



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

6/25/2024 3:22:12 PM

Office of West Virginia  
Secretary Of State

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**NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE**

AGENCY: Treasurer TITLE-SERIES: 112-18  
RULE TYPE: Legislative Amendment to Existing Rule: Yes  
RULE NAME: Hope Scholarship Program

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

§18-31-9

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

N/A

DATE EMERGENCY RULE WAS ORIGINALLY FILED: 02/07/2024

DATE(S) OF PREVIOUS EMERGENCY AMENDMENT(S)

N/A

PRIMARY CONTACT:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

West Virginia Code §18-31-9 authorizes the Hope Scholarship Board to file emergency rules necessary for the administration of the article. During the Board's December meeting, it authorized changes to the Board's application deadlines and prorated funding formulas which will go into effect for the upcoming academic year. Additionally, the amendments to the rule make minor technical clarifications to conform the rule to current practices.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**James G Fuerhoff -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 112  
LEGISLATIVE RULE  
HOPE SCHOLARSHIP BOARD

SERIES 18  
HOPE SCHOLARSHIP PROGRAM

**§112-18-1. General.**

- 1.1. Scope. -- This rule provides the administrative requirements of the Hope Scholarship Program.
- 1.2. Authority. – W. Va. Code §18-31-9.
- 1.3. Filing Date. – ~~April 13, 2023~~
- 1.4. Effective Date. – ~~June 15, 2023~~

**§112-18-2. Definitions.**

2.1. “Academic year” means the period of time occurring between the first day of July and ending on the 30th day of June, during which a student must meet the educational requirements equivalent to an instructional term as provided in W. Va. Code §18-8-1.

2.2. “Account” means the savings account established for an individual Hope Scholarship student, into which the Board deposits the Hope Scholarship funds allocated to said student pursuant to W. Va. Code §18-31-6.

2.3. “Account holder” means the person designated and authorized to administer and manage a Hope Scholarship student’s account according to section 5 of this rule.

2.3.1. For the purposes of a student’s enrollment application, “account holder” refers to the person who applies or submits information on behalf of the potential Hope Scholarship student.

2.3.2. For the purposes of this rule, “account holder” does not include a secondary account holder unless the provision in question clearly and specifically refers to a “secondary account holder.”

2.4. “ACH” means automated clearinghouse, a national EFT network which enables participating Financial Institutions to distribute electronic credit and debit entries to financial institution accounts and to settle the entries.

2.5. “Board” means the Hope Scholarship Board established in W. Va. Code §18-31-3.

2.6. “Curriculum” means a complete course of study for a particular content area or K-12 grade level, including any supplemental materials required.

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2.7. “Education service provider” or “provider” means a person or organization that the Board authorizes to receive Hope Scholarship funds as payment for providing educational services to Hope Scholarship students.

2.8. “Elementary or secondary public school” means a K-12 county school, a public charter school, a virtual public charter school, or any other publicly supported elementary or secondary school in this state.

2.9. “EFT” means electronic funds transfer.

2.10. “Electronic transaction” means an EFT, including, but not limited to, payment by ACH, ACH based electronic check, wire transfer, and online transaction processing.

2.11. “Funds” means Hope Scholarship funds.

2.12. “Hope Scholarship Program” or “Program” means the Hope Scholarship Program, established in W. Va. Code §18-31-1 *et seq.*

2.13. “Hope Scholarship student” or “student” means a student who has successfully applied to the Board and is enrolled in the Hope Scholarship program.

2.14. “Hope Scholarship website” means the website created and maintained to provide program information, program documents, and program forms available to the public.

2.15. “Immediate family”, as used to describe a person’s relationship to a Hope Scholarship student, includes any of the following:

2.15.1. The father or mother of the student, or an ancestor of either;

2.15.2. The grandfather or grandmother of the student, or an ancestor of either;

2.15.3. A brother, sister, stepbrother, or stepsister of the student;

2.15.4. A first cousin of the student;

2.15.5. A stepfather or stepmother of the student;

2.15.6. A brother or sister of the father or mother of the student;

2.15.7. A son or daughter of a brother or sister of the student;

2.15.8. A father-in-law, mother-in-law, brother-in-law, or sister-in-law of the student;

2.15.9. The spouse of the student; or

2.15.10. The spouse of any person described in subdivisions one through nine of this subsection.

2.15.11. Any term set forth in this subdivision means and includes such term as established through a lawful adoption, including, but not limited to, adoptions of a child or children, or other natural person, by

a natural person or natural persons who are not the father, mother, or stepparent of the child or person.

2.16. “Individualized Instructional Program (IIP)” means a customized educational experience that takes place either at home or another location. Hope Scholarship students with an IIP are not enrolled in a participating school.

2.17. “Instructional term” means a period of continuous enrollment in the West Virginia public school system for the full academic year. The instructional term refers to the regular 180 instructional days of the public-school calendar in accordance with W. Va. Code §18-5-45.

2.18. “Online portal” means the online system and interface selected and administered by the Treasurer through which parents, vendors, and service providers may complete transactions using Hope Scholarship funds.

2.19. “Scholarship disbursement” means the deposit of Hope Scholarship funds pursuant to section 7.3. of this rule.

2.20. “Student” refers to an individual who is eligible to participate in the Hope Scholarship program according to section 3 of this rule. For the purposes of meeting the application requirements in this rule, an action completed by a designated account holder is considered to be an action completed by the student.

2.21. “Transaction” means a single purchase, payment, or transfer.

2.22. “Treasurer” means the West Virginia State Treasurer or his or her designee.

2.23. “Unlawful sharing of Hope Scholarship funds” or “unlawful sharing” refers to sharing in Hope Scholarship funds by a parent, student, or account holder, as prohibited by W. Va. Code §18-31-7(c).

### §112-18-3. Eligibility

3.1. A student is eligible to apply to participate in the Hope Scholarship Program if the student:

3.1.1. Is a resident of the State of West Virginia;

3.1.2. Has not successfully completed a secondary education program;

3.1.3. Is under 21 years of age; and

3.1.4. Meets one of the following criteria at the time an enrollment application is submitted:

3.1.4.a. The student is eligible to be enrolled in a kindergarten program in West Virginia according to W.Va. Code §18-8-1a; *Provided*, That if a student has not yet attained the age of five by July 1 and would not be eligible to be enrolled in a kindergarten program under the provisions of W. Va. Code §18-5-18, the student may become eligible for a Hope Scholarship if the student successfully enrolls in a public kindergarten program in West Virginia through the public kindergarten program’s early entrance process. If a student who has not yet attained the age of five by July 1 and who is unable to enroll in a public kindergarten through an early entrance process otherwise attends a kindergarten program authorized under W.Va. Code §18-8-1a, that student is considered an existing private school or homeschool student who

must meet the eligibility requirement under subdivision 3.1.4.c. of this rule to become eligible for the Hope Scholarship Program since the student is no longer eligible for kindergarten.

3.1.4.b. The student was enrolled in an elementary or secondary public school education program in the State of West Virginia for the entire instructional term during the academic year immediately preceding the academic year for which the student is applying to participate in the Hope Scholarship Program; or

3.1.4.c. The student is enrolled full-time and attending an elementary or secondary public school education program in the State of West Virginia at the time of application and has been enrolled in said program for at least forty-five (45) consecutive calendar days during an instructional term. The student must remain enrolled and attending public school until an award letter is issued by the Board. To meet the attendance portion of this eligibility option, students shall not have unexcused absences during the public-school enrollment period that exceed the threshold to be considered chronically absent, which is ten percent of the calendar days enrolled in the public school.

3.2. Notwithstanding section 3.1., if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment adjusted for state aid purposes for the previous school year, then, effective July 1, 2026, a child is considered to meet the requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program or public elementary or secondary school program in this state at the time of application.

3.3. If a Hope Scholarship student becomes ineligible to participate in the program during the academic year based on the criteria in subsections 3.1.1. through 3.1.3. of this section, his or her account will terminate as provided in section 10 of this rule.

3.4. According to §18-8-1(m), a parent must provide notice of intent to participate in the Hope Scholarship Program to the county superintendent of the Hope Scholarship student's county of residence. The Board may withhold or delay funding to a Hope Scholarship student's account if a notice of intent has not been submitted.

3.5. A student may appeal an eligibility determination of the Board by filing an appeal according to the procedure in W. Va. C.S.R. §112-19-11.

#### **§112-18-4. Applications.**

##### **4.1. Enrollment applications.**

4.1.1. An account holder must submit an enrollment application to the Board on a student's behalf in order to enroll the student in the Hope Scholarship program.

4.1.2. The Board will accept enrollment applications from eligible students ~~from March 1 until May 15 of each calendar year, for the academic year beginning on July 1 of that calendar year year-round,~~ according to any applicable deadlines adopted by Board motion and published on the Board's website located at <https://hopescholarshipwv.com/>:-Provided, That if an application deadline occurs on an official

~~state holiday or a weekend day, the deadline will be the next occurring weekday that is not an official state holiday.~~

4.1.3. The enrollment application will be on a form prescribed by the Board and will require applicants to provide, at a minimum, the following information:

- 4.1.3.a. Account holder legal name;
- 4.1.3.b. Account holder physical address;
- 4.1.3.c. Account holder mailing address;
- 4.1.3.d. Account holder email address;
- 4.1.3.e. Student legal name;
- 4.1.3.f. Student physical address;
- 4.1.3.g. Student mailing address;
- 4.1.3.h. Student county of residence;
- 4.1.3.i. Student date of birth;
- 4.1.3.j. The student's West Virginia Education Information System (WVEIS) number; and

4.1.3.k. Documentation demonstrating that the student meets the eligibility requirements for participation in the Hope Scholarship program, as required by the Board, including but not limited to, a copy of the student's birth certificate and current proof of West Virginia residency; Provided, that Board staff may request additional documentation to verify proof of West Virginia residency as determined necessary by Board staff. The list of acceptable documents to satisfy proof of West Virginia residency includes the following:

4.1.3.k.1. Two West Virginia utility bills not more than 60 days old from two different companies, not including termination notices;

4.1.3.k.2. Current tax records with a West Virginia address matching the address on the application;

4.1.3.k.3. Proof of West Virginia home ownership, such as a mortgage document or homeowner's insurance document;

4.1.3.k.4. A valid and current West Virginia driver's license or other West Virginia-issued identification card, when presented along with a second form of accepted proof of residency;

4.1.3.k.~~45~~. A valid and current West Virginia vehicle registration card;

4.1.3.k.~~56~~. ~~Residential rental or lease agreement;~~ or

4.1.3.k.6. Current proof of public assistance through the West Virginia Department of Health and Human Resources.

4.1.4. The Board may place a submitted application on hold due to missing, inaccurate, or incomplete information or documentation needed for the Board to approve the application. If the account holder does not provide the information or documentation required for the Board to approve the application within 30 days after the account holder receives notice of the need for additional information or documentation, the application may be denied.

4.2. ~~Renewal applications~~ Annual continuation of Hope Scholarship Account.

4.2.1. An account holder may ~~renew~~ continue participation a Hope Scholarship student's account in the Hope Scholarship Program for each upcoming academic year in which the student is eligible to participate in the program by ~~filing a renewal application on a form prescribed by the Board according to the~~ meeting the annual continuation requirements of this section. An account holder must annually meet the following requirements as a condition of continued program participation from one school year to the next:

4.2.1.a. The parent must submit proof of the student's continued West Virginia residency;

4.2.1.b. The parent must execute the parent agreement with the Board described in W.Va. Code §18-31-5(d)(3) ahead of each school year; and

4.2.1.c. The parent must report to the county superintendent of the student's county of residence that the student has complied with all attendance and academic requirements in accordance with W.Va. Code §18-31-8(a) for the most recent school year.

4.2.2. ~~The Board will accept renewal applications from January 15-May 15 each calendar year, for the academic year beginning on July 1 of that calendar year. An account holder must meet the annual continuation requirements of this section according to any applicable deadlines adopted by Board motion and published on the Board's website located at <https://hopescholarshipwv.com/>; Provided, That if an application deadline occurs on an official state holiday or a weekend day, the deadline will be the next occurring weekday that is not an official state holiday.~~

4.2.3. A Hope Scholarship student's account will remain open for each academic year for which the account holder ~~renews~~ meets the conditions for continued participation in the Program the account. Any unused funds in a Hope Scholarship student's account at the end of an academic year will remain in a renewed account and carry forward for the student's use during the upcoming academic year so long as their eligibility to participate in the program is maintained.

4.2.4. A Hope Scholarship student who fails to ~~renew~~ continue participation of his or her account ~~may submit a regular enrollment application to the Board during the regular enrollment period occurring in subsequent academic years; may submit a new application to the Board at any time but will be subject to the eligibility criteria that apply to new student applicants; Provided, That a student who fails to meet the academic or attendance reporting requirements in W.Va. Code §18-31-8(a) may not submit a new application to the Board for the school year immediately following the year for which he or she failed to meet said requirements. Provided, That Whenever an account is closed for failure to meet requirements to continue participation in the Program, all funds remaining in the student's account at the end of the~~

academic year will be returned to the State and will not carry forward for use during subsequent academic years.

~~4.3. A student who was ineligible for the Hope Scholarship Program during the most recent enrollment application period, but who becomes eligible for the Hope Scholarship Program during the academic year by meeting the criteria in subdivision 3.1.4.e. of this rule, may submit an enrollment application to the Board at any time during the academic year. The Board may also accept applications from eligible students who missed the application period in subsection 4.1.2. on a case by case basis at any time during the academic year so long as all other eligibility criteria are met.~~

~~4.4.~~ 4.3. All applications described in this section will be available on the Hope Scholarship website located at <https://hopescholarshipwv.com/>.

#### **§112-18-5. Authorized Account Holder.**

5.1. An enrollment application must designate one eligible person to serve as the account holder for the student's Hope Scholarship account. The account holder will be authorized to expend and manage Hope Scholarship funds on behalf of the Hope Scholarship student. The following persons are eligible to serve as account holder:

5.1.1. The student's biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a Hope Scholarship student as determined by the Board; or

5.1.2. The student, if the student is 18 years of age or older on or before the first day of the academic year.

5.2. The Board may allow an account holder to designate one secondary account holder for a Hope Scholarship account. A secondary account holder must meet the account holder eligibility requirements in section 5.1. of this section. (For example, if a mother with legal custody of her child is the primary account holder for her child, a father with legal custody of the child may be designated as the secondary account holder).

5.2.1. A secondary account holder's authority to use Hope Scholarship Funds is limited to completing purchases on behalf of the Hope Scholarship student using the online portal. A secondary account holder will access the student's Hope Scholarship account via an online portal user account that is separate and distinct from the primary account holder's user account.

5.2.2. The primary account holder may remove a secondary account holder from the account at any time by submitting a request to the Board on a form prescribed by the Board.

5.2.3. A secondary account holder must enter into the Account Holder Contract required in section 6 of this rule prior to gaining access to Hope Scholarship funds.

5.3. If the account holder for a Hope Scholarship student is unable to administer a Hope Scholarship account for any reason, the account holder, a secondary account holder, or the student may file a request with the Board to change the designated account holder at any time during the academic year.

5.3.1. A request to change the designated account holder for an account must be submitted on a form prescribed by the Board.

5.3.2. The Board will approve a request to change the designated account holder if the Board determines that:

5.3.2.a. The account holder consents to the change of account holder or the Board determines that a change of account holder is necessary to ensure that Hope Scholarship Funds may continue to be expended on behalf of the student;

5.3.2.b. The person designated as the new account holder meets the eligibility requirements in section 5.1. of this rule;

5.3.2.c. The requested change of account holders will not cause an undue disruption to the student's education or access to Hope Scholarship Funds; and

5.3.2.d. The person designated as the new account holder enters into the Account Holder Contract required in section 6 of this rule.

**§112-18-6. Account Holder Contract.**

6.1. Prior to establishing a Hope Scholarship account, the account holder must enter into a written contract with the Board, agreeing, at a minimum, to the following:

6.1.1. To ensure that the Hope Scholarship student receives an education in at least the subjects of reading, language, mathematics, science, and social studies;

6.1.2. To use the Hope Scholarship funds exclusively for qualifying expenses of the Hope Scholarship student as provided in W. Va. Code §18-31-7 and section 9 of this rule;

6.1.3. To comply with the rules and requirements of W. Va. Code §18-31-1 *et seq.* and this rule;

6.1.4. To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

6.1.5. For a student who chooses an individualized instructional program, to submit the student's annual nationally normed standardized achievement test results or an annual certified teacher's review of the student's academic work to the superintendent of the county of residence, as required by W. Va. Code §18-31-8, no later than June 8 prior to the upcoming academic year:

6.1.6. To authorize the Board, the West Virginia State Treasurer's Office, the West Virginia Department of Education, and the contracted program manager acting on behalf of the Board to exchange all necessary enrollment or other data to confirm initial and ongoing eligibility for the Hope Scholarship Program.

6.1.7. To agree that items purchased with Hope Scholarship funds shall not be resold to other parties.

6.2. The Board will provide the account holder contract to the designated account holder for the Hope Scholarship student at the time of application to the Hope Scholarship Program.

6.3. Failure of an account holder to sign the account holder contract is grounds for the denial of the application for the Hope Scholarship Program.

#### **§112-18-7. Allocation and Distribution of Funds.**

7.1. An account holder must establish a Hope Scholarship account with the Board prior to receiving or expending Hope Scholarship funds. The Board will provide the account holder with instructions for establishing an account upon issuance of an award letter indicating the Hope Scholarship student's acceptance into the program.

7.2. All Hope Scholarship transactions will be completed electronically using the online portal.

7.3. The Board will complete scholarship disbursements by electronically depositing Hope Scholarship funds into Hope Scholarship student accounts. ~~The Board will deposit one half of the funds allocated to a Hope Scholarship student for the academic year in the student's account by August 15 of that year and the second half by January 15 of that year.~~ For students entitled to the full scholarship amount for the year based on their application date, half of the annual scholarship funds will be available by August 15 of that year and the second half by January 15 of the year. For students entitled to less than the full scholarship amount for the year as determined by the provisions of subsection 7.3.1, the student's account will be funded as soon as practicable after the student's application is approved. It is assumed that any proration of funding will be allocated to the first semester.

~~7.3.1. If a student was ineligible for the Hope Scholarship Program during the most recent enrollment application period but becomes eligible during the academic year, the board shall calculate a prorated amount for the annual Hope Scholarship by reducing the annual amount by a percentage amount equal to the number of the county board of education's instructional days that have elapsed in the student's county of residence since the beginning of the instructional term, divided by 180. The board shall deposit the Hope Scholarship funds into the student's account as soon as practicable after the student's application is approved in accordance with deposit schedule outlined in section 7.3. above, utilizing the assumption that the second half distribution shall be equal to the second half distribution of Hope Scholarship students approved for the full year and the first half distribution shall be the remaining balance of the prorated amount. If approved after January 15<sup>th</sup> during the year, the full prorated amount will be deposited into the student's account as soon as practicable after the student's application is approved. For students entitled to less than the full scholarship amount for the year based on their application date, the Hope Scholarship funds will be based on a quarterly funding amount determined by the original application submission date as adopted by Board motion and published on the Board's website located at <https://hopescholarshipwv.com/>.~~

7.4. Each Hope Scholarship student will have a separate Hope Scholarship account, regardless of whether multiple Hope Scholarship students reside in the same household or share the same account holder. An account holder may only use funds in an account for the individual Hope Scholarship student to whom the funds were allocated pursuant to W. Va. Code §18-31-6.

7.5. If an account holder ~~renews~~meets the annual conditions for continued participation in the Hope Scholarship ~~account~~Program, any funds remaining in the account at the end of an academic year will be carried forward and may be used for the student's qualifying expenses in the upcoming academic year.

7.6. If an account holder fails to ~~renew~~meet the annual conditions for continued participation in the Hope Scholarship ~~account~~Program or the account is terminated for any reason, in accordance with section 10 of this rule, all remaining funds from the account will be returned to the West Virginia Hope Scholarship Program Fund.

#### **§112-18-8. Purchases and Refunds.**

##### **8.1. Account Holder Purchases.**

8.1.1. An account holder must complete all payments of Hope Scholarship funds to education service providers and vendors electronically via the online portal.

8.1.2. Reimbursement of Hope Scholarship funds for payments made with non-Hope Scholarship funds will only be considered on a case-by-case basis due to extenuating circumstances. Any reimbursement request shall be made on a form prescribed by the Board and shall require detailed supporting documentation and receipts. Any reimbursement requires approval of the Board: Provided, That the Board may adopt reimbursement policies directing Board staff to approve or deny categories of reimbursement requests.

##### **8.2. Refunds.**

8.2.1. All refunds of Hope Scholarship funds by an educational service provider or vendor must be electronically credited directly back to the Hope Scholarship student's account.

8.2.2. An education service provider must notify the Board of an account holder's request for a refund prior to issuing the refund and provide the Board with appropriate documentation reflecting the return of goods or cancellation of services for which the refund will be issued.

8.2.3. If a Hope Scholarship student uses funds to make a partial payment of tuition or fees to an educational service provider to reserve the student's enrollment in a program and the student does not participate in the program, the education service provider must electronically credit said payment back to the Hope Scholarship student's account within 30 days after receiving notice that the student will not participate in the program or after the educational program has commenced, whichever occurs earlier.

##### **8.3. Online Portal Access.**

8.3.1. Only an account holder is authorized to access an online portal user account or to complete a transaction using Hope Scholarship funds.

8.3.2. The Board may allow a person who is the account holder for multiple Hope Scholarship students that reside in the same household to access all such accounts through one online portal user account: *Provided*, That individual Hope Scholarship accounts must remain separate and segregated at all times.

### §112-18-9. Qualifying Expenses.

9.1. An account holder may only use funds deposited in an account for the Hope Scholarship student's qualifying expenses incurred completing his or her K-12 education. Expenses incurred for Pre-K instruction are not allowable under the Hope Scholarship Program.

9.2. Expenditures of Hope Scholarship funds for the following purposes are qualifying expenses:

9.2.1. Private or parochial school tuition and fees at a participating school;

9.2.2. Tuition and fees for programs of study, curriculum, or supplemental materials in reading, language, mathematics, science, social studies, or the arts;

9.2.3. Tuition and fees for programs of study or the curriculum of courses that lead to an industry-recognized credential that satisfies a workforce need;

9.2.4. Tuition and fees for ongoing services that a public school, including a public charter school, offers to Hope Scholarship students, pursuant to W. Va. Code §18-31-8(f), including individual classes and extracurricular activities and programs: *Provided*, That students participating in the Hope Scholarship Program are subject to all eligibility rules applicable to participation in extracurricular activities governed by the West Virginia Secondary School Activities Commission: *Provided, however*, That Hope Scholarship students attending a participating private school are eligible to receive free services that the public schools otherwise offer to private school students; *Provided, further*, That if a Hope Scholarship student has utilized their funds for other qualified expenses, the student shall be responsible to pay the tuition and fees to the public school from other sources in order to receive such services;

9.2.5. Tutoring services provided by an individual or a tutoring service: *Provided*, That tutoring services cannot be provided by a member of the Hope Scholarship student's immediate family;

9.2.6. Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, any examinations for industry certification exams, and tuition and fees for preparatory courses for the aforementioned exams;

9.2.7. Tuition and fees for nonpublic online or virtual learning programs;

9.2.8. Tuition and fees for alternative education programs;

9.2.9. Fees for after-school or summer education programs;

9.2.10. Tuition, fees, and materials for enrollment in dual credit or college level courses;

9.2.11. Educational services and therapies, including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

9.2.12. Fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider;

9.2.13. The cost of school uniforms required by a participating school;

9.2.14. Vocational supplies or equipment required for a K-12 course of study;

9.2.15. Technology equipment needed for an educational program, including but not limited to computers, printer and required software;

9.2.16. Tuition and fees for programs of study, curriculum, or supplies needed for supplemental or elective educational courses;

9.2.17. Basic educational supplies, including but not limited to, paper, writing utensils, scissors, etc.;

9.2.18. Any assistive technology or other equipment/supplies necessary to accommodate a student with a disability;

9.2.19. Tuition and fees at a microschoo as defined in W.Va. Code §18-8-1; and

9.2.20. Any other qualifying expenses as approved by the Board.

9.3. An account holder may seek approval of an expense as a qualifying expense by submitting a request to the Board, on a form that will be prescribed by the Board and made available on the Hope Scholarship website located at <https://hopescholarshipwv.com/>.

9.4. A comprehensive list of all qualifying expenses is located in the Hope Scholarship Parent Handbook and is available on the website located at <https://hopescholarshipwv.com/>.

#### **§112-18-10. Account Termination.**

##### 10.1. Nonrenewal.

10.1.1. A Hope Scholarship student's participation in the program terminates at the end of the academic year for which he or she is enrolled unless the account holder ~~files an application to renew~~meets the annual conditions for continued participation in the Hope Scholarship accountProgram according to the procedures in section 4 of this rule.

10.1.1.a. The Board will provide written notice to all Hope Scholarship account holders, at least 45 days prior to the ~~end of the renewal application period~~deadline for continued participation, informing the account holder of the following:

10.1.1.a.1. That he or she must ~~file a renewal application~~meet the annual conditions for continued participation in order to enroll the student in the Hope Scholarship program for the upcoming academic year;

10.1.1.a.2. That he or she must ~~file a renewal application~~meet the annual conditions for continued participation in order to continue the Hope Scholarship student's account for use during the upcoming academic year;

10.1.1.a.3. That failure to ~~renew~~meet the annual conditions for continued participation of the Hope Scholarship student's account for the upcoming academic year will result in closure of the student's current account at the end of the academic year and forfeiture of all unused funds remaining in the account to the State; and

10.1.1.a.4. Instructions on how to ~~file a renewal application~~continue participation with the Board, including all applicable deadlines.

10.1.2. Nothing in this rule prevents an account holder who fails to ~~file a renewal application~~ continue participation from re-applying for an account in subsequent years, according to the regular application procedures provided in section 4 of this rule: Provided, That a student who fails to meet the academic or attendance reporting requirements in W.Va. Code §18-31-8(a) may not submit a new application to the Board for the school year immediately following the year for which he or she failed to meet said requirements.

## 10.2. Withdrawal or Ineligibility.

10.2.1. A Hope Scholarship student's participation in the program terminates if any of the following conditions occur:

10.2.1.a. The account holder withdraws the student from the program;

10.2.1.b. The Hope Scholarship student successfully completes a secondary education program;

10.2.1.c. The Hope Scholarship student reaches twenty-one (21) years of age;

10.2.1.d. The account owner fails to submit the information required by subsection 6.1.5. of this rule; ~~or~~

10.2.1.e. The student is no longer a resident of West Virginia; or

10.2.1.f. The student enrolls full-time in a public-school program.

10.2.2. ~~If any of the conditions described in this section occur, the Board will notify the account holder that the Hope Scholarship student's account will be closed in 45 days. If any of the conditions described in subsection 10.2.1. of this section occur, the account holder must immediately notify the Board. If the Board has knowledge that any of the conditions described in subsection 10.2.1. of this section have occurred, the Board will notify the account holder that the Hope Scholarship student's account will be closed in 45 days.~~ The Board will close the account if:

10.2.2.a. The account holder does not respond to the notice within 30 days of receipt;

10.2.2.b. The account holder or student does not cure any circumstance making a student ineligible to participate in the program within 45 days of receipt; or

10.2.2.c. The account owner does not provide information within 45 days of receipt demonstrating that circumstances on which the Board is basing the decision to close an account are factually incorrect.

## 10.3. Noncompliance, intentional misuse of funds, or criminal activity.

10.3.1. The Board may temporarily freeze or direct a hold on the account pending an audit or inquiry into the expenditures or conduct at issue if the Board receives credible information indicating that an account holder or Hope Scholarship student has violated W. Va. Code §18-31-1 *et seq.*; violated the

requirements of this rule; or engaged in criminal activity involving Hope Scholarship funds. An account holder will be notified if their account is frozen or being held within 20 days following the change in status.

10.3.2. As required in W. Va. Code §18-31-10, an account holder must submit to any audit initiated by the Board related to Hope Scholarship funds. Upon request, the account holder must provide the Board with all records in the account holder's custody relating to Hope Scholarship fund transactions.

10.3.3. If the Board determines that an account holder or a Hope Scholarship student has violated W. Va. Code §18-31-1 *et seq.*; violated the requirements of this rule; or engaged in criminal activity involving Hope Scholarship funds; the Board may terminate the student's participation in the program and declare the student, account holder, or both permanently ineligible to participate in the Hope Scholarship program.

10.4. Immediately following termination of a Hope Scholarship student's participation in the program for any reason, the Board will close the student's account. Within 20 days following an account's closure, for any reason other than the parent declining participation in the program or a reason set forth in subsection 10.2.1 of this rule, the Board will provide written notice of said closure to the account holder. The notice will provide the reason for the account's closure and notify the account holder of the process to appeal a decision or action of the Board.

10.5. Any funds remaining in a Hope Scholarship account upon the account's closure will be returned to the West Virginia Hope Scholarship Program Fund upon the expiration of any applicable appeal period.

10.5.1. If the account is closed due to the student returning to a West Virginia public school full-time after October 1 of the academic year, upon request of the county board of education of the county in which the public school is located or the public charter school, the funds remaining in the student's Hope Scholarship account shall be transferred to the county board to fund the cost of the student's education for the remainder of the school year in accordance with billing instructions provided by Board staff. Hope Scholarship students who return to public school full-time during the school year are ineligible to reapply for the Hope Scholarship during the same school year but shall be eligible to apply to participate in the program for the subsequent school year.

10.6. A student or account holder may appeal any final action ~~, audit finding, or other determination~~ of the Board by filing an appeal according to the procedure in W. Va. C.S.R. §112-19-11.

### **§112-18-11. Provider Eligibility**

11.1. Only an authorized education service provider may accept Hope Scholarship funds as payment for providing educational services to Hope Scholarship students.

11.2. The Board will authorize an individual or an entity to be an education service provider if that person or entity submits a notice of intent to become an education service provider on a form prescribed by the Board and complies with all requirements of W. Va. Code §18-31-1 *et seq.* and this rule. A person or entity may become an authorized education service provider at any time during the academic year.

11.2.1. A West Virginia county board of education or public education entity offering services to Hope Scholarship students ~~is~~ may be automatically considered to be an authorized education service provider and ~~is not subject to~~ and exempt from the requirements of this section as deemed appropriate by

Board staff: Provided, That prior to receiving Hope Scholarship Funds, the county board of education or other public education entity must sign the Provider Contract described in section 11.3. of this section.

11.2.2. An education service provider receiving more than one hundred thousand dollars of Hope Scholarship funds annually may be required to provide a surety bond upon request of the Board.

11.2.3. The Board may consider entering into reciprocal agreements with state education savings account agencies or entities located in other states, whether public or private, to recognize and allow education service providers approved in other states to receive payments from Hope Scholarship accounts.

### 11.3. Provider Contract.

11.3.1. Prior to receiving Hope Scholarship Funds, an education service provider must sign a contract with the Board, agreeing to the following:

11.3.1.a. That the provider will comply with all rules and requirements of the W. Va. Code §18-31-1 *et seq.* and this rule;

11.3.1.b. That the provider will not refund, rebate, or share Hope Scholarship funds with parents or students in a manner inconsistent with any provision of the West Virginia Code or this rule;

11.3.1.c. That the provider will require any employee or other person who will have contact with Hope Scholarship students receiving services from the provider to submit to a criminal background screening and certify that said background check does not indicate conviction of a felony involving violence to the person and that the employee or other person is not on a federal or state sex offender registry;

11.3.1.d. That the provider will not engage in unlawful discrimination according to state or federal law applicable to the provider in providing educational services to Hope Scholarship students; and

11.3.1.e. In the case of a participating school, that the provider will annually notify the superintendent of the county in which a Hope Scholarship student resides of that student's enrollment in the Hope Scholarship Program, in accordance with W. Va. Code §18-31-11, by no later than June 8. Copies of the annual notifications shall also be provided to the West Virginia Department of Education by the same date.

11.3.1.f. In the case of a participating school, that the provider will annually notify the Hope Scholarship Board of any students participating in the Hope Scholarship Program who graduate from a secondary program offered by the school by no later than June 15.

### 11.4. Private or parochial schools.

11.4.1. An authorized education service provider that is a nonpublic school must submit a complete copy of its tuition and fee schedule to the Board. The school must provide the Board with advance notice of any changes to the tuition or fee schedule that occur during the academic year.

11.4.2. Upon request of the Board, the nonpublic school must provide the Board with an accounting of all fees and tuition charged to each Hope Scholarship student and an itemized accounting of all of the school's transactions with the student involving Hope Scholarship funds.

11.4.3. The nonpublic school must provide notice to the Board if a Hope Scholarship student withdraws from the school or fails to meet the school's minimum attendance requirements.

11.4.4. As provided in subdivision 11.3.1.e. of this rule, the nonpublic school must annually provide notice to the superintendent of the county in which a Hope Scholarship student resides of that student's enrollment in the Hope Scholarship Program by no later than June 8. Copies of the annual notification shall also be provided to the West Virginia Department of Education by the same date.

11.4.5. As provided in subdivision 11.3.1.f. of this rule, the nonpublic school must annually notify the Hope Scholarship Board of any students participating in the Hope Scholarship Program who graduate from a secondary program offered by the school by no later than June 15.

11.5. An education service provider is prohibited from requiring a student or a family to pay tuition or fees above the provider's regular tuition or fee schedule based upon a student or family member's participation in the Hope Scholarship program.

11.6. An education service provider may not limit the amount of Hope Scholarship funds that a student may apply towards the provider's tuition and fees.

11.7. An education service provider may not retain Hope Scholarship funds used to pay a deposit or tuition in advance if the student does not ultimately utilize the vendor's services. The education service provider is entitled to only the portion of the Hope Scholarship funds paid to cover any required tuition and fees for the educational services actually rendered to the student.

11.8. If the Board receives credible information indicating that an education service provider has violated W. Va. Code §18-31-1 *et seq.*; violated this rule; or engaged in criminal activity involving Hope Scholarship Funds, the Board may temporarily freeze or direct a hold on the person's or entity's approved provider status pending an audit or inquiry into the expenditures or conduct at issue.

11.9. As required in W. Va. Code §18-31-10, an education service provider must submit to any audit initiated by the Board related to Hope Scholarship Funds. Upon request, the education service provider must provide the Board with access to all records necessary to verify the expenditure of Hope Scholarship funds on qualifying expenses.

11.10. If the Board determines that an educational service provider has intentionally violated W. Va. Code §18-31-1 *et seq.*; violated this rule; or engaged in criminal activity involving Hope Scholarship funds, the Board may terminate the person's or entity's approved provider status and declare the person or entity permanently ineligible to receive Hope Scholarship funds.

11.11. ~~Immediately~~ Within 20 days following termination of a person's or entity's approved education service provider status, the Board will provide written notice of said termination to the provider and to any Hope Scholarship student who has made payments of Hope Scholarship funds to the provider during the academic year. The notice will provide the reason for the account's closure and notify recipients of the process to appeal a Board decision.

11.12. An education service provider may appeal a ~~determination by~~ final decision of the Board by filing an appeal according to the procedure in W. Va. C.S.R. §112-19-11.

**§112-18-12. Board Communications to Account Holders and Providers.**

12.1. The Board will direct all communications to account holders, including written communications required by the Act or these Rules, by electronic mail (email) to the email address for an account holder designed by the account holder in the portal. It is an account holder's responsibility to maintain and regularly monitor the account holder's email address in the portal, and an account holder will immediately update account holder's email address in the portal if the account holder's email address changes during the student's participation in the Program.

12.2. The Board will direct all communications to providers, including communications required by the Act or these Rules, by email to the email address of the primary contact designated for the provider in the portal. It is a provider's responsibility to maintain and regularly monitor the provider's email address listed in the portal, and a provider will immediately update the email address for the primary contact in the portal if that email address changes during the provider's participation in the Program.

12.3. All emails properly addressed and transmitted to an email address for an account holder or provider pursuant to this section are deemed to be received by the account holder or provider for the purposes of these rules.

**§112-18-13. Unlawful Sharing of Hope Scholarship Funds.**

13.1. A Hope Scholarship student, the student's parent, and the student's account holder are strictly prohibited from unlawfully sharing in the student's Hope Scholarship Funds. Unlawful sharing includes, but is not limited to:

13.1.1. A student's parent or account holder receiving compensation with Hope Scholarship funds for providing educational services directly to the student;

13.1.2. A student, the student's parent, or the student's account holder receiving a refund for items or services purchased with Hope Scholarship funds, as opposed to the refund being deposited directly to the student's Hope Scholarship account;

13.1.3. A student, the student's parent, or the student's account holder receiving any payment or compensation from an education service provider in exchange for the student expending Hope Scholarship funds with the provider; or

13.1.4. A student, the student's parent, or account holder personally taking possession of the student's Hope Scholarship funds in any manner: *Provided*, That a duly authorized reimbursement issued by the Board pursuant to subsection 8.1.2. of this rule does not constitute unlawful sharing.

13.2. Notwithstanding section 13.1. of this section, a student's parent or account holder does not engage in unlawful sharing if all of the following criteria apply:

13.2.1. The parent or account holder is the employee of an education service provider;

13.2.2. The parent or account holder receives a salary from the education service provider in the provider's regular course of business;

13.2.3. The student pays for a service from the education service provider with which the parent or account holder is employed, and the education service provider has 15 or more students receiving educational services from the provider at the time said payment is made;

13.2.4. The parent or account holder's compensation rates and employment terms are in no way conditioned upon the student's expenditures of Hope Scholarship funds with the provider; and

13.2.5. The education service provider and parent or account holder certify, on a form prescribed by the Board, that the education service provider has checks and balances in place that would prevent the employee from taking possession of his or her student's Hope Scholarship funds.

13.3. Any employee determined to be a "control employee," according to W. Va. C.S.R. 112-19-1 *et seq.*, is required to submit a "control employee form" upon request of Board staff. Failure to submit a control employee form is grounds for suspension of a Hope Scholarship account or an education service provider's approved status.

**§112-18-14. Students Participating in Extended Secondary School Education.**

14.1. A student who has completed his or her K-12 education is no longer eligible to participate in the Hope Scholarship Program, and a parent or provider may not unnecessarily delay awarding said student a diploma for the purpose of utilizing Hope Scholarship funds to pay for the student's college-level education.

14.2. The Board may require a student who has already participated in a high school program (grades 9-12) for four years or longer to demonstrate that the student has an educational need to repeat a grade in secondary school prior to permitting the student to renew his or her account for another school year. Demonstration of the educational need can be accomplished through documented proof of a student's disability or other documented educational issue which would necessitate additional time for the student to meet all graduation requirements.