

**Effective 5/3/2023**

**Part 4**  
**Utah Fits All Scholarship Program**

**53F-6-401 Definitions.**

As used in this part:

- (1) "Eligible student" means a student:
  - (a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;
  - (b) who is a resident of the state;
  - (c) who, during the school year for which the student is applying for a scholarship account:
    - (i) does not receive a scholarship under:
      - (A) the Carson Smith Scholarship Program established in Section 53F-4-302; or
      - (B) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402;and
    - (ii) except for a student who is enrolled part-time in accordance with Section 53G-6-702, is not enrolled in an LEA upon receiving the scholarship;
  - (d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and
  - (e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).
- (2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.
- (3)
  - (a) "Home-based scholarship student" means a student who:
    - (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;
    - (ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and
    - (iii) receives a benefit of scholarship funds.
  - (b) "Home-based scholarship student" does not mean a home school student who does not receive a scholarship under the program.
- (4) "Program manager" means an organization that:
  - (a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;
  - (b) is not affiliated with any international organization;
  - (c) does not harvest data for the purpose of reproducing or distributing the data to other entities;
  - (d) has no involvement in guiding or directing any curriculum or curriculum standards;
  - (e) does not manage or otherwise administer a scholarship under:
    - (i) the Carson Smith Scholarship Program established in Section 53F-4-302; or
    - (ii) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and
  - (f) an agreement with the state board recognizes as a program manager, in accordance with this part.
- (5)
  - (a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.
  - (b) "Program manager employee" does not include:
    - (i) an individual who volunteers for the program manager or for a qualifying provider;
    - (ii) an individual who works for a qualifying provider; or

- (iii) a qualifying provider.
- (6) "Program manager officer" means:
  - (a) a member of the board of a program manager; or
  - (b) the chief administrative officer of a program manager.
- (7) "Qualifying provider" means one of the following entities that is not a public school and is autonomous and not an agent of the state, in accordance with Section 53F-6-406:
  - (a) an eligible school that the program manager approves in accordance with Section 53F-6-408; or
  - (b) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.
- (8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (9) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.
- (10) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:
  - (a) tuition and fees of a qualifying provider;
  - (b) fees and instructional materials at a technical college;
  - (c) tutoring services;
  - (d) fees for after-school or summer education programs;
  - (e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;
  - (f) educational software and applications;
  - (g) supplies or other equipment related to a scholarship student's educational needs;
  - (h) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;
  - (i) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:
    - (i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;
    - (ii) a state-recognized industry certification examination; and
    - (iii) an examination related to college or university admission;
  - (j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;
  - (k) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;
  - (l) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed \$750 in a given school year;
  - (m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or
  - (n) any other expense for a good or service that:
    - (i) a parent or scholarship student incurs in the education of the scholarship student; and
    - (ii) the program manager approves, in accordance with Subsection (4)(d).
- (11) "Scholarship funds" means:

- (a) funds that the Legislature appropriates for the program; and
  - (b) interest that scholarship funds accrue.
- (12)
- (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.
  - (b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.
- (13) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Amended by Chapter 466, 2024 General Session

**53F-6-401 Definitions.**

As used in this part:

- (1) "Eligible student" means a student:
- (a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;
  - (b) who is a resident of the state, including a child of a military service member, as that term is defined in Section 53B-8-102;
  - (c) who, during the school year for which the student is applying for a scholarship account:
    - (i) does not receive a scholarship under:
      - (A) the Carson Smith Scholarship Program established in Section 53F-4-302; or
      - (B) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402;and
    - (ii) is not enrolled in, upon receiving the scholarship:
      - (A) an LEA; or
      - (B) the Statewide Online Education Program to participate in a course with funding provided under Title 53F, Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Subsection 53F-6-409(7);
  - (d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and
  - (e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).
- (2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.
- (3)
- (a) "Home-based scholarship student" means a student who:
    - (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;
    - (ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and
    - (iii) receives a benefit of scholarship funds.
  - (b) "Home-based scholarship student" does not mean a home school student who does not receive a scholarship under the program.
- (4) "Parent" means:
- (a) the same as that term is defined in Section 53E-1-102; and
  - (b) a foster parent who has initiated a process to adopt the foster child.
- (5) "Program manager" means an organization that:
- (a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

- (b) is not affiliated with any international organization;
  - (c) does not harvest data for the purpose of reproducing or distributing the data to other entities;
  - (d) has no involvement in guiding or directing any curriculum or curriculum standards;
  - (e) does not manage or otherwise administer a scholarship under:
    - (i) the Carson Smith Scholarship Program established in Section 53F-4-302; or
    - (ii) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and
  - (f) an agreement with the state board recognizes as a program manager, in accordance with this part.
- (6)
- (a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.
  - (b) "Program manager employee" does not include:
    - (i) an individual who volunteers for the program manager or for a qualifying provider;
    - (ii) an individual who works for a qualifying provider; or
    - (iii) a qualifying provider.
- (7) "Program manager officer" means:
- (a) a member of the board of a program manager; or
  - (b) the chief administrative officer of a program manager.
- (8)
- (a) "Qualifying provider" means one of the following entities:
    - (i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or
    - (ii) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.
  - (b) "Qualifying provider" does not include:
    - (i) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or
    - (ii) any other individual that does not meet the requirements described in Subsection (8)(a).
- (9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (10) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.
- (11) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:
- (a) tuition and fees of a qualifying provider;
  - (b) fees and instructional materials at a technical college;
  - (c) tutoring services;
  - (d) fees for after-school or summer education programs;
  - (e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;
  - (f) educational software and applications;
  - (g) supplies or other equipment related to a scholarship student's educational needs;
  - (h) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;

- (i) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:
    - (i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;
    - (ii) a state-recognized industry certification examination; and
    - (iii) an examination related to college or university admission;
  - (j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;
  - (k) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;
  - (l) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed \$750 in a given school year;
  - (m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or
  - (n) any other expense for a good or service that:
    - (i) a parent or scholarship student incurs in the education of the scholarship student; and
    - (ii) the program manager approves, in accordance with Subsection (5)(d).
- (12) "Scholarship funds" means:
- (a) funds that the Legislature appropriates for the program; and
  - (b) interest that scholarship funds accrue.
- (13)
- (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.
  - (b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.
- (14) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Amended by Chapter 26, 2024 General Session

**53F-6-402 Utah Fits All Scholarship Program -- Scholarship account application -- Scholarship expenses -- Program information.**

- (1) There is established the Utah Fits All Scholarship Program under which, beginning March 1, 2024, a parent may apply to a program manager on behalf of the parent's student to establish and maintain a scholarship account to cover the cost of a scholarship expense.
- (2)
  - (a) The program manager shall establish and maintain, in accordance with this part, scholarship accounts for eligible students.
  - (b) The program manager shall:
    - (i) determine that a student meets the requirements to be an eligible student; and
    - (ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a scholarship account for the scholarship student to pay for the cost of one or more scholarship expenses that the student or student's parent incurs in the student's education.
  - (c) Each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:

- (i) for the 2024-2025 school year, \$8,000; and
  - (ii) for each school year following the 2024-2025 school year, the maximum allowed amount under this Subsection (2)(c) in the previous year plus a percentage increase that is equal to the five-year rolling average inflationary factor described in Section 53F-2-405.
- (3)
- (a) A program manager shall establish a scholarship account on behalf of an eligible student who submits a timely application, unless the number of applications exceeds available scholarship funds for the school year.
  - (b) If the number of applications exceeds the available scholarship funds for a school year, the program manager shall select students on a random basis, except as provided in Subsection (6).
  - (c) An eligible student or a public education student shall submit an application for an initial scholarship or renewal for each school year that the student intends to receive scholarship funds.
  - (d)
    - (i) To maintain eligibility, a scholarship student or the scholarship student's parent shall annually complete and deliver to the program manager a portfolio describing the scholarship student's educational opportunities and achievements under the program for the given year.
    - (ii) The program manager may not disclose the content of a given scholarship student's portfolio except to the scholarship student's parent.
- (4)
- (a) An application for a scholarship account shall contain an acknowledgment by the student's parent that the qualifying provider selected by the parent for the student's enrollment or engagement is capable of providing education services for the student.
  - (b) A scholarship account application form shall contain the following statement:
    - "I acknowledge that:
    - 1: A qualifying provider may not provide the same level of disability services that are provided in a public school;
    - 2: I will assume full financial responsibility for the education of my scholarship recipient if I agree to this scholarship account;
    - 3: Agreeing to establish this scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and
    - 4: My child may return to a public school at any time."
  - (c) Upon agreeing to establish a scholarship account, the parent assumes full financial responsibility for the education of the scholarship student, including the balance of any expense incurred at a qualifying provider or for goods that are not paid for by the scholarship student's scholarship account.
  - (d) Agreeing to establish a scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
  - (e) The creation of the program or establishment of a scholarship account on behalf of a student does not:
    - (i) imply that a public school did not provide a free and appropriate public education for a student; or
    - (ii) constitute a waiver or admission by the state.
- (5) A program manager may not charge a scholarship account application fee.
- (6)

- (a) A program manager shall give an enrollment preference based on the following order of preference:
    - (i) to an eligible student who used a scholarship account in the previous school year;
    - (ii) to an eligible student:
      - (A) who did not use a scholarship account in the previous school year; and
      - (B) with a family income at or below 200% of the federal poverty level;
    - (iii) to an eligible student who is a sibling of an eligible student who:
      - (A) uses a scholarship account at the time the sibling applies for a scholarship account; or
      - (B) used a scholarship account in the school year immediately preceding the school year for which the sibling is applying for a scholarship account; and
    - (iv) to an eligible student:
      - (A) who did not use a scholarship account in the previous school year; and
      - (B) with a family income between 200% and 555% of the federal poverty level.
  - (b) The State Tax Commission may, upon request, provide state individual income tax information to the program manager for income verification purposes regarding a given individual if:
    - (i) the individual voluntarily provides the individual's social security number to the program manager; and
    - (ii) consents in writing to the sharing of state individual income tax information solely for income verification purposes.
  - (c) In addition to the tax information described in Subsection (6)(b), the program manager shall accept the following for income verification:
    - (i) a federal form W-2;
    - (ii) a wage statement from an employer; and
    - (iii) other methods or documents that the program manager identifies.
- (7)
- (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship account to pay for a scholarship expense from a qualifying provider that a parent or scholarship student incurs in the education of the scholarship student.
  - (b) A scholarship student or the scholarship student's parent may not use a scholarship account for an expense that the student or parent does not incur in the education of the scholarship student, including:
    - (i) a rehabilitation program that is not primarily designed for an educational purpose; or
    - (ii) a travel expense other than a transportation expense described in Section 53F-6-401.
  - (c) The program manager may not:
    - (i) approve a scholarship expense for a service that a qualifying provider provides unless the program manager determines that the scholarship student or the scholarship student's parent incurred the expense in the education of the scholarship student; or
    - (ii) reimburse an expense for a service or good that a provider that is not a qualifying provider provides unless:
      - (A) the parent or scholarship student submits a receipt that shows the cost and type of service or good and the name of provider;
      - (B) the expense would have qualified as a scholarship expense if a qualifying provider provided the good or service;
      - (C) the provider of the good or service is not the parent of the student who is a home-based scholarship student solely in relation to the parent's child; and
      - (D) the program manager determines that the parent or scholarship student incurred the expense in the education of the scholarship student.

- (d) The parent of a scholarship student may not receive scholarship funds as payment for the parent's time spent educating the parent's child.
- (e) Except for cases in which a scholarship student or the scholarship student's parent is convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student, or scholarship student's parent repays an expenditure from a scholarship account for an expense that is not approved under this Subsection (7), the program manager shall credit the repaid amount back to the scholarship account balance within 30 days after the day on which the program manager receives the repayment.
- (8) Notwithstanding any other provision of law, funds that the program manager disburses under this part to a scholarship account on behalf of a scholarship student do not constitute state taxable income to the parent of the scholarship student.
- (9) The program manager shall prepare and disseminate information on the program to a parent applying for a scholarship account on behalf of a student, including the information that the program manager provides in accordance with Section 53F-6-405.
- (10) On or before September 1, 2023, and as frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:
  - (a) scholarship account information;
  - (b) information on the program manager, including the program manager's contact information; and
  - (c) an overview of the program.

Amended by Chapter 26, 2024 General Session

**53F-6-403 Qualifying providers.**

- (1) Before the beginning of the school year immediately following a school year in which a qualifying provider receives scholarship funds equal to or more than \$500,000, the qualifying provider shall file with the program manager a surety bond payable to the program manager in an amount equal to the aggregate amount of scholarship funds expected to be received during the school year.
- (2) If a program manager determines that a qualifying provider has violated a provision of this part, the program manager may interrupt disbursement of or withhold scholarship funds from the qualifying provider.
- (3)
  - (a) If the program manager determines that a qualifying provider no longer meets the eligibility requirements described in this part, the program manager may withdraw the organization's approval of the qualifying provider.
  - (b) A provider or person that does not have the approval of the program manager in accordance with the following may not accept scholarship funds for services under this part:
    - (i) Section 53F-6-408 regarding eligible schools; or
    - (ii) Section 53F-6-409 regarding eligible service providers.
- (4) If a qualifying provider requires partial payment of tuition or fees before the beginning of the academic year to reserve space for a scholarship student who has been admitted to the qualifying provider, the program manager may:
  - (a) pay the partial payment before the beginning of the school year in which the scholarship funds are awarded; and
  - (b) deduct the amount of the partial payment from subsequent scholarship fund deposits in an equitable manner that provides the best availability of scholarship funds to the student throughout the remainder of the school year.



- (5) If a scholarship student described in Subsection (4)(a) chooses to withdraw from or otherwise not engage with the qualifying provider before the beginning of the school year:
  - (a) the qualifying provider shall remit the partial payment described in Subsection (4)(a) to the program manager; and
  - (b) the program manager shall credit the remitted partial payment to the scholarship student's scholarship account.

Enacted by Chapter 1, 2023 General Session

**53F-6-404 State board procurement and review of program manager -- Failure to comply.**

- (1)
  - (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement with no more than one organization that qualifies as tax exempt under Section 501(c)(3), Internal Revenue Code, for the state board to recognize as the program manager, on or before September 1, 2023.
  - (b) An organization that responds to a request for proposals described in Subsection (1)(a) shall submit the following information in the organization's response:
    - (i) a copy of the organization's incorporation documents;
    - (ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;
    - (iii) a description of the methodology the organization will use to verify a student's eligibility under this part;
    - (iv) a description of the organization's proposed scholarship account application process; and
    - (v) an affidavit or other evidence that the organization:
      - (A) is not affiliated with any international organization;
      - (B) does not harvest data for the purpose of reproducing or distributing the data to another entity; and
      - (C) has no involvement in guiding or directing any curriculum standards.
  - (c) The state board shall ensure that the agreement described in Subsection (1)(a):
    - (i) ensures the efficiency and success of the program; and
    - (ii) does not impose any requirements on the program manager that:
      - (A) are not essential to the basic administration of the program; or
      - (B) create restrictions, directions, or mandates regarding instructional content or curriculum.
- (2) The state board may regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager.
- (3)
  - (a) If the state board determines that a program manager has violated a provision of this part or a provision of the state board's agreement with the program manager, the state board shall send written notice to the program manager explaining the violation and the remedial action required to correct the violation.
  - (b) A program manager that receives a notice described in Subsection (3)(a) shall, no later than 60 days after the day on which the program manager receives the notice, correct the violation and report the correction to the state board.
  - (c)

- (i) If a program manager that receives a notice described in Subsection (3)(a) fails to correct a violation in the time period described in Subsection (3)(b), the state board may bar the program manager from further participation in the program.
- (ii) A program manager may appeal a decision of the state board under Subsection (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (d) A program manager may not accept state funds while the program manager:
  - (i) is barred from participating in the program under Subsection (3)(c)(i); or
  - (ii) has an appeal pending under Subsection (3)(c)(ii).
- (e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may continue to administer scholarship accounts during the pending appeal.
- (4) The state board shall establish a process for a program manager to report the information the program manager is required to report to the state board under Section 53F-6-405.
- (5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and include provisions in the state board's agreement with the scholarship organization for:
  - (a) subject to Subsection (6), the administration of scholarship accounts and disbursement of scholarship funds if a program manager is barred from participating in the program under Subsection (3)(c)(i); and
  - (b) audit and report requirements as described in Section 53F-6-405.
- (6)
  - (a) The state board shall include in the rules and provisions described in Subsection (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and enrollment in the program are not disrupted if the program manager is barred from participating in the program.
  - (b) The state board may, if the program manager is barred from participating in the program, issue a new request for proposals and enter into a new agreement with an alternative program manager in accordance with this section.
- (7)
  - (a) On or before January 1, 2024, the program manager shall:
    - (i) establish a process for a scholarship student or a scholarship student's parent to appeal any administrative decision of the program manager, including scholarship expense denials and determinations regarding enrollment eligibility or suspension or disqualification under Section 53F-6-405;
    - (ii) ensure that the body that determines the outcome of internal appeals:
      - (A) includes parents of scholarship students; and
      - (B) makes a determination within 30 days after the day of the appeal;
    - (iii) make information available regarding the internal appeals process on the program manager's website and on the scholarship application.
  - (b) If the program manager stays or reverses an administrative decision of the program manager on internal appeal, the program manager may not withhold scholarship funds or application approval for the scholarship student on account of the appealed administrative decision unless as the resolution of the internal appeal expressly allows.
- (8) The state board may not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding instructional content or curriculum.
- (9) No later than 10 business days after July 1 of each year, the state board shall disperse to the program manager an amount equal to the funds appropriated for the Utah Fits All Scholarship Program for the given fiscal year.

Amended by Chapter 26, 2024 General Session

**53F-6-405 Program manager duties -- Audit -- Prohibitions.**

- (1) The program manager shall administer the program, including:
  - (a) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;
  - (b) reviewing applications from and determining if a person is:
    - (i) an eligible school under Section 53F-6-408; or
    - (ii) an eligible service provider under Section 53F-6-409;
  - (c) establishing an application process, including application dates opening before March 1, 2024, in accordance with Section 53F-6-402;
  - (d) reviewing and granting or denying applications for a scholarship account;
  - (e) providing an online portal for the parent of a scholarship student to access the scholarship student's account to facilitate payments to a qualifying provider from the online portal;
  - (f) ensuring that scholarship funds in a scholarship account are readily available to a scholarship student;
  - (g) requiring a parent to notify the program manager if the parent's scholarship student is no longer enrolled in or engaging a service:
    - (i) for which the scholarship student receives scholarship funds; and
    - (ii) that is provided to the scholarship student for an entire school year;
  - (h) obtaining reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer enrolled or with which the scholarship student is no longer engaged;
  - (i) expending all revenue from interest on scholarship funds or investments on scholarship expenses;
  - (j) each time the program manager makes an administrative decision that is adverse to a scholarship student or the scholarship student's parent, informing the scholarship student and the scholarship student's parent of the opportunity and process to appeal an administrative decision of the program manager in accordance with the process described in Section 53F-6-404;
  - (k) maintaining a protected internal waitlist of all eligible students who have applied to the program and are not yet scholarship students, including any student who removed the student's application from the waitlist; and
  - (l) providing aggregate data regarding the number of scholarship students and the number of eligible students on the waitlist described in Subsection (1)(k).
- (2) The program manager shall:
  - (a) contract with one or more private entities to develop and implement a commercially viable, cost-effective, and parent-friendly system to:
    - (i) establish scholarship accounts;
    - (ii) maximize payment flexibility by allowing:
      - (A) for payment of services to qualifying providers using scholarship funds by electronic or online funds transfer from the online portal; and
      - (B) pre-approval of a reimbursement to a parent for a good that is a scholarship expense; and
    - (iii) allow scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers;
  - (b) except for a reimbursement authorized under this part, ensuring the use of scholarship funds from the online portal directly to a qualifying provider to pay for scholarship expenses without the availability of withdrawal or other direct access to scholarship funds by an individual; and

- (c) ensure that the system complies with industry standards for data privacy and cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.
- (3) In advance of the program manager accepting applications in accordance with Section 53F-6-402 and as regularly as information develops, the program manager shall provide information regarding the program by publishing a program handbook online for scholarship applicants, scholarship students, parents, service providers seeking to become qualifying providers, and qualifying providers, that includes information regarding:
  - (a) the policies and processes of the program;
  - (b) approved scholarship expenses and qualifying providers;
  - (c) the responsibilities of parents regarding the program and scholarship funds;
  - (d) the duties of the program manager;
  - (e) the opportunity and process to appeal an administrative decision of the program manager in accordance with the process described in Section 53F-6-404; and
  - (f) the role of any private financial management firms or other private organizations with which the program manager may contract to administer any aspect of the program.
- (4) To ensure the fiscal security and compliance of the program, the program manager shall:
  - (a) prohibit a program manager employee or program manager officer from handling, managing, or processing scholarship funds, if, based on a criminal background check that the state board conducts in accordance with Section 53F-6-407, the state board identifies the program manager employee or program manager officer as posing a risk to the appropriate use of scholarship funds;
  - (b) establish procedures to ensure a fair process to:
    - (i) suspend scholarship student's eligibility for the program in the event of the scholarship student's or scholarship student's parent's:
      - (A) intentional or substantial misuse of scholarship funds; or
      - (B) violation of this part or the terms of the program; and
    - (ii) if the program manager obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or criminal investigation;
    - (iii) ensure that a scholarship student whose eligibility is suspended or disqualified under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent regains eligibility if the student is placed with a different parent or otherwise no longer resides with the parent related to the suspension or disqualification;
  - (c) notify the state board, scholarship student, and scholarship student's parent in writing:
    - (i) of the suspension described in Subsection (4)(b)(i);
    - (ii) that no further transactions, disbursements, or reimbursements are allowed;
    - (iii) that the scholarship student or scholarship student's parent may take corrective action within 10 business days of the day on which the program manager provides the notification; and
    - (iv) that without taking the corrective action within the time period described in Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.
- (5)
  - (a) A program manager may not:
    - (i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to use scholarship funds if:
      - (A) the program manager determines that the qualifying provider intentionally or substantially misrepresented information on overpayment;
      - (B) the qualifying provider fails to refund an overpayment in a timely manner; or

- (C) the qualifying provider routinely fails to provide scholarship students with promised educational services; or
- (ii) reimburse with scholarship funds an individual for the purchase of a good or service if the program manager determines that:
  - (A) the scholarship student or the scholarship student's parent requesting reimbursement intentionally or substantially misrepresented the cost or educational purpose of the good or service; or
  - (B) the relevant scholarship student was not the exclusive user of the good or service.
- (b) A program manager shall notify a scholarship student if the program manager:
  - (i) stops disbursement of the scholarship student's scholarship funds to a qualifying provider under Subsection (5)(a)(i); or
  - (ii) refuses reimbursement under Subsection (5)(a)(ii).
- (6)
  - (a) At any time, a scholarship student may change the qualifying provider to which the scholarship student's scholarship account makes distributions.
  - (b) If, during the school year, a scholarship student changes the student's enrollment in or engagement with a qualifying provider to another qualifying provider, the program manager may prorate scholarship funds between the qualifying providers based on the time the scholarship student received the goods or services or was enrolled.
- (7) A program manager may not subvert the enrollment preferences required under Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of a relative of a program manager officer.
- (8) The program manager shall:
  - (a) contract for annual and random audits on scholarship accounts conducted:
    - (i) by a certified public accountant who is independent from:
      - (A) the program manager;
      - (B) the state board; and
      - (C) the program manager's accounts and records pertaining to scholarship funds; and
    - (ii) in accordance with generally accepted auditing standards;
  - (b) demonstrate the program manager's financial accountability by annually submitting to the state board the following:
    - (i) a financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and
    - (ii) no later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in Subsection (8)(a), including the program manager's financial statements in a format that meets generally accepted accounting principles.
- (9)
  - (a) The state board:
    - (i) shall review a report described in this section; and
    - (ii) may request that the program manager revise or supplement the report if the report does not fully comply with this section.
  - (b) The program manager shall provide to the state board a revised report or a supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (9)(a).

Amended by Chapter 26, 2024 General Session

**53F-6-406 Qualifying provider regulatory autonomy -- Home school autonomy -- Student records -- Scholarship student status.**

- (1) Nothing in this part:
  - (a) except as expressly described in this part, grants additional authority to any state agency or LEA to regulate or control:
    - (i) a private school, qualifying provider, or home school;
    - (ii) students receiving education from a private school, qualifying provider, or home school;
  - (b) applies to or otherwise affects the freedom of choice of a home school student, including the curriculum, resources, developmental planning, or any other aspect of the home school student's education; or
  - (c) expands the regulatory authority of the state, a state office holder, or an LEA to impose any additional regulation of a qualifying provider beyond any regulation necessary to administer this part.
- (2) A qualifying provider:
  - (a) has a right to maximum freedom from unlawful governmental control in providing for the educational needs of a scholarship student who attends or engages with the qualifying provider; and
  - (b) is not an agent of the state by virtue of the provider's acceptance of payment from a scholarship account in accordance with this part.
- (3) Except as provided in Section 53F-6-403 regarding qualifying providers, Section 53F-6-408 regarding eligible schools, or Section 53F-6-409 regarding eligible service providers, a program manager may not require a qualifying provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept scholarship funds.
- (4) An LEA or a school in an LEA in which a scholarship student was previously enrolled shall provide to the scholarship student's parent a copy of all school records relating to the student that the LEA possesses within 30 days after the day on which the LEA or school receives the parent's request for the student's records, subject to:
  - (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and
  - (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
- (5) By virtue of a scholarship student's involvement in the program and unless otherwise expressly provided in statute, a scholarship student is not:
  - (a) enrolled in the public education system; or
  - (b) otherwise subject to statute, administrative rules, or other state regulations as if the student was enrolled in the public education system.

Enacted by Chapter 1, 2023 General Session

**53F-6-407 Background checks for program manager -- Bureau responsibilities -- Fees.**

- (1) As used in this section:
  - (a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.
  - (b) "Department" means the Department of Public Safety.
  - (c) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.
  - (d) "Personal identifying information" means:
    - (i) current name;
    - (ii) former names;
    - (iii) nicknames;

- (iv) aliases;
  - (v) date of birth;
  - (vi) address;
  - (vii) telephone number;
  - (viii) driver license number or other government-issued identification number;
  - (ix) social security number; and
  - (x) fingerprints.
- (e) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
- (f) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.
- (2) The program manager shall:
- (a) require an employee or officer of the program manager to submit to a criminal background check and ongoing monitoring;
  - (b) collect the following from an employee or officer of the program manager:
    - (i) personal identifying information;
    - (ii) a fee described in Subsection (4); and
    - (iii) consent, on a form specified by the program manager, for:
      - (A) an initial fingerprint-based background check by the bureau;
      - (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection (3); and
      - (C) disclosure of any criminal history information to the program manager;
  - (c) submit the personal identifying information of an employee or officer of the program manager to the bureau for:
    - (i) an initial fingerprint-based background check by the bureau; and
    - (ii) ongoing monitoring through registration with the systems described in Subsection (3) if the results of the initial background check do not contain disqualifying criminal history information as determined by the program manager;
  - (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the program manager only receives notifications for individuals with whom the program manager maintains an authorizing relationship; and
  - (e) submit the information to the bureau for ongoing monitoring through registration with the systems described in Subsection (3).
- (3) The bureau shall:
- (a) upon request from the program manager, register the fingerprints submitted by the program manager as part of a background check with the WIN Database rap back system, or any successor system;
  - (b) notify the program manager when a new entry is made against an individual whose fingerprints are registered with the WIN Database rap back system regarding:
    - (i) an alleged offense; or
    - (ii) a conviction, including a plea in abeyance;
  - (c) assist the program manager to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the program manager only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and
  - (d) collaborate with the program manager to provide training to appropriate program manager employees on the notification procedures and privacy risk mitigation strategies described in this section.

- (4)
  - (a) The division shall impose fees that the division sets in accordance with Section 63J-1-504 for the fingerprint card of an employee or officer of the program manager, for a name check, and to register fingerprints under this section.
  - (b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

Enacted by Chapter 1, 2023 General Session

**53F-6-408 Eligible schools.**

- (1) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with 150 or more enrolled students shall:
  - (a)
    - (i) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement as the state board adopts, or obtain an audit and report that:
      - (A) a licensed independent certified public accountant conducts in accordance with generally accepted auditing standards;
      - (B) presents the financial statements in accordance with generally accepted accounting principles; and
      - (C) audits financial statements from within the 12 months immediately preceding the audit; and
    - (ii) submit the audit report or report of the agreed upon procedure to the program manager when the private school applies to receive scholarship funds;
  - (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
  - (c) provide a written disclosure to the parent of each prospective scholarship student, before the student is enrolled, of:
    - (i) the education services that the school will provide to the scholarship student, including the cost of the provided services;
    - (ii) tuition costs;
    - (iii) additional fees the school will require a parent to pay during the school year; and
    - (iv) the skill or grade level of the curriculum in which the prospective scholarship student will participate; and
  - (d) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:
    - (i) an employee who does not hold:
      - (A) a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure; or
      - (B) if the private school is not physically located in Utah, a current educator license in the state where the private school is physically located; and
    - (ii) a contract employee.
- (2) A private school described in Subsection (1) is not eligible to receive scholarship funds if:
  - (a) the private school requires a scholarship student to sign a contract waiving the scholarship student's right to transfer to another qualifying provider during the school year;
  - (b) the audit report described in Subsection (1)(a) contains a going concern explanatory paragraph; or



- (c) the report of the agreed upon procedures described in Subsection (1)(a) shows that the private school does not have adequate working capital to maintain operations for the first full year.
- (3) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with fewer than 150 enrolled students shall:
  - (a) provide to the program manager:
    - (i) a federal employer identification number;
    - (ii) the provider's address and contact information;
    - (iii) a description of each program or service the provider proposes to offer a scholarship student; and
    - (iv) any other information as required by the program manager; and
  - (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.
- (4) A private school described in Subsection (3) is not eligible to receive scholarship funds if the private school requires a scholarship student to sign a contract waiving the student's rights to transfer to another qualifying provider during the school year.
- (5) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, an LEA shall:
  - (a) provide to the program manager:
    - (i) a federal employer identification number;
    - (ii) the LEA's address and contact information; and
    - (iii) the amount to be charged under the program for, in correlation with the LEA's course and activity fee schedules, and a description of a class, program, or service the LEA provides to a home-based scholarship student;
  - (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and
  - (c) ensure the provision of services to a scholarship student through which:
    - (i) the scholarship student does not enroll in the LEA; and
    - (ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU funding related to the student's participation with the LEA.
- (6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:
  - (a) the LEA requires a public education system scholarship student to sign a contract waiving the student's rights to engage with another qualifying provider for a scholarship expense during the school year; or
  - (b) the LEA refuses to offer services that do not require LEA enrollment to scholarship students under the program.
- (7) Residential treatment facilities licensed by the state are not eligible to receive scholarship funds.
- (8) A private school or LEA intending to receive scholarship funds shall:
  - (a)
    - (i) for a private school, submit an application to the program manager; or
    - (ii) for an LEA, submit a notice to the program manager containing the information described in Subsection (5)(a); and
  - (b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship student's parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.
- (9) The program manager shall:
  - (a) if the private school or LEA meets the eligibility requirements of this section, recognize the private school or LEA as an eligible school and, for a private school, approve the application; and

- (b) make available to the public a list of eligible schools approved under this section.
- (10) A private school approved under this section that changes ownership shall:
  - (a) cease operation as an eligible school until:
    - (i) the school submits a new application to the program manager; and
    - (ii) the program manager approves the new application; and
  - (b) demonstrate that the private school continues to meet the eligibility requirements of this section.

Amended by Chapter 26, 2024 General Session

**53F-6-409 Eligible service providers.**

- (1) To be an eligible service provider, a private program or service:
  - (a) shall provide to the program manager:
    - (i) a federal employer identification number;
    - (ii) the provider's address and contact information;
    - (iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and
    - (iv) subject to Subsection (2), any other information as required by the program manager;
  - (b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and
  - (c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.
- (2) The program manager shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.
- (3) A private program or service intending to receive scholarship funds shall:
  - (a) submit an application to the program manager; and
  - (b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.
- (4) The program manager shall:
  - (a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and
  - (b) make available to the public a list of eligible service providers approved under this section.
- (5) A private program or service approved under this section that changes ownership shall:
  - (a) cease operation as an eligible service provider until:
    - (i) the program or service submits a new application to the program manager; and
    - (ii) the program manager approves the new application; and
  - (b) demonstrate that the private program or service continues to meet the eligibility requirements of this section.
- (6) The following are not eligible service providers:
  - (a) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or
  - (b) any other individual that does not meet the requirements described in this section.
- (7) Nothing prohibits an entity that provides education services under the Statewide Online Education Program described in Title 53F, Chapter 4, Part 5, Statewide Online Education

Program, from operating as an eligible service provider under this part to provide education services to scholarship students.

Amended by Chapter 26, 2024 General Session

**53F-6-410 Parental rights -- Optional assessment.**

- (1) In accordance with Section 53G-6-803 regarding a parent's right to academic accommodations, nothing in this chapter restricts or affects a parent's interests and role in the care, custody, and control of the parent's child, including the duty and right to nurture and direct the child's upbringing and education.
- (2)
  - (a) A parent may request that the program manager facilitate one of the following assessments of the parent's scholarship student:
    - (i) a standards assessment described in Section 53E-4-303;
    - (ii) a high school assessment described in Section 53E-4-304;
    - (iii) a college readiness assessment described in Section 53E-4-305;
    - (iv) an assessment of students in grade 3 to measure reading grade level described in Section 53E-4-307; or
    - (v) a nationally norm-referenced assessment.
  - (b)
    - (i) Notwithstanding any other provision of law, the entity administering an assessment described in Subsection (2)(a) to a scholarship student in accordance with this section may not report the result of or any other data pertaining to the assessment or scholarship student to a person other than the program manager, the scholarship student, or the scholarship student's parent.
    - (ii) The program manager may not report or communicate the result or data described in Subsection (2)(b)(i) to a person other than the relevant scholarship student and the scholarship student's parent unless the result or data is included in a de-identified compilation of data related to all scholarship students.
  - (c) In any communication from the program manager regarding an assessment described in this Subsection (2), the program manager shall include a disclaimer that no assessment is required.
  - (d) The completion of an optional assessment under this section satisfies the portfolio eligibility qualification described in Subsection 53F-6-402(3)(d).

Enacted by Chapter 1, 2023 General Session

**53F-6-411 Program funding.**

- (1) If a scholarship student enters or reenters the public education system during a given school year:
  - (a) no later than five business days after the day on which the student enters or reenters the public education system, the program manager shall immediately remove the balance in the scholarship student's scholarship account for other use within the program;
  - (b) the state board may not distribute any remaining state funds to the program manager for the student; and
  - (c) the program manager may use the balance described in Subsection (1)(a) for another scholarship student.

- (2) At the end of a school year, a program manager shall withdraw any remaining scholarship funds in a scholarship account and retain the scholarship funds for disbursement in the following year.
- (3)
  - (a) To administer the program, the program manager may use up to the lesser of 5% or \$2,500,000 of the funds the Legislature appropriates for the program.
  - (b) Subject to Subsection (3)(a), the funds for program administration described in Subsection (3)(a) are nonlapsing.
  - (c) The program manager may not retain administrative cost balances in excess of 25% of total administrative costs in any fiscal year.

Enacted by Chapter 1, 2023 General Session

**53F-6-412 Reports.**

Beginning in 2025 and in accordance with Section 68-3-14 and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, the program manager shall submit a report on the program to the Education Interim Committee no later than September 1 of each year that includes:

- (1) the total amount of tuition and fees qualifying providers charged for the current year and previous two years;
- (2) the total amount of goods paid for with scholarship funds in the previous year and a general characterization of the types of goods;
- (3) administrative costs of the program;
- (4) the number of scholarship students from each county and the aggregate number of eligible students on the waitlist described in Section 53F-6-405;
- (5) the percentage of first-time scholarship students who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;
- (6) the program manager's strategy and outreach efforts to reach eligible students whose family income is at or below 200% of the federal poverty level and related obstacles to enrollments;
- (7) in the report that the program manager submits in 2025, information on steps the program manager has taken and processes the program manager has adopted to implement the program; and
- (8) any other information regarding the program and the program's implementation that the committee requests.

Amended by Chapter 26, 2024 General Session

**53F-6-413 Legal proceedings.**

- (1) In any legal proceeding against the state in which a qualifying provider challenges the application of this part to the qualifying provider, the state shall bear the burden of establishing that the law:
  - (a) is necessary; and
  - (b) does not impose an undue burden on the qualifying provider.
- (2) The following bear no liability based on the award or use of scholarship funds under this part:
  - (a) the state;
  - (b) the state board;
  - (c) the program manager; or
  - (d) an LEA.

- (3) If any provision of this part is the subject of a state or federal constitutional challenge in a state court, scholarship students and scholarship students' parents may intervene as a matter of right to defend the program's constitutionality, subject to any court order that all defending parents and scholarship students intervene jointly.

Enacted by Chapter 1, 2023 General Session

**53F-6-414 Severability.**

- (1) If any provision of this part or the application of any provision of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this part remain effective without the invalidated provision or application.
- (2) The provisions of this part are severable.

Enacted by Chapter 1, 2023 General Session

**53F-6-415 Procurement flexibility.**

For the year 2023, if the state board determines that it is not feasible to successfully meet a procurement and contracting deadline in this part, the state board may extend the deadline by no more than 90 days.

Enacted by Chapter 353, 2023 General Session