

ALABAMA DEPARTMENT OF REVENUE  
ADMINISTRATIVE CODE

CHAPTER 810-28-1  
THE CHOOSE ACT PROGRAM

810-28-1-.01      The CHOOSE Act Program Definitions.

The Creating Hope and Opportunity for our Students' Education Act of 2024 (hereinafter The CHOOSE Act) makes refundable income tax credits called education savings accounts (ESAs) available to support the success of every K-12 student in Alabama which may be used by parents of participating students to cover tuition, fees, and other qualified education expenses at approved education service providers (ESPs) in Alabama. The following are program definitions:

1. Academic Year - The 12-month period beginning on July 1 and ending on the following June 30.

2. Active-Duty Service Member - A person on active duty as defined in 10 U.S.C 101(d) (1).

3. Department - The Alabama Department of Revenue.

4. Education Savings Account (ESA) - An account in which funds are deposited by the department for the parent of a participating student to pay qualifying expenses to an education service provider.

5. Education Service Provider (ESP) - A school, including a participating school, organization, vendor, or individual other than the parent of the eligible student, approved by the department to provide educational goods and services, including goods and services designed for use by homeschool students, to eligible students.

6. Eligible Student - A child that:

a. Is aged 5 to 19 years who resides in this state and who has not graduated high school.

b. Is aged 5 to 21 years who resides in this state and qualifies for services under the Individuals with Disabilities Education Act (IDEA) of 1975 or Section 504 of the Rehabilitation Act of 1973.

c. The term does not include the following:

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i. A student receiving scholarship funds or a tax credit under the Alabama Accountability Act of 2013, Chapter 6D of Title 16, Code of Ala. 1975.

ii. A child who is enrolled in a private school as defined in Section 16-28-1 that is not a participating school.

iii. A child who is not lawfully present in the United States.

7. Federal Poverty Level - The federal poverty income guidelines as determined annually by the United States Department of Health and Human Services and updated periodically in the Federal Register by that Department under the authority of 42 U.S.C. 9902(2).

8. Parent - A resident of Alabama who is the parent, guardian, custodian, or other individual with authority to act on behalf of an eligible student. The term does not include an individual who is not lawfully present in the United States.

9. Participating School - A state of Alabama education service provider that is an accredited public K-12 school or an accredited private school, including church, parochial, or religious schools, that provides education to K-12 students and that is approved by the department. The school must be accredited, or in the process of obtaining accreditation as determined by the department, by one of the six regional accrediting agencies and/or the National Council for Private School Accreditation, Cognia, the American Association of Christian Schools, the Alabama Christian Education Association, the Alabama Independent School Association, or one of their partner accrediting agencies.

10. Participating Student - An eligible student who is approved by the department to participate in the program and receives services from an education service provider. The term includes an eligible student attending a participating school. The term includes a homeschool student, even if enrolled in a church school, homeschool co-op, or similar entity, provided that the homeschool student is an eligible student.

11. Platform - The official CHOOSE Act online service that enables users to apply for and facilitate The CHOOSE Act program transactions and reports.

12. Priority School - Defined in Section 16-6D-4 as a public K-12 school that is either of the following:

a. Is designated as a priority school by the State Superintendent of Education.

b. Does not exclusively serve a special population of students and has received a D or an F on the most recent state report card.

13. Program - The Creating Hope and Opportunity for Our Students' Education (CHOOSE) Act Tax Credit program established by Act 2024-21.

14. Qualifying Educational Expenses - Expenses incurred by a parent of an eligible student in one or more of the following categories: tuition and fees at a participating school; textbooks; fees for after-school or summer education programs provided by a participating school; private tutoring; curricula or instructional materials; tuition and fees for nonpublic online learning programs; educational software and applications; fees for standardized and nationally recognized assessments, including college admissions tests and advanced placement examinations and related preparatory courses; education services for students with disabilities from a licensed or accredited practitioner or education service provider; contracted services provided by a public school district including specific classroom instruction.

15. Resident School District - The public school district in which an eligible student resides.

16. Sibling - A child who shares at least one parent of an eligible student, by birth, by adoption, by a parent's current marriage, by guardianship, and whom the same parent can claim as a dependent.

17. Special-Needs Student - A student who qualifies for services under the Individuals with Disabilities Education Act (IDEA) of 1975 or Section 504 of the Rehabilitation Act of 1973.

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