

New Hampshire Board of Education

[REDACTED] (“Appellant”) and Children’s Scholarship Fund (“CSF”)

SB-FY-26-07-003

Report and Recommendations

I. Introduction

This matter is an appeal by the Appellant, as a parent and as a vendor, of the decision made by CSF to remove the Appellant’s company as an Education Freedom Account (“EFA”) vendor and to remove the Appellant’s children from the EFA program. There were three issues for hearing:

1. Whether the Appellant, as sole proprietor of [REDACTED], engaged in “Intentional and Substantial Misuse of EFA funds.”
2. Whether the CSF decision to terminate the provider account of the LLC should be upheld or reversed.
3. Whether the CSF decision to disable the Education Freedom Accounts (“EFA”) of the Appellant’s three children, and exit them from the EFA program, should be upheld or reversed.

The hearing was held on Friday, September 12, 2025 at 10:00 AM via Zoom. The Appellant was the only person to testify for the Appellant’s case-in-chief. The witness for the CSF was Matthew Southerton, Director of Policy and Compliance at CSF. The parties jointly submitted five exhibits comprising 97 pages. Neither party submitted any supplemental exhibits. CSF was represented by Jim Armillay, Esq. The Appellant was pro se.

II. Proposed Findings of Fact

1. The Appellant is the sole proprietor of the LLC (Ex. 1 at 1, 3).
2. New Hampshire has allowed EFA accounts since 2021. EFAs provide state education grants to children in families earning below 350% of the federal poverty level (Ex. 3 at 40).
3. CSF is a 501c3 charity scholarship organization that has been authorized by the State of New Hampshire to administer EFA accounts (Id.).
4. The Appellant submitted applications to open EFA accounts for each of his three children on April 17, 2023. CSF approved the three applications on May 15, 2023 (Ex.3 at 12).

5. The Appellant submitted an EFA application for the LLC to become an approved EFA provider on April 24, 2023. CSF approved the LLC application on April 25, 2023 (Id.).
6. On January 20, 2025, the Appellant's LLC sent an invoice to the Appellant and his wife for [REDACTED] [exhibit redacted]. Please make the payment via your preferred method online. Thank you for choosing the [REDACTED]. If you have any questions regarding this invoice or your tuition, please do not hesitate to contact us. Best regards, [Appellant]." Although not listed on the invoice, the exhibit documents that this was Invoice #21522555 (Ex. 2 at 18).
7. One of the Appellant's children ([REDACTED]) received instruction from the [REDACTED] in Manchester. The Appellant was unable to obtain an invoice from the [REDACTED] for the services provided to his child. He therefore created Invoice #21522555 from his own LLC for the purpose of being paid for the cost of the [REDACTED]. The Appellant admitted that he "funneled it through my school." (Ex. 2 at 20; Ex. 3 at 9, 13, 19, 30; Appellant Testimony).
8. The cost of the [REDACTED] program was different from the amount invoiced by the Appellant. The [REDACTED] program cost \$1,248.95, while the amount invoiced by the LLC was \$1,350, a difference of \$101.05. The Appellant admitted this difference and included it in the amount he refunded to the CSF (Ex. 3 at 13, 19, 30).
9. The Appellant's LLC sent three additional invoices to the Appellant, as follows:
 - a. Invoice # 17045683 for "discounted annual tuition fee of \$1000 for September [2024] – July [2025]." The invoice is undated and addressed to [REDACTED]. The name of the student referenced by the invoice is unknown and redacted in the hearing exhibit (Ex. 2 at 24).
 - b. Invoice # 17799147 for [REDACTED] tuition fee of \$599. . . Please make the payment via your preferred method online no later than July 27th 2024." The invoice is undated and addressed to the Appellant. The name of the student referenced by the invoice is unknown and redacted in the hearing exhibit (Ex. 2 at 25).
 - c. Invoice # 20304933 for [REDACTED] of \$1,815. . . Please make the payment via your preferred method online." The invoice is dated November 18, 2024 and addressed to the Appellant. The name of the student referenced by the invoice is unknown and redacted in the hearing exhibit (Ex. 2 at 25).
10. Matt Southerton ("M.S.") is the Director of Policy and Compliance for CSF (Ex. 3 at 7; M.S. Testimony).

11. On March 24, 2025, an individual whose name is redacted in the hearing exhibits notified M.S. that they had become aware that the Appellant had submitted multiple invoices payable to the LLC for instruction of his own children. M.S. conducted a preliminary investigation and notified the Appellant on that same day of the issues (Ex. 3 at 9).
12. On March 24, 2025, CSF sent an invoice to the Appellant, requesting an immediate refund of the four invoices listed, supra, totaling \$4,764.99 (Ex. 1 at 5).
13. The Appellant returned all requested money within 30 days of being notified of the problem (Southerton Testimony at 32:46 and 49:39).
14. In multiple emails between the Appellant and M.S., the issues and facts were clarified. The Appellant did not deny any of the facts stated by M.S. Instead, the Appellant made clear that “I’d like to do whatever it takes to rectify this. . . I had no intention to be deceitful or to misuse the policy. It was a dumb mistake and oversight of procedure, and for that I am truly sorry.” (Ex. 3 at 28 – 36).
15. When M.S. asked the Appellant about the invoice for \$1,350, the Appellant volunteered the complete story about using the invoice as a way to receive money from the EFA program, and then use that money to pay a third-party vendor [REDACTED] for instruction of his child (M.S. Testimony at 24:01).
16. M.S. conducted an investigation into the claims regarding Appellant, and issued a Final Report on April 11, 2025 (Ex. 3 at 7). In his report, M.S. concluded:
 - a. “[I]t is my opinion that although this provision is well documented no determination of suspected intentional and substantial misuse can be made from the available evidence. [REDACTED] must return all EFA funds under orders #17045683, #17799147 and #20304933 to the State.”
 - b. “[I]t is my opinion that a determination of suspected intentional and substantial misuse of EFA funds should be made relevant to order #21522555. It is my opinion that *through* [REDACTED] *own admission*, that he knowingly and willfully created a false invoice for services for his child, payable to his business, for services which he and his business did not provide.” (emphasis added).
 - c. The Appellant’s children “should be removed from the EFA program.”
 - d. The LLC’s “participation in the EFA program should be terminated.”(Ex. 3 at 15 – 16).
17. On April 16, 2025, Kate Baker Demers, Executive Director of the CSF, sent a letter to the Appellant notifying him that “that CSF has made a determination of Suspected Intentional and Substantial Misuse of EFA funds by [the LLC]. . . CSF has determined that

it is possible that [Appellant], knowingly and willfully created a false invoice (order #21522555), payable to his business. . . for instruction which his business did not provide. [Appellant] wrote in his email to CSF dated 3/25/25, that the invoice was not for services rendered but rather to bypass our Provider approval process and compensate a Provider for services rendered to his EFA participating child. While conducting the investigation, [REDACTED] admitted in writing that this was an error and stated he will return the funds.” The LLC was terminated as an EFA provider and all three of the Appellant’s children were “exited from the EFA program.” (Ex. 1 at 3 – 4).

18. The EFA application system was different in 2023, when the Appellant applied as both Parent and Provider. In 2023, the application system did not require the Appellant to declare whether or not he had children in the EFA program. The system now does require applicants to state whether or not they have children in the program regardless of provider type. Parent providers are now contacted after approval in order to confirm that the new parent/provider understands that they cannot use EFA funds to pay themselves for instruction of their child.
19. The Appellant having acted as both parent and provider in the creation of an invoice created a “unique situation.” This is something that a “normal parent couldn’t do. . . but a provider can.” (M.S. Testimony at 24:15, 31:16).
20. CSF believes that the Appellant “knowingly created a document, and. . . knowingly submitted the document as the parent.” (M.S. Testimony at 39:56).
21. M.S. testified that “this is a very unique situation. This is the only case of a vendor being disqualified. This is the first time it’s happened.” (M.S. Testimony at 46:12).
22. M.S. testified “We do not believe that we had any discretion in this case. . . We believe that the law affords parents the right to appeal to the Board of Education. They can take the evidence and do with it what they will.” (M.S. Testimony at 43:16).
23. The Appellant testified that there was no dispute regarding any of the facts presented by the CSF. Instead, the Appellant testified that he was appealing “on the basis of mercy.” The Appellant stated that he did not pay enough attention to details and policy, “was wrong for doing that, and I’ve definitely learned my lesson. . . .” (Appellant Testimony).

III. Proposed Rulings of Law

1. The State Board of Education has jurisdiction to rule on Appellant’s appeal (Ed 806.01(f), (m)).
2. CSF may dissolve an EFA account and make a parent or EFA student ineligible for the program if CSF determines that there has been intentional and substantial misuse of EFA funds. RSA 194-F:4, XI; Ed 806.01(a).

3. CSF is required to “develop a process for the determination of disqualification of an education service provider.” The process must include how “knowing and willful misrepresentation of information” is determined when deciding disqualification. Ed 806.01(h)-(i).
4. Among the actions that can constitute an “intentional and substantial” misuse of EFA funds is “[a]ny knowingly deliberate, willful, dishonest or deceitful act meant to defraud EFA funds.” Ex. 4, *Children’s Scholarship Fund Education Freedom Account Parent Handbook* 19 (2024) (p. 76 of record).
5. The phrase “knowingly and willfully” is not defined in the hearing record, nor is it defined in Ed 800 or RSA 194-F.
6. Black’s Law Dictionary defines “knowing” as “Deliberate; conscious,” inter alia. *Black’s Law Dictionary* 876 (7th ed. 1999).
7. Black’s Law Dictionary defines “willful” as “Voluntary and intentional, but not necessarily malicious.” *Black’s Law Dictionary* 1593 (7th ed. 1999).
8. The Appellant’s use of Invoice number 21522555 to obtain payment from his child’s EFA account for work that his LLC did not perform was done deliberately and consciously, and was therefore done “knowingly.”
9. The Appellant’s use of Invoice number 21522555 to obtain payment from his child’s EFA account for work that his LLC did not perform was done voluntarily and intentionally. Although it does not appear to have been done with malice, there is sufficient evidence that it was done “willfully.”
10. There are mitigating factors which should be considered:
 - a. The Appellant did not deny or argue with CSF, and even volunteered additional information which made the case against him even stronger;
 - b. The Appellant did not deny any of the facts at hearing;
 - c. The Appellant fully refunded all money received once he was notified of the issue and amounts in question;
 - d. The Appellant’s children did not commit any violations;
 - e. The Appellant testified that he has learned from his mistake;
 - f. This is the first time that an EFA provider has had its provider status terminated;
 - g. The Appellant serving as both parent and provider created a “unique situation.”

- h. CSF, as evidenced through the testimony of M.S., believes that even though CSF had no discretion in acting as it did, the Board of Education “can take the evidence and do with it what they will.”
11. The Appellant, as sole proprietor of the LLC, engaged in “Intentional and Substantial Misuse of EFA funds.”
12. The ability of the Appellant to serve as both provider and parent would provide a continuing “unique” opportunity for the Appellant to misuse the EFA system, whether maliciously or negligently.

IV. Recommendation

I recommend that the State Board of Education:

1. Uphold CSF’s finding that the Appellant, as sole proprietor of the LLC, did engage in “Intentional and Substantial Misuse of EFA funds;”
2. Uphold CSF’s decision to terminate the provider account of the LLC;
3. Take into account the mitigating circumstances described in Paragraph 9 of the Proposed Rulings of Law;
4. Reverse CSF’s decision to disable the Education Freedom Accounts (“EFA”) of the Appellant’s three children, and allow them to reenter the EFA program.

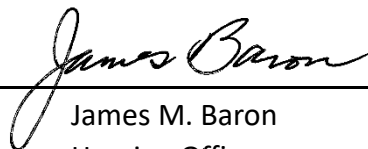
NOTICE PURSUANT TO ED 211.01

Any Party, within 15 days of the date of this Recommendation, may file a list of exceptions with supporting memoranda of law for review by the State Board. Any Party who wishes to present oral argument to the State Board shall file a separate request for oral argument within the same 15-day time frame.

Respectfully submitted,

September 22, 2025

Date



James M. Baron
Hearing Officer