

## Part 8 Parent Choice in Education Act

### **53A-1a-804 Scholarship program created -- Qualifications -- Application.**

- (1) The Parent Choice in Education Program is created to award scholarships to students to attend a private school.
- (2) To qualify for a scholarship under this part:
  - (a) the student's custodial parent or legal guardian shall reside within Utah;
  - (b) the student shall be at least five years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school;
  - (c) the student shall meet one or more of the following criteria:
    - (i) the student was born after September 1, 2001;
    - (ii) the student was enrolled as a full-time student in a Utah public school on January 1, 2007;
    - (iii) the individual was not a Utah resident on January 1, 2007; or
    - (iv) the student's parents had an annual income less than or equal to 100% of the income eligibility guideline in the calendar year immediately preceding the school year for which a scholarship is sought; and
  - (d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.
- (3)
  - (a) To receive a scholarship, the parent of a student shall submit an application for the scholarship to the board by the June 1 preceding the school year for which a scholarship is sought, except the deadline for submitting an application for the 2007-08 school year is July 15, 2007. Along with the application, the student's parent shall submit documentation verifying income as required by board rule.
  - (b) The board may waive the application deadline.
- (4) The board shall award scholarships by the July 1 preceding the school year for which a scholarship is sought, except the deadline for awarding scholarships for the 2007-08 school year is August 15, 2007.
- (5)
  - (a) The scholarship application form shall contain the following statement:

"I acknowledge that:

    - (1) A private school may not provide the same level of services that are provided in a public school.
    - (2) The private school in which I have chosen to enroll my child has disclosed to me the teaching credentials of the school's teachers and the school's accreditation status.
    - (3) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship.
    - (4) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq."
  - (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student for the period in which the student receives the scholarship, including costs associated with transportation.

- (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (6) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

Enacted by Chapter 30, 2007 General Session

**53A-1a-805 Eligible private schools.**

- (1) To be eligible to enroll a scholarship student, a private school shall:
  - (a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;
  - (b) contract with an independent certified public accountant to perform the agreed upon procedures specified in Subsection (2) and produce a report of the results which shall be submitted to the board at the times specified in Subsection (2);
  - (c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
  - (d) meet state and local health and safety laws and codes;
  - (e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, if any, including the cost of those services;
  - (f)
    - (i) annually assess the achievement of each student by administering:
      - (A) a norm-referenced test scored by an independent party that provides a comparison of the student's academic performance to other students on a national basis; or
      - (B) an alternative assessment of the student's achievement, if the student:
        - (I) has a disability or limited English proficiency; and
        - (II) would be exempt from taking a nationally norm-referenced achievement test if enrolled in a Utah public school;
    - (ii) report the test results to the student's parents; and
    - (iii) upon request, make test results available to other persons, in a manner that does not reveal the identity of any student;
  - (g) employ or contract with teachers who have completed a criminal background check that complies with the requirements of Section 53A-3-410 and:
    - (i) hold baccalaureate or higher degrees; or
    - (ii) have special skills, knowledge, or expertise that qualifies them to provide instruction in the subjects taught;
  - (h) provide to parents the teaching credentials of the school's teachers; and
  - (i) provide, upon request to any person, a statement indicating which, if any, organizations have accredited the private school.
- (2)
  - (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are as follows:
    - (i)
      - (A) determine that working capital is at least 80% of average quarterly expenditures by taking total expenditures for a year and dividing it by four and then dividing average quarterly expenditures into working capital; and
      - (B) for a school in the first year of operations, use the estimated budget to estimate average quarterly expenditures;
    - (ii)

- (A) determine that scholarship payments are accounted for separately and reconciled to student records; and
  - (B) for the first year of operations, determine that procedures are in place for this accounting; and
- (iii)
- (A) determine that expenditure of scholarship funds have been made for education expenses and is consistent with other tuition expenditures; and
  - (B) for the first year of operations, determine that procedures are in place for this accounting.
- (b)
- (i) The independent certified public accountant's report on the agreed upon procedures specified in Subsection (2)(a) shall be submitted to the board when the private school applies to accept scholarship students and every four years thereafter, except as provided in Subsection (2)(b)(ii).
  - (ii) The board may, by rule, delay the date when the independent certified public accountant's report shall be submitted for private schools applying to accept scholarship students in the 2007-08 school year.
- (3) The following are not eligible to enroll scholarship students:
- (a) a school with an enrollment of fewer than 40 students;
  - (b) a school that operates in a residence;
  - (c) a school that encourages illegal conduct; or
  - (d) a residential treatment facility licensed by the state.
- (4)
- (a) Except as provided in Subsection (4)(b), a private school intending to enroll scholarship students shall submit an application to the board by April 1 of the school year preceding the school year in which it intends to enroll scholarship students.
  - (b) A private school intending to enroll scholarship students in the 2007-08 school year shall submit an application by June 15, 2007.
- (5) The board shall:
- (a) approve a private school's application to enroll scholarship students if the private school meets the eligibility requirements of this section; and
  - (b) make available to the public a list of the eligible private schools:
    - (i) for the 2008-09 school year and each school year thereafter, by the April 30 preceding the school year; and
    - (ii) for the 2007-08 school year, by July 1, 2007.

Enacted by Chapter 30, 2007 General Session

**53A-1a-806 Scholarship payments.**

- (1)
- (a) Scholarships shall be awarded by the board subject to the availability of money appropriated by the Legislature for that purpose.
  - (b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments for all students projected to apply for scholarships.
- (c)
- (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous year.
  - (ii) If money is insufficient in a school year to pay for all the continuing scholarships:

- (A) new scholarships may not be awarded during that school year;
- (B) the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year; and
- (C) the board shall request a supplemental appropriation from the Legislature to make full scholarship payments as provided in Subsection (4) or (5).

- (2)
- (a) Scholarships shall be awarded based upon the income of a scholarship student's parents in the calendar year immediately preceding the school year for which a scholarship is sought.
  - (b)
    - (i) The board shall make rules specifying how the income of a prospective scholarship student's parents shall be determined and verified.
    - (ii) The rules shall provide that the scholarship shall be based upon parental income as follows:
      - (A) if the parents are married, the income of both parents;
      - (B) if a parent is widowed, the income of the widowed parent;
      - (C) if a parent is widowed and has remarried, the income of the parent and stepparent;
      - (D) if the parents are divorced, the income of the parent with whom the scholarship student resided for the greatest amount of time during the past 12 months;
      - (E) if the parents are divorced and the scholarship student resided with each parent an equal amount of time, the income of the parent who provided more financial support during the past 12 months;
      - (F) if the divorced parent with whom the scholarship student resided for the greatest amount of time or who provided the greatest financial support has remarried, the income of the parent and stepparent; and
      - (G) if the scholarship student resides with a guardian, the income of the guardian, unless the guardian's income is exempt by board rule.
    - (iii) The rules shall provide that:
      - (A) if a parent filed federal or state income tax forms, income shall be based upon adjusted gross income as listed on the income tax forms;
      - (B) if a parent was exempt from filing federal and state income tax forms, income shall be based on income earned from work; and
      - (C) a parent shall submit documentation verifying income.
- (3)
- (a) The board shall compare the income of a scholarship student's parents to the maximum annual incomes listed in the income eligibility guideline as defined in Section 53A-1a-803 to set the scholarship amount.
  - (b) In determining scholarship amounts, the board shall use:
    - (i) the income eligibility guideline in effect for the school year immediately preceding the school year for which a scholarship is sought; and
    - (ii) the scholarship student's household size as the applicable household size for the purpose of determining maximum annual income under the income eligibility guideline.
- (4) Full-year scholarships shall be awarded in the amounts shown in the following table, or for the amount of tuition for a full year, whichever is less.

If the annual income of a scholarship student's parents is:	The full-year scholarship amount is:
Less than or equal to 100% of the	\$3,000

income eligibility guideline		
Greater than 100% but less than or equal to 125% of the income eligibility guideline		\$2,750
Greater than 125% but less than or equal to 150% of the income eligibility guideline		\$2,500
Greater than 150% but less than or equal to 175% of the income eligibility guideline		\$2,250
Greater than 175% but less than or equal to 200% of the income eligibility guideline		\$2,000
Greater than 200% but less than or equal to 225% of the income eligibility guideline		\$1,750
Greater than 225% but less than or equal to 250% of the income eligibility guideline		\$1,000
Greater than 250% of the income eligibility guideline		\$500

- (5) The full-year scholarship amounts shown in the table in Subsection (4) apply to scholarships for all grades except kindergarten. The full-year scholarship amount for kindergarten shall be .55 times the amounts shown in the table in Subsection (4).
- (6) The board shall annually increase the full-year scholarship amounts shown in the table in Subsection (4) by the same percentage annual increase in the value of the weighted pupil unit established in Section 53A-17a-103.
- (7)
- (a) Except as provided in Subsection (7)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 15 of each school year in which a scholarship is in force.
- (b) In accordance with board rule, the board shall make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

- (8) A parent of a scholarship student and the student's private school shall notify the board if the student does not have continuing enrollment and attendance at the private school.
- (9) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, school districts, and youth in custody to ensure that scholarship payments are not erroneously made.
- (10)
  - (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.
  - (b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (10)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney in fact.

Amended by Chapter 342, 2011 General Session

**53A-1a-808 Board to make rules.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part:
  - (a) establishing the application process for the scholarship program, including procedures to allow a parent to apply for a scholarship online;
  - (b) establishing how the income of a scholarship student's parents shall be determined and verified; and
  - (c) implementing Section 53A-1a-807.
- (2) By May 15, 2007, the board shall adopt rules establishing:
  - (a) the application process for private schools and scholarship students; and
  - (b) how the income of a scholarship student's parents shall be determined.

Amended by Chapter 382, 2008 General Session

**53A-1a-811 Review by legislative auditor general.**

The legislative auditor general shall conduct a review and issue a report on the Parent Choice in Education Program after the conclusion of the 2011-12 school year.

Enacted by Chapter 30, 2007 General Session