

TITLE 6: ECONOMIC DEVELOPMENT

PART 2: INDEPENDENT SCHOOLS COVID-19 ASSISTANCE GRANT PROGRAM

PART 1 CHAPTER 1: INDEPENDENT SCHOOLS COVID-19 ASSISTANCE GRANT PROGRAM RULES AND REGULATIONS

RULE MAKING AUTHORITY: In Section 9 of the “Independent Schools’ COVID-19 Assistance Grant Program Act” (House Bill 1793, 2020 Reg. Session) (the “Independent Schools Act”), the Mississippi Legislature designated the Mississippi Development Authority (“MDA”) to administer the “Independent Schools’ COVID-19 Assistance Grant Program” (the “Program”), specifically authorizing MDA to “develop regulations, procedures and application forms to govern the administration of the program.”

Source: House Bill 1793, 2020 Regular Legislative Session

EMERGENCY RULE MAKING AUTHORITY: COVID-19 is a global pandemic that has reached the State of Mississippi, causing a major impact on the public health, safety, and welfare on the citizens of the state, placing them in imminent peril, including with regard to their economic security and wellbeing. Funding for the program is provided from the State of Mississippi’s allocation of \$1.25 billion from the “Coronavirus Relief Fund” (Title VI, Sec. 601) of the “Coronavirus Aid, Relief, and Economic Security Act” (H.R. 748), signed into law by President Donald J. Trump on March 27, 2020. Mississippi’s allocation is available until December 31, 2020, thus requiring funds to be expended within a limited time period. Therefore, the Independent Schools Act requires that the Program be available until December 1, 2020, at which time unobligated monies shall lapse into the Budget Contingency Fund, to be transferred by the Mississippi State Fiscal Officer into the Unemployment Compensation Fund. In accordance with Miss. Code Ann. §§ 25-43-3.108 and 25-43-1.104 (Rev. 2006) of the “Mississippi Administrative Procedures Act” and the rules enacted by the Mississippi Secretary of State’s Office, MDA hereby gives notice of the immediate adoption of these Program Rules due to “an imminent peril to the public health, safety or welfare” and pursuant to the authority found in State of Emergency COVID-19” Proclamation issued by Governor Tate Reeves on March 14, 2020. These Rules and Regulations shall become effective immediately upon filing with the Secretary of State's Office.

Source: House Bill 1793, 2020 Regular Legislative Session: Miss. Code Ann. §§ 25-43-3.108 and 25-43-1.104 (Rev. 2006).

RULE 1.1 PROGRAM OBJECTIVE AND PURPOSES.

The Program is designed for the purpose of making grants to Eligible Independent Schools to provide reimbursements for Eligible Expenses incurred by them for “public health measures” or “due to an interruption in learning due to COVID-19.” The Program shall comply with applicable federal and state laws, rules, and regulations.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.2 DEFINITIONS

- A. “Independent Schools Act” means House Bill 1793, 2020 Reg. Session.
- B. "Program" means the “Independent Schools' COVID-19 Assistance Grant Program” established by the Independent Schools Act.
- C. “COVID-19” means the Coronavirus Disease 2019.
- D. “CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act.
- E. “Eligible Independent School” means:
 - 1. Any private or nonpublic primary school (that is, elementary school serving grades kindergarten through fifth or sixth grade), intermediate school (that is, middle school serving grades fifth or sixth grade through eighth grade), or secondary school (that is, high school serving ninth grade through twelfth grade) operating within the State of Mississippi that
 - a. Is a member of the Midsouth Association of Independent Schools (“MAIS”); or
 - b. Is accredited by a state, regional or national accrediting organization; and
 - c. Is not subject to the purview of authority of the Mississippi State Board of Education.
 - 2. Any independent university (that is, postsecondary where students receive a bachelor's degree) that
 - a. Is accredited by a state, regional or national accrediting organization; and
 - b. Is not subject to the purview of authority of the Mississippi State Institutions of Higher Learning.
 - 3. The Eligible Independent School must be “operating within the State of Mississippi” and “located in the State of Mississippi,” which means that it must be headquartered in the State of Mississippi with a physical location in the State of Mississippi and conducting actual classroom educational activities within the State of Mississippi.
 - 4. “Eligible Independent School” shall not include any trade schools or vocational schools, that is those schools which offer a postsecondary education designed to give students the technical skills to prepare them for specific occupations and/or specialized skills for specific jobs.
- F. "Interruption in learning” means disruption of regular educational instruction in the Eligible Independent School’s physical location in the State of Mississippi resulting from required or voluntary closure related to COVID-19.
- G. “Public health measure” means any action reasonably taken to prevent the spread of COVID-19 in the educational setting at the Eligible Independent School’s physical location in the State of Mississippi.

H. “Eligible Expense” means a cost incurred by an Eligible Independent School from March 1, 2020 through December 1, 2020 due to an interruption in learning and/or for public health measures.

1. Eligible Expenses include, but are not limited to, the following:

a. Training and professional development of the Eligible Independent School staff and employees regarding measures to decrease the spread of COVID-19 and familiarity with technology programs and devices to facilitate distance learning;

b. Purchasing facility sanitization supplies and other expenses of disinfection of the Eligible Independent School's facilities to mitigate or respond to COVID-19;

c. Purchasing technology programs and equipment for the expansion of internet connectivity and broadband access within the Eligible Independent School's facilities to be used by school administrators, faculty and staff to facilitate online distance learning;

d. Purchasing necessary equipment and accommodations and providing adequate services for students with disabilities;

e. Purchasing medical supplies and personal protection equipment (“PPE”) to address COVID-19;

f. Developing infrastructure necessary at the Eligible Independent School to increase capacity in workforce development or skills training classes for students who are unemployed, underemployed or seeking new employment as a direct or indirect result of COVID-19; or

g. Medical expenses incurred by the Eligible Independent School to treat or dispense treatment for COVID-19, including COVID-19 testing and serological testing, emergency medical response and transportation, and telemedicine expenses related to COVID-19.

2. No cost will be considered an Eligible Expense if it has been determined to be ineligible under the guidelines, guidance, rules, regulations, and/or other criteria of the United States Department of Treasury regarding the use of monies from the “Coronavirus Relief Fund” established by the “Coronavirus Aid, Relief, and Economic Security Act.”

I. “MDA” means the Mississippi Development Authority.

J. “Application” means the form that each potential Eligible Independent School must complete online and submit to MDA to demonstrate eligibility for the Program. This document will also bind the Eligible Independent School to all terms and conditions of the Program.

K. “Grant” means an award by the MDA to an Eligible Independent School to cover eligible expenses in accordance with the Independent Schools Act.

L. “Reimbursement Request” means the form that each Eligible Independent School must complete online and submit to MDA, along with required supporting documentation for Eligible Expenses.

M. “Rules” means these rules as authorized by the Independent Schools Act.

Source: House Bill 1793, 2020 Legislative Session.

RULE 1.3 APPLICATIONS.

A. All potential Eligible Independent Schools must provide the following information in the Application:

- a. The full legal name of the entity, along with any DBAs or tradenames.
- b. The designation of the entity as either a primary or secondary school or university;
- c. The physical address of the entity’s headquarters;
- d. The physical address(es) of the entity’s educational facilities;
- e. The entity’s phone number;
- f. The entity’s email address;
- g. The name of the primary contact for the entity;
- h. The name of the state, regional, and/or national accrediting organization which has issued accreditation of the entity;
- i. The dates of any interruption in learning incurred by the entity;
- j. A narrative demonstrating the entity’s need for grant funding from the Program, along with a description of the purpose for which grant funds will be used to mitigate the impact of COVID-19 on the operation of the entity and its delivery of instruction;
- k. Response as to whether the entity has applied for and/or received any funds from federal, state, or other programs covering costs related to COVID-19.

B. In addition to providing answers to these questions, the entity must certify by a representative with authority to bind the entity that it understands and agrees to certain required provisions, including the following statements:

- a. That the Eligible Independent School understands and agrees to follow and obey all provisions of the Program, including but not limited to, the Independent Schools Act and the Rules;

- b. That if the Eligible Independent School is found to be fully or partially noncompliant with any Program requirements, it will be required to return all or a portion of the monies received from the Program, as well as being subject to additional civil and criminal penalties;
 - c. That the Eligible Independent School certifies and acknowledges that by accepting reimbursement for Eligible Expenses under the Program, it may be subject to additional monitoring, oversight, and/or auditing by the U.S. Department of Treasury’s Office of the Inspector General, the Mississippi Office of the State Auditor, the Mississippi Development Authority, or such other federal or state agencies with authority to conduct such reviews;
 - d. That the Eligible Independent School is operating within and is located in the State of Mississippi; and
 - e. That the Eligible Independent School did not receive and has not been awarded reimbursement under any other federal, state, or other program for the Eligible Expenses that it is submitting for reimbursement from Program funds.
- C. The Application must be signed under penalty of perjury by a representative of the entity with authority to bind it that all responses and statements are true and correct and are not false, fraudulent, or materially misleading.
- D. All supporting information requested in the Application must be provided. The failure of an entity to fully complete this Application and/or to agree to the required certifications and representations will result in the Application to be disqualified.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.4 VERIFIED DOCUMENTATION.

The Independent Schools Act requires the Eligible Independent School to submit “verified documentation” along with the Application; therefore, the documents must be certified copies or, on their face, appear to be true and correct copies. In addition to any other documentation, the Eligible Independent School must submit the following at the time of Application:

- A. Any formation documentation that supports the legal existence of the Eligible Independent School; and
- B. Certification(s) of accreditation from a state, regional, or national accrediting organization.

The Eligible Independent School, by and through a representative with authority to bind it, must specifically sign under penalty of perjury that all of the documents are true and correct and are not false, fraudulent, or materially misleading. All supporting information requested in the Application must be provided.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.5 APPLICATION REVIEW PROCESS.

- A. Applications will be processed in the order by which they are received.
- B. Non-qualifying entities will be notified of the disqualification.
- C. A final grant award amount will be determined, and notice will be provided to the Eligible Independent School.
- D. At any point during this process, MDA may contact the Eligible Independent School for further information or supplemental documentation.
- E. MDA reserves the right to independently verify any information submitted.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.6 CERTIFICATION OF MAIS SCHOOLS.

MDA anticipates obtaining from the Midsouth Association of Independent Schools a certified list of all those Eligible Independent Schools who are accredited members of its organization and which meets the definition of Rule 1.2 E. Such certification will serve as a basis for verifying grant awards to those member Eligible Independent Schools.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.7 REIMBURSEMENT REQUESTS.

Upon approval, Eligible Independent Schools must submit their Eligible Expenses through the proscribed Reimbursement Request form. These Eligible Expenses will need to be itemized on the form, and the Eligible Independent School must certify that it has not received any other funds from any other source to cover these items. The Reimbursement Request form must be signed under penalty of perjury by the representative with authority to do so on behalf of the Eligible Independent School. Furthermore, the Eligible Independent School must submit supporting documentation for the Eligible Expenses, including, but not limited to invoices, purchase orders, receipts, bills, charges, or other financial statements. Failure to submit supporting documentation will result in those claims being denied as Eligible Expenses.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.8 PROCESSING AND TIMING OF REIMBURSEMENTS.

Reimbursement Requests will be processed in the order by which they are received. At any point during the process, MDA may contact the Eligible Independent School for further information or supplementation documentation. MDA reserves the right to independently verify any information or documentation submitted, including reviewing the records of the Eligible Independent School. Eligible Independent Schools may submit a Reimbursement Request one time every thirty (30) days.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.9 REIMBURSEMENT CAPS.

Pursuant to the Independent Schools Act, reimbursements for Eligible Expenses will continue to be given to the Eligible Independent Schools until the Program expires on December 1, 2020 or Program funds are exhausted. Furthermore, the Independent Schools Act sets a limit on the total amount each Eligible Independent School can receive at \$100,000.00. Any Program funds received must be the lessor of the amount indicated in the Eligible Independent School's Reimbursement Request as itemized eligible COVID-19 related Eligible Expenses or the eligible maximum amount, subject to approval by MDA.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.10 REPAYMENT OF FUNDS.

By submitting an Application, each Eligible Independent School will acknowledge and agree under penalty of perjury that the submission of any false, fraudulent, or materially misleading information in the Application or in support of the Application will result in immediate disqualification and penalties under state and federal law. If such information is discovered following an award of grant funds, the Eligible Independent School and anyone acting as a representative of the Eligible Independent School will be prosecuted to the fullest extent of the law and shall repay all grant funds received.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.11 DISBURSEMENT OF FUNDS.

All grant funds will be disbursed by written check in the name of the Eligible Independent School and mailed to the physical address provided in the Application.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.12 APPEALS PROCESS.

- A. An Eligible Independent School may appeal any award or disqualification notice received from MDA by giving written notice within twenty (20) calendar days of the date of the MDA notice of award decision. The appeal must be received by MDA at the address below by the 20th day. If an appeal is not made within the twenty (20) calendar day timeframe, the Eligible Independent School will have waived its right to appeal the decision and the original decision shall be deemed final.
- B. Appeals must be written and state with specificity the basis for the Eligible Independent School's disagreement with the decision. Appeals are determined solely on the written record. The appeal must address the grounds provided for the award or the MDA's disqualification notice. Furthermore, the appeal must provide copies of all documents, records, papers or other information to support the appeal. In addition, all appeals must

be dated and contain the Independent School's name and the name of the authorized Eligible Independent School's representative.

C. To be accepted, the written appeal must be delivered by one of two methods:

By United States Mail to the following address:
Mississippi Development Authority
Independent Schools' COVID-19 Assistance Grant Program:
Appeals
P.O. Box 849
Jackson, Mississippi 39205

Or by courier mail or hand delivery to the following:
Mississippi Development Authority
Independent Schools' COVID-19 Assistance Grant Program:
Appeals
501 North West Street
Jackson, Mississippi 39201

D. MDA will review the appeal and all supporting material to determine if the appeal can be resolved based upon the Eligible Independent Schools' submission and Program requirements. If so, a final written determination of the appeal will be issued by MDA.

E. If the appeal cannot be resolved after the initial review, MDA will forward the appeal for review by an Independent Hearing Officer ("IHO"), to be designated by the Attorney General of Mississippi. MDA will provide the IHO the Eligible Independent Schools' file, the appeal and all supporting material provided by the Independent School on appeal, all program requirements and policies, an MDA explanation of the case, and MDA's recommendation (if any). The IHO will review all of the written materials and issue a written decision to MDA. MDA will review and make a final written determination which will be issued by MDA to the Eligible Independent School within ten (10) days of the receipt of the IHO's decision.

F. All appeal determinations made by MDA are final with no further administrative review and are not subject to judicial review.

G. An Eligible Independent School can withdraw the appeal at any time by providing written notice to MDA. Such written notice must be delivered to MDA at the addresses set forth above.

H. Program requirements established by MDA as dictated by federal and state law may not be waived or abrogated.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.13 FRAUD REFERRALS

In cases in which fraud is suspected or where false or materially misleading information or documentation has been provided by an Independent School and/or an Independent Schools' representative, a written referral will be made to the Mississippi State Auditor's Office, the Office of the United States Attorney, or other appropriate federal or state agencies. MDA will cooperate fully in such investigations and provide all information and documentation which it has received or gathered on the Eligible Independent School and/or the Eligible Independent School's representative.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.14 WAIVER. The Rules may be amended by MDA at any time and are further subject to amendment pursuant to any change in the federal law providing for the grant funds and the regulations and guidance implemented related thereto. MDA, in its sole discretion, may temporarily waive any requirement of the Rules to the extent that the result of such waiver promotes the public purpose of the Independent Schools Act and is not prohibited by state or federal law.

Source: House Bill 1793, 2020 Regular Legislative Session.

RULE 1.15 AVAILABILITY OF FUNDS. This program is contingent upon the availability of funds as appropriated by the Legislature and provided by the Federal government.

Source: House Bill 1793, 2020 Regular Legislative Session.

Adopted July 31, 2020.