

1 **UTAH FITS ALL SCHOLARSHIP PROGRAM AMENDMENTS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Candice B. Pierucci**

5 Senate Sponsor: Kirk A. Cullimore

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions regarding the Utah Fits All Scholarship Program.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ provides for the inclusion of children of military service members;
- 14 ▶ allows a foster parent who has initiated a process to adopt the foster child to apply
- 15 for a scholarship account;
- 16 ▶ clarifies the use of scholarship funds to pay expenses to a qualifying provider
- 17 instead of an individual, including that parents are not eligible service providers;
- 18 ▶ allows the Utah State Tax Commission to provide certain income information to the
- 19 program manager in certain circumstances;
- 20 ▶ amends a provision regarding an appeal process, shifting the requirement from the
- 21 State Board of Education to the program manager with the involvement of parents;
- 22 ▶ amends provisions regarding local education agency participation by removing dual
- 23 enrollment proration and establishing local education agency eligibility to serve
- 24 home-based scholarship students; and
- 25 ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53F-6-401**, as enacted by Laws of Utah 2023, Chapter 1

33 **53F-6-402**, as enacted by Laws of Utah 2023, Chapter 1

34 **53F-6-404**, as enacted by Laws of Utah 2023, Chapter 1

35 **53F-6-405**, as enacted by Laws of Utah 2023, Chapter 1

36 **53F-6-408**, as enacted by Laws of Utah 2023, Chapter 1

37 **53F-6-409**, as enacted by Laws of Utah 2023, Chapter 1



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **53F-6-401** is amended to read:

41 **53F-6-401. Definitions.**

42 As used in this part:

43 (1) "Eligible student" means a student:

44 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through
45 12;

46 (b) who is a resident of the state, including a child of a military service member, as that
47 term is defined in Section **53B-8-102**;

48 (c) who, during the school year for which the student is applying for a scholarship
49 account:

50 (i) does not receive a scholarship under:

51 (A) the Carson Smith Scholarship Program established in Section **53F-4-302**; or

52 (B) the Special Needs Opportunity Scholarship Program established in Section
53 **53E-7-402**; and

54 (ii) [~~except for a student who is enrolled part-time in accordance with Section~~
55 ~~**53G-6-702**;~~] is not enrolled in an LEA upon receiving the scholarship;

56 (d) whose eligibility is not suspended or disqualified under Section **53F-6-401**; and

57 (e) who completes, to maintain eligibility, the portfolio requirement described in
58 Subsection **53F-6-402**(3)(d).

59 (2) "Federal poverty level" means the United States poverty level as defined by the
60 most recently revised poverty income guidelines published by the United States Department of
61 Health and Human Services in the Federal Register.

62 (3) (a) "Home-based scholarship student" means a student who:

63 (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

64 (ii) is excused from enrollment in an LEA in accordance with Section [53G-6-204](#) to
65 attend a home school; and

66 (iii) receives a benefit of scholarship funds.

67 (b) "Home-based scholarship student" does not mean a home school student who does
68 not receive a scholarship under the program.

69 (4) "Parent" means:

70 (a) the same as that term is defined in Section [531-1-102](#); and

71 (b) a foster parent who has initiated a process to adopt the foster child.

72 (5) "Program manager" means an organization that:

73 (a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

74 (b) is not affiliated with any international organization;

75 (c) does not harvest data for the purpose of reproducing or distributing the data to other
76 entities;

77 (d) has no involvement in guiding or directing any curriculum or curriculum standards;

78 (e) does not manage or otherwise administer a scholarship under:

79 (i) the Carson Smith Scholarship Program established in Section [53F-4-302](#); or

80 (ii) the Special Needs Opportunity Scholarship Program established in Section
81 [53E-7-402](#); and

82 (f) an agreement with the state board recognizes as a program manager, in accordance
83 with this part.

84 [(5)] (6) (a) "Program manager employee" means an individual working for the
85 program manager in a position in which the individual's salary, wages, pay, or compensation,
86 including as a contractor, is paid from scholarship funds.

87 (b) "Program manager employee" does not include:

88 (i) an individual who volunteers for the program manager or for a qualifying provider;

89 (ii) an individual who works for a qualifying provider; or

90 (iii) a qualifying provider.

91 ~~[(6)]~~ (7) "Program manager officer" means:

92 (a) a member of the board of a program manager; or

93 (b) the chief administrative officer of a program manager.

94 ~~[(7)]~~ (8) (a) "Qualifying provider" means one of the following entities ~~[that is not a~~
95 ~~public school and is autonomous and not an agent of the state, in accordance with Section~~
96 ~~53F-6-406]~~:

97 ~~[(a)]~~ (i) an eligible school that the program manager approves in accordance with
98 Section 53F-6-408; or

99 ~~[(b)]~~ (ii) an eligible service provider that the program manager approves in accordance
100 with Section 53F-6-409.

101 (b) "Qualifying provider" does not include:

102 (i) a parent of a home-based scholarship student or a home school student; or

103 (ii) any other individual that does not meet the requirements described in Subsection
104 (7)(a).

105 ~~[(8)]~~ (9) "Relative" means a father, mother, husband, wife, son, daughter, sister,
106 brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
107 sister-in-law, son-in-law, or daughter-in-law.

108 ~~[(9)]~~ (10) "Scholarship account" means the account to which a program manager
109 allocates funds for the payment of approved scholarship expenses in accordance with this part.

110 ~~[(10)]~~ (11) "Scholarship expense" means an expense described in Section 53F-6-402
111 that a parent or scholarship student incurs in the education of the scholarship student for a
112 service or goods that a qualifying provider provides, including:

113 (a) tuition and fees of a qualifying provider;

114 (b) fees and instructional materials at a technical college;

115 (c) tutoring services;

116 (d) fees for after-school or summer education programs;

117 (e) textbooks, curricula, or other instructional materials, including any supplemental
118 materials or associated online instruction that a curriculum or a qualifying provider
119 recommends;

120 (f) educational software and applications;

- 121 (g) supplies or other equipment related to a scholarship student's educational needs;
- 122 (h) computer hardware or other technological devices that are intended primarily for a
123 scholarship student's educational needs;
- 124 (i) fees for the following examinations, or for a preparation course for the following
125 examinations, that the program manager approves:
- 126 (i) a national norm-referenced or standardized assessment described in Section
127 [53F-6-410](#), an advanced placement examination, or another similar assessment;
- 128 (ii) a state-recognized industry certification examination; and
- 129 (iii) an examination related to college or university admission;
- 130 (j) educational services for students with disabilities from a licensed or accredited
131 practitioner or provider, including occupational, behavioral, physical, audiology, or
132 speech-language therapies;
- 133 (k) contracted services that the program manager approves and that an LEA provides,
134 including individual classes, after-school tutoring services, transportation, or fees or costs
135 associated with participation in extracurricular activities;
- 136 (l) ride fees or fares for a fee-for-service transportation provider to transport the
137 scholarship student to and from a qualifying provider, not to exceed \$750 in a given school
138 year;
- 139 (m) expenses related to extracurricular activities, field trips, educational supplements,
140 and other educational experiences; or
- 141 (n) any other expense for a good or service that:
- 142 (i) a parent or scholarship student incurs in the education of the scholarship student;
143 and
- 144 (ii) the program manager approves, in accordance with Subsection (4)(d).
- 145 ~~[(H)]~~ (12) "Scholarship funds" means:
- 146 (a) funds that the Legislature appropriates for the program; and
- 147 (b) interest that scholarship funds accrue.
- 148 ~~[(H2)]~~ (13) (a) "Scholarship student" means an eligible student, including a home-based
149 scholarship student, for whom the program manager establishes and maintains a scholarship
150 account in accordance with this part.
- 151 (b) "Scholarship student" does not include a home school student who does not receive

152 a scholarship award under the program.

153 ~~[(13)]~~ (14) "Utah Fits All Scholarship Program" or "program" means the scholarship
154 program established in Section 53F-6-402.

155 Section 2. Section 53F-6-402 is amended to read:

156 **53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application**
157 **-- Scholarship expenses -- Program information.**

158 (1) There is established the Utah Fits All Scholarship Program under which, beginning
159 March 1, 2024, a parent may apply to a program manager on behalf of the parent's student to
160 establish and maintain a scholarship account to cover the cost of a scholarship expense.

161 (2) (a) The program manager shall establish and maintain, in accordance with this part,
162 scholarship accounts for eligible students.

163 (b) The program manager shall:

164 (i) determine that a student meets the requirements to be an eligible student; and

165 (ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a
166 scholarship account for the scholarship student to pay for the cost of one or more scholarship
167 expenses that the student or student's parent incurs in the student's education.

168 (c) ~~[Except as provided in Subsection (2)(d), each]~~ Each year, subject to this part and
169 legislative appropriations, a scholarship student is eligible for no more than:

170 (i) for the 2024-2025 school year, \$8,000; and

171 (ii) for each school year following the 2024-2025 school year, the maximum allowed
172 amount under this Subsection (2)(c) in the previous year plus a percentage increase that is
173 equal to the five-year rolling average inflationary factor described in Section 53F-2-405.

174 ~~[(d) If a scholarship student enrolls in an LEA part-time in accordance with Section~~
175 ~~53G-6-702, the program manager shall prorate the amount of the award described in~~
176 ~~Subsection (2)(c) in proportion to the extent of the scholarship student's partial enrollment in~~
177 ~~the LEA.]~~

178 (3) (a) A program manager shall establish a scholarship account on behalf of an
179 eligible student who submits a timely application, unless the number of applications exceeds
180 available scholarship funds for the school year.

181 (b) If the number of applications exceeds the available scholarship funds for a school
182 year, the program manager shall select students on a random basis, except as provided in

183 Subsection (6).

184 (c) An eligible student or a public education student shall submit an application for an
185 initial scholarship or renewal for each school year that the student intends to receive
186 scholarship funds.

187 (d) (i) To maintain eligibility, a scholarship student or the scholarship student's parent
188 shall annually complete and deliver to the program manager a portfolio describing the
189 scholarship student's educational opportunities and achievements under the program for the
190 given year.

191 (ii) The program manager may not disclose the content of a given scholarship student's
192 portfolio except to the scholarship student's parent.

193 (4) (a) An application for a scholarship account shall contain an acknowledgment by
194 the student's parent that the qualifying provider selected by the parent for the student's
195 enrollment or engagement is capable of providing education services for the student.

196 (b) A scholarship account application form shall contain the following statement:

197 "I acknowledge that:

198 [~~(1)~~] 1: A qualifying provider may not provide the same level of disability services that
199 are provided in a public school;

200 [~~(2)~~] 2: I will assume full financial responsibility for the education of my scholarship
201 recipient if I agree to this scholarship account;

202 [~~(3)~~] 3: Agreeing to establish this scholarship account has the same effect as a parental
203 refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the
204 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

205 [~~(4)~~] 4: My child may return to a public school at any time."

206 (c) Upon agreeing to establish a scholarship account, the parent assumes full financial
207 responsibility for the education of the scholarship student, including the balance of any expense
208 incurred at a qualifying provider or for goods that are not paid for by the scholarship student's
209 scholarship account.

210 (d) Agreeing to establish a scholarship account has the same effect as a parental refusal
211 to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with
212 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

213 (e) The creation of the program or establishment of a scholarship account on behalf of

214 a student does not:

215 (i) imply that a public school did not provide a free and appropriate public education
216 for a student; or

217 (ii) constitute a waiver or admission by the state.

218 (5) A program manager may not charge a scholarship account application fee.

219 (6) (a) A program manager shall give an enrollment preference based on the following
220 order of preference:

221 ~~[(a)]~~ (i) to an eligible student who used a scholarship account in the previous school
222 year;

223 ~~[(b)]~~ (ii) to an eligible student:

224 ~~[(i)]~~ (A) who did not use a scholarship account in the previous school year; and

225 ~~[(ii)]~~ (B) with a family income at or below 200% of the federal poverty level;

226 ~~[(c)]~~ (iii) to an eligible student who is a sibling of an eligible student who:

227 ~~[(i)]~~ (A) uses a scholarship account at the time the sibling applies for a scholarship
228 account; or

229 ~~[(ii)]~~ (B) used a scholarship account in the school year immediately preceding the
230 school year for which the sibling is applying for a scholarship account; and

231 ~~[(d)]~~ (iv) to an eligible student:

232 ~~[(i)]~~ (A) who did not use a scholarship account in the previous school year; and

233 ~~[(ii)]~~ (B) with a family income between 200% and 555% of the federal poverty level.

234 (b) The State Tax Commission may provide income information to the program
235 manager for income verification purposes regarding a given individual if:

236 (i) the individual provides the individual's social security number to the program
237 manager; and

238 (ii) consents to the sharing of income information solely for income verification
239 purposes.

240 (c) In addition to the tax information described in Subsection (6)(b), the program
241 manager shall accept the following for income verification:

242 (i) a federal form W-2;

243 (ii) a wage statement from an employer; and

244 (iii) other methods or documents that the program manager identifies.

245 (7) (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship
246 account to pay for a scholarship expense from a qualifying provider that a parent or scholarship
247 student incurs in the education of the scholarship student.

248 (b) A scholarship student or the scholarship student's parent may not use a scholarship
249 account for an expense that the student or parent does not incur in the education of the
250 scholarship student, including:

251 (i) a rehabilitation program that is not primarily designed for an educational purpose;
252 or

253 (ii) a travel expense other than a transportation expense described in Section
254 [53F-6-401](#).

255 (c) The program manager may not:

256 (i) approve a scholarship expense for a service that a qualifying provider provides
257 unless the program manager determines that the scholarship student or the scholarship student's
258 parent incurred the expense in the education of the scholarship student; or

259 (ii) reimburse ~~[a scholarship]~~ an expense for a service or good that a provider that is
260 not a qualifying provider provides unless:

261 (A) the parent or scholarship student submits a receipt that shows the cost and type of
262 service or good and the name of provider; ~~[and]~~

263 (B) the expense would have qualified as a scholarship expense if a qualifying provider
264 provided the good or service;

265 (C) the provider of the good or service is not the parent of the student who is a
266 home-based scholarship student; and

267 ~~[(B)]~~ (D) the program manager determines that the parent or scholarship student
268 incurred the expense in the education of the scholarship student.

269 (d) The parent of a scholarship student may not receive scholarship funds as payment
270 for the parent's time spent educating the parent's child.

271 (e) Except for cases in which a scholarship student or the scholarship student's parent is
272 convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student,
273 or scholarship student's parent repays an expenditure from a scholarship account for an expense
274 that is not approved under this Subsection (7), the program manager shall credit the repaid
275 amount back to the scholarship account balance within 30 days after the day on which the

276 program manager receives the repayment.

277 (8) Notwithstanding any other provision of law, funds that the program manager
278 disburses under this part to a scholarship account on behalf of a scholarship student do not
279 constitute state taxable income to the parent of the scholarship student.

280 (9) The program manager shall prepare and disseminate information on the program to
281 a parent applying for a scholarship account on behalf of a student, including the information
282 that the program manager provides in accordance with Section 53F-6-405.

283 (10) On or before September 1, 2023, and as frequently as necessary to maintain the
284 information, the state board shall provide information on the state board's website, including:

285 (a) scholarship account information;

286 (b) information on the program manager, including the program manager's contact
287 information; and

288 (c) an overview of the program.

289 Section 3. Section 53F-6-404 is amended to read:

290 **53F-6-404. State board procurement and review of program manager -- Failure**
291 **to comply.**

292 (1) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
293 board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement
294 with no more than one organization that qualifies as tax exempt under Section 501(c)(3),
295 Internal Revenue Code, for the state board to recognize as the program manager, on or before
296 September 1, 2023.

297 (b) An organization that responds to a request for proposals described in Subsection
298 (1)(a) shall submit the following information in the organization's response:

299 (i) a copy of the organization's incorporation documents;

300 (ii) a copy of the organization's Internal Revenue Service determination letter
301 qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue
302 Code;

303 (iii) a description of the methodology the organization will use to verify a student's
304 eligibility under this part;

305 (iv) a description of the organization's proposed scholarship account application
306 process; and

- 307 (v) an affidavit or other evidence that the organization:
308 (A) is not affiliated with any international organization;
309 (B) does not harvest data for the purpose of reproducing or distributing the data to
310 another entity; and
311 (C) has no involvement in guiding or directing any curriculum standards.
- 312 (c) The state board shall ensure that the agreement described in Subsection (1)(a):
313 (i) ensures the efficiency and success of the program; and
314 (ii) does not impose any requirements on the program manager that:
315 (A) are not essential to the basic administration of the program; or
316 (B) create restrictions, directions, or mandates regarding instructional content or
317 curriculum.
- 318 (2) The state board may regulate and take enforcement action as necessary against a
319 program manager in accordance with the provisions of the state board's agreement with the
320 program manager.
- 321 (3) (a) If the state board determines that a program manager has violated a provision of
322 this part or a provision of the state board's agreement with the program manager, the state
323 board shall send written notice to the program manager explaining the violation and the
324 remedial action required to correct the violation.
- 325 (b) A program manager that receives a notice described in Subsection (3)(a) shall, no
326 later than 60 days after the day on which the program manager receives the notice, correct the
327 violation and report the correction to the state board.
- 328 (c) (i) If a program manager that receives a notice described in Subsection (3)(a) fails
329 to correct a violation in the time period described in Subsection (3)(b), the state board may bar
330 the program manager from further participation in the program.
- 331 (ii) A program manager may appeal a decision of the state board under Subsection
332 (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- 333 (d) A program manager may not accept state funds while the program manager:
334 (i) is barred from participating in the program under Subsection (3)(c)(i); or
335 (ii) has an appeal pending under Subsection (3)(c)(ii).
- 336 (e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may
337 continue to administer scholarship accounts during the pending appeal.

338 (4) The state board shall establish a process for a program manager to report the
339 information the program manager is required to report to the state board under Section
340 53F-6-405.

341 (5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah
342 Administrative Rulemaking Act, and include provisions in the state board's agreement with the
343 scholarship organization for:

344 (a) subject to Subsection (6), the administration of scholarship accounts and
345 disbursement of scholarship funds if a program manager is barred from participating in the
346 program under Subsection (3)(c)(i); and

347 (b) audit and report requirements as described in Section 53F-6-405.

348 (6) (a) The state board shall include in the rules and provisions described in Subsection
349 (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and
350 enrollment in the program are not disrupted if the program manager is barred from participating
351 in the program.

352 (b) The state board may, if the program manager is barred from participating in the
353 program, issue a new request for proposals and enter into a new agreement with an alternative
354 program manager in accordance with this section.

355 (7) (a) On or before January 1, 2024, the ~~[state board]~~ program manager shall:

356 (i) ~~[make rules, in accordance with Title 63G, Chapter 3, Utah Administrative~~
357 ~~Rulemaking Act, to]~~ establish a process for a scholarship student or a scholarship student's
358 parent to appeal any administrative decision of the program manager ~~[for state board resolution~~
359 ~~within 30 days after the day of the appeal]~~, including[:]

360 ~~[(A)]~~ scholarship expense denials[:]; and

361 ~~[(B)]~~ determinations regarding enrollment eligibility or suspension or disqualification
362 under Section 53F-6-405; ~~[and]~~

363 (ii) ensure that the body that determines the outcome of internal appeals:

364 (A) includes parents of scholarship students; and

365 (B) makes a determination within 30 days after the day of the appeal;

366 ~~[(ii)]~~ (iii) make information available regarding the internal appeals process on the
367 ~~[state board's]~~ program manager's website and on the scholarship application.

368 (b) If the ~~[state board]~~ program manager stays or reverses an administrative decision of

369 the program manager on internal appeal, the program manager may not withhold scholarship
370 funds or application approval for the scholarship student on account of the appealed
371 administrative decision unless as the [~~state board~~] resolution of the internal appeal expressly
372 allows.

373 (8) The state board may not include a provision in any rule that creates or implies a
374 restriction, direction, or mandate regarding instructional content or curriculum.

375 (9) No later than 10 business days after July 1 of each year, the state board shall
376 disperse to the program manager an amount equal to the funds appropriated for the Utah Fits
377 All Scholarship Program for the given fiscal year.

378 Section 4. Section **53F-6-405** is amended to read:

379 **53F-6-405. Program manager duties -- Audit -- Prohibitions.**

380 (1) The program manager shall administer the program, including:

381 (a) maintaining an application website that includes information on enrollment,
382 relevant application dates, and dates for notification of acceptance;

383 (b) reviewing applications from and determining if a person is:

384 (i) an eligible school under Section **53F-6-408**; or

385 (ii) an eligible service provider under Section **53F-6-409**;

386 (c) establishing an application process, including application dates opening before
387 March 1, 2024, in accordance with Section **53F-6-402**;

388 (d) reviewing and granting or denying applications for a scholarship account;

389 (e) providing an online portal for the parent of a scholarship student to access the
390 scholarship student's account to facilitate payments to a qualifying provider from the online
391 portal;

392 (f) ensuring that scholarship funds in a scholarship account are readily available to a
393 scholarship student;

394 (g) requiring a parent to notify the program manager if the parent's scholarship student
395 is no longer enrolled in or engaging a service:

396 (i) for which the scholarship student receives scholarship funds; and

397 (ii) that is provided to the scholarship student for an entire school year;

398 (h) obtaining reimbursement of scholarship funds from a qualifying provider that
399 provides the services in which a scholarship student is no longer enrolled or with which the

400 scholarship student is no longer engaged;

401 (i) expending all revenue from interest on scholarship funds or investments on
402 scholarship expenses;

403 (j) each time the program manager makes an administrative decision that is adverse to
404 a scholarship student or the scholarship student's parent, informing the scholarship student and
405 the scholarship student's parent of the opportunity and process to appeal an administrative
406 decision of the program manager [~~to the state board~~] in accordance with the process described
407 in Section 53F-6-404;

408 (k) maintaining a protected internal waitlist of all eligible students who have applied to
409 the program and are not yet scholarship students, including any student who removed the
410 student's application from the waitlist; and

411 (l) providing aggregate data regarding the number of scholarship students and the
412 number of eligible students on the waitlist described in Subsection (1)(k).

413 (2) The program manager shall:

414 (a) contract with one or more private entities to develop and implement a commercially
415 viable, cost-effective, and parent-friendly system to:

416 (i) establish scholarship accounts;

417 (ii) maximize payment flexibility by allowing:

418 (A) for payment of services to qualifying providers using scholarship funds by
419 electronic or online funds transfer from the online portal; and

420 (B) pre-approval of a reimbursement to a parent for a good that is a scholarship
421 expense; and

422 (iii) allow scholarship students and scholarship student's parents to publicly rate,
423 review, and share information about qualifying providers; [~~and~~]

424 (b) except for a reimbursement authorized under this part, ensuring the use of
425 scholarship funds from the online portal directly to a qualifying provider to pay for scholarship
426 expenses without the availability of withdrawal or other direct access to scholarship funds by
427 an individual; and

428 [~~(b)~~] (c) ensure that the system complies with industry standards for data privacy and
429 cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy
430 Act, 34 C.F.R. Part 99.

431 (3) In advance of the program manager accepting applications in accordance with
432 Section 53F-6-402 and as regularly as information develops, the program manager shall
433 provide information regarding the program by publishing a program handbook online for
434 scholarship applicants, scholarship students, parents, service providers seeking to become
435 qualifying providers, and qualifying providers, that includes information regarding:

- 436 (a) the policies and processes of the program;
- 437 (b) approved scholarship expenses and qualifying providers;
- 438 (c) the responsibilities of parents regarding the program and scholarship funds;
- 439 (d) the duties of the program manager;
- 440 (e) the opportunity and process to appeal an administrative decision of the program
441 manager [~~to the state board~~] in accordance with the process described in Section 53F-6-404;
442 and

443 (f) the role of any private financial management firms or other private organizations
444 with which the program manager may contract to administer any aspect of the program.

445 (4) To ensure the fiscal security and compliance of the program, the program manager
446 shall:

447 (a) prohibit a program manager employee or program manager officer from handling,
448 managing, or processing scholarship funds, if, based on a criminal background check that the
449 state board conducts in accordance with Section 53F-6-407, the state board identifies the
450 program manager employee or program manager officer as posing a risk to the appropriate use
451 of scholarship funds;

452 (b) establish procedures to ensure a fair process to:

453 (i) suspend scholarship student's eligibility for the program in the event of the
454 scholarship student's or scholarship student's parent's:

455 (A) intentional or substantial misuse of scholarship funds; or

456 (B) violation of this part or the terms of the program; and

457 (ii) if the program manager obtains evidence of fraudulent use of scholarship funds,
458 refer the case to the attorney general for collection or criminal investigation;

459 (iii) ensure that a scholarship student whose eligibility is suspended or disqualified
460 under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent
461 regains eligibility if the student is placed with a different parent or otherwise no longer resides

462 with the parent related to the suspension or disqualification;

463 (c) notify the state board, scholarship student, and scholarship student's parent in
464 writing:

465 (i) of the suspension described in Subsection (4)(b)(i);

466 (ii) that no further transactions, disbursements, or reimbursements are allowed;

467 (iii) that the scholarship student or scholarship student's parent may take corrective
468 action within 10 business days of the day on which the program manager provides the
469 notification; and

470 (iv) that without taking the corrective action within the time period described in
471 Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

472 (5) (a) A program manager may not:

473 (i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to
474 use scholarship funds if:

475 (A) the program manager determines that the qualifying provider intentionally or
476 substantially misrepresented information on overpayment;

477 (B) the qualifying provider fails to refund an overpayment in a timely manner; or

478 (C) the qualifying provider routinely fails to provide scholarship students with
479 promised educational services; or

480 (ii) reimburse with scholarship funds an individual for the purchase of a good or
481 service if the program manager determines that:

482 (A) the scholarship student or the scholarship student's parent requesting
483 reimbursement intentionally or substantially misrepresented the cost or educational purpose of
484 the good or service; or

485 (B) the relevant scholarship student was not the exclusive user of the good or service.

486 (b) A program manager shall notify a scholarship student if the program manager:

487 (i) stops disbursement of the scholarship student's scholarship funds to a qualifying
488 provider under Subsection (5)(a)(i); or

489 (ii) refuses reimbursement under Subsection (5)(a)(ii).

490 (6) (a) At any time, a scholarship student may change the qualifying provider to which
491 the scholarship student's scholarship account makes distributions.

492 (b) If, during the school year, a scholarship student changes the student's enrollment in

493 or engagement with a qualifying provider to another qualifying provider, the program manager
494 may prorate scholarship funds between the qualifying providers based on the time the
495 scholarship student received the goods or services or was enrolled.

496 (7) A program manager may not subvert the enrollment preferences required under
497 Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf
498 of a relative of a program manager officer.

499 (8) The program manager shall:

500 (a) contract for annual and random audits on scholarship accounts conducted:

501 (i) by a certified public accountant who is independent from:

502 (A) the program manager;

503 (B) the state board; and

504 (C) the program manager's accounts and records pertaining to scholarship funds; and

505 (ii) in accordance with generally accepted auditing standards;

506 (b) demonstrate the program manager's financial accountability by annually submitting
507 to the state board the following:

508 (i) a financial information report that a certified public accountant prepares and that
509 includes the total number and total dollar amount of scholarship funds disbursed during the
510 previous calendar year; and

511 (ii) no later than 180 days after the last day of the program manager's fiscal year, the
512 results of the audits described in Subsection (8)(a), including the program manager's financial
513 statements in a format that meets generally accepted accounting principles.

514 (9) (a) The state board:

515 (i) shall review a report described in this section; and

516 (ii) may request that the program manager revise or supplement the report if the report
517 does not fully comply with this section.

518 (b) The program manager shall provide to the state board a revised report or a
519 supplement to the report no later than 45 days after the day on which the state board makes a
520 request described in Subsection (9)(a).

521 Section 5. Section 53F-6-408 is amended to read:

522 **53F-6-408. Eligible schools.**

523 (1) To be eligible to receive scholarship funds on behalf of a scholarship student as an

524 eligible school, a private school with 150 or more enrolled students shall:

525 (a) (i) contract with an independent licensed certified public accountant to conduct an
526 agreed upon procedures engagement as the state board adopts, or obtain an audit and report
527 that:

528 (A) a licensed independent certified public accountant conducts in accordance with
529 generally accepted auditing standards;

530 (B) presents the financial statements in accordance with generally accepted accounting
531 principles; and

532 (C) audits financial statements from within the 12 months immediately preceding the
533 audit; and

534 (ii) submit the audit report or report of the agreed upon procedure to the program
535 manager when the private school applies to receive scholarship funds;

536 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

537 (c) provide a written disclosure to the parent of each prospective scholarship student,
538 before the student is enrolled, of:

539 (i) the education services that the school will provide to the scholarship student,
540 including the cost of the provided services;

541 (ii) tuition costs;

542 (iii) additional fees the school will require a parent to pay during the school year; and

543 (iv) the skill or grade level of the curriculum in which the prospective scholarship
544 student will participate; and

545 (d) require the following individuals to submit to a nationwide, fingerprint-based
546 criminal background check and ongoing monitoring, in accordance with Section [53G-11-402](#),
547 as a condition for employment or appointment, as authorized by the Adam Walsh Child
548 Protection and Safety Act of 2006, Pub. L. No. 109-248:

549 (i) an employee who does not hold:

550 (A) a current Utah educator license issued by the state board under Title 53E, Chapter
551 6, Education Professional Licensure; or

552 (B) if the private school is not physically located in Utah, a current educator license in
553 the state where the private school is physically located; and

554 (ii) a contract employee.

555 (2) A private school described in Subsection (1) is not eligible to receive scholarship
556 funds if:

557 (a) the private school requires a scholarship student to sign a contract waiving the
558 scholarship student's right to transfer to another qualifying provider during the school year;

559 (b) the audit report described in Subsection (1)(a) contains a going concern explanatory
560 paragraph; or

561 (c) the report of the agreed upon procedures described in Subsection (1)(a) shows that
562 the private school does not have adequate working capital to maintain operations for the first
563 full year.

564 (3) To be eligible to receive scholarship funds on behalf of a scholarship student as an
565 eligible school, a private school with fewer than 150 enrolled students shall:

566 (a) provide to the program manager:

567 (i) a federal employer identification number;

568 (ii) the provider's address and contact information;

569 (iii) a description of each program or service the provider proposes to offer a
570 scholarship student; and

571 (iv) any other information as required by the program manager; and

572 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.

573 (4) A private school described in Subsection (3) is not eligible to receive scholarship
574 funds if the private school requires a scholarship student to sign a contract waiving the
575 student's rights to transfer to another qualifying provider during the school year.

576 (5) To be eligible to receive scholarship funds on behalf of a scholarship student as an
577 eligible school, an LEA shall:

578 (a) provide to the program manager:

579 (i) a federal employer identification number;

580 (ii) the LEA's address and contact information; and

581 (iii) the amount to be charged under the program for, in correlation with LEA's course
582 and activity fee schedules, and a description of [each] a class, program, or service the LEA

583 [proposes to offer to scholarship students; and] provides to a home-based scholarship student;

584 [(iv) any other information as required by the program manager;]

585 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

586 (c) ~~[enter into an agreement with the program manager regarding]~~ ensure the provision
587 of services to a scholarship student through which:

588 (i) the scholarship student does not enroll in the LEA; and

589 (ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU
590 funding related to the student's participation with the LEA~~[-and]~~.

591 ~~[(iii) the LEA and program manager ensure that a scholarship student does not
592 participate in a course or program at the LEA except in accordance with the agreement
593 described in this Subsection (5)(c) under the program.]~~

594 (6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:

595 (a) the LEA requires a public education system scholarship student to sign a contract
596 waiving the student's rights ~~[to transfer to]~~ receive goods or services from another qualifying
597 provider during the school year; or

598 (b) the LEA refuses to offer services that do not require LEA enrollment to scholarship
599 students under the program.

600 (7) Residential treatment facilities licensed by the state are not eligible to receive
601 scholarship funds.

602 (8) A private school or LEA intending to receive scholarship funds shall:

603 (a) (i) for a private school, submit an application to the program manager; ~~and~~ or

604 (ii) for an LEA, submit a notice to the program manager containing the information
605 described in Subsection (5)(a); and

606 (b) agree to not refund, rebate, or share scholarship funds with scholarship students or
607 scholarship student's parents in any manner except remittances or refunds to a scholarship
608 account in accordance with this part and procedures that the program manager establishes.

609 (9) The program manager shall:

610 (a) if the private school or LEA meets the eligibility requirements of this section,
611 recognize the private school or LEA as an eligible school and, for a private school, approve the
612 application; and

613 (b) make available to the public a list of eligible schools approved under this section.

614 (10) A private school approved under this section that changes ownership shall:

615 (a) cease operation as an eligible school until:

616 (i) the school submits a new application to the program manager; and

617 (ii) the program manager approves the new application; and
618 (b) demonstrate that the private school continues to meet the eligibility requirements of
619 this section.

620 Section 6. Section **53F-6-409** is amended to read:

621 **53F-6-409. Eligible service providers.**

622 (1) To be an eligible service provider, a private program or service:

623 (a) shall provide to the program manager:

624 (i) a federal employer identification number;

625 (ii) the provider's address and contact information;

626 (iii) a description of each program or service the provider proposes to offer directly to a
627 scholarship student; and

628 (iv) subject to Subsection (2), any other information as required by the program
629 manager;

630 (b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

631 (c) may not act as a consultant, clearing house, or intermediary that connects a
632 scholarship student with or otherwise facilitates the student's engagement with a program or
633 service that another entity provides.

634 (2) The program manager shall adopt policies that maximize the number of eligible
635 service providers, including accepting new providers throughout the school year, while
636 ensuring education programs or services provided through the program meet student needs and
637 otherwise comply with this part.

638 (3) A private program or service intending to receive scholarship funds shall:

639 (a) submit an application to the program manager; and

640 (b) agree to not refund, rebate, or share scholarship funds with scholarship students or
641 scholarship students' parents in any manner except remittances or refunds to a scholarship
642 account in accordance with this part and procedures that the program manager establishes.

643 (4) The program manager shall:

644 (a) if the private program or service meets the eligibility requirements of this section,
645 recognize the private program or service as an eligible service provider and approve a private
646 program or service's application to receive scholarship funds on behalf of a scholarship student;
647 and

648 (b) make available to the public a list of eligible service providers approved under this
649 section.

650 (5) A private program or service approved under this section that changes ownership
651 shall:

652 (a) cease operation as an eligible service provider until:

653 (i) the program or service submits a new application to the program manager; and

654 (ii) the program manager approves the new application; and

655 (b) demonstrate that the private program or service continues to meet the eligibility
656 requirements of this section.

657 (6) The following are not eligible service providers:

658 (a) a parent of a home-based scholarship student or a home school student; or

659 (b) any other individual that does not meet the requirements described in this section.

660 **Section 7. Effective date.**

661 This bill takes effect on May 1, 2024.