwealth ex rel. Cameron v. Johnson, et al.*, 2021-SC-0518-TG.