

Utah Fits All Scholarship Program Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to the Utah Fits All Scholarship Program.

Highlighted Provisions:

This bill:

- strengthens residency requirements and income verification processes;
- amends the definition of the program manager;
- creates a financial administrator to process payments and fund expenditures from a scholarship account;
- prohibits contracted entities from charging processing fees to families;
- establishes deadlines for scholarship acceptance or denial;
- limits extracurricular expenses to 20% of the scholarship amount;
- limits physical education expenses to an additional 20% of the scholarship amount;
- creates procedures for students with special needs;
- enhances program manager accountability through audits and transparency;
- adds requirements for a local education agency acting as a qualified provider;
- allows for scholarship amount rollovers;
- creates the Utah Fits All Scholarship Restricted Account (the account);
- allows funds within the account to accrue interest and be invested;
- allows for rollover amounts of unused scholarship awards;
- clarifies the State Tax Commission's role in income verification; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53E-1-201 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
32 Chapters 3, 460 and 525

33 **53F-6-401 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
34 Chapter 26

35 **53F-6-402 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
36 Chapter 26

37 **53F-6-403 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
38 Chapter 1

39 **53F-6-404 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
40 Chapter 26

41 **53F-6-405 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
42 Chapter 26

43 **53F-6-406 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
44 Chapter 1

45 **53F-6-407 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
46 Chapter 1

47 **53F-6-408 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
48 Chapter 26

49 **53F-6-409 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
50 Chapter 26

51 **53F-6-410 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
52 Chapter 1

53 **53F-6-411 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
54 Chapter 1

55 **53F-6-412 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
56 Chapter 26

57 ENACTS:

58 **53F-6-405.5 (Effective upon governor's approval)**, Utah Code Annotated 1953

59 **53F-6-415.5 (Effective upon governor's approval)**, Utah Code Annotated 1953

60 **53F-6-416 (Effective upon governor's approval)**, Utah Code Annotated 1953

61 **53F-6-417 (Effective upon governor's approval)**, Utah Code Annotated 1953

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

Section 1. Section 53E-1-201 is amended to read:

53E-1-201 (Effective upon governor's approval). Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

- (a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;
- (b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;
- (c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;
- (d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;
- (e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;
- (f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;
- (g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;
- (h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;
- (i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;
- (j) the report described in Section 53F-2-522 regarding mental health screening programs;
- (k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;
- (l) the report described in Section 53F-6-412 by the program manager of the Utah Fits All Scholarship Program;

- 96 ~~[(t)]~~ (m) the report described in Section 63N-20-107 by the Governor's Office of
 97 Economic Opportunity on UPSTART;
 98 ~~[(m)]~~ (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board
 99 related to grants for professional learning and grants for an elementary teacher
 100 preparation assessment;
 101 ~~[(n)]~~ (o) upon request, the report described in Section 53F-5-219 by the state board on
 102 the Local Innovations Civics Education Pilot Program;
 103 ~~[(o)]~~ (p) the report described in Section 53F-5-405 by the state board regarding an
 104 evaluation of a partnership that receives a grant to improve educational outcomes for
 105 students who are low income;
 106 ~~[(p)]~~ (q) the report described in Section 53B-35-202 regarding the Higher Education and
 107 Corrections Council;
 108 ~~[(q)]~~ (r) the report described in Section 53G-7-221 by the state board regarding
 109 innovation plans; and
 110 ~~[(r)]~~ (s) the reports described in Section 53F-6-412 regarding the Utah Fits All
 111 Scholarship Program.
 112 (2) In accordance with applicable provisions and Section 68-3-14, the following occasional
 113 reports are due to the Education Interim Committee:
 114 (a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116,
 115 53B-1-117, and 53B-1-118;
 116 (b) if required, the report described in Section 53E-4-309 by the state board explaining
 117 the reasons for changing the grade level specification for the administration of
 118 specific assessments;
 119 (c) if required, the report described in Section 53E-5-210 by the state board of an
 120 adjustment to the minimum level that demonstrates proficiency for each statewide
 121 assessment;
 122 (d) the report described in Section 53E-10-702 by Utah Leading through Effective,
 123 Actionable, and Dynamic Education;
 124 (e) if required, the report described in Section 53F-2-513 by the state board evaluating
 125 the effects of salary bonuses on the recruitment and retention of effective teachers in
 126 high poverty schools;
 127 (f) upon request, a report described in Section 53G-7-222 by an LEA regarding
 128 expenditure of a percentage of state restricted funds to support an innovative
 129 education program;

- (g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and
- (h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53F-6-401 is amended to read:

53F-6-401 (Effective upon governor's approval). Definitions.

As used in this part:

- (1) "Contract administrator" means the state board's appointed Deputy Superintendent of Operations that ensures the program manager or financial administrator meets contractual obligations.
- (2) "Contract oversight and compliance" means the oversight and coordination functions performed by the Department of Operations contract administrator, including:
- (a) establishing and maintaining program standards within a contract with a program manager or financial administrator;
 - (b) determining operational requirements and structures;
 - (c) procuring and managing contracts for program services and standards;
 - (d) ensuring program integrity through direct or contracted oversight;
 - (e) coordinating program functions and contracted services with a program manager or financial administrator; and
 - (f) maintaining appropriate separation between government oversight and independent program operations.
- (3) "Contracted entity" means:
- (a) an organization that:
 - (i) contracts with the state board under Section 53F-6-404 to perform duties and functions necessary for program administration and operations;
 - (ii) is not affiliated with any international organization;
 - (iii) does not harvest data for the purpose of reproducing or distributing the data to other entities;
 - (iv) is not involved in guiding or directing any curriculum or curriculum standards;
 - and
 - (v) performs the specific duties and functions assigned in the contract with the state board.

(b) "Contracted entity" includes:

- (i) the program manager, unless the program manager is the Department of Operations for any duration of time;
- (ii) the financial administrator; and
- (iii) any other entity contracted to perform program functions under Section 53F-6-404.

(c) "Contracted entity" does not include:

- (i) a qualifying provider;
- (ii) an eligible school; or
- (iii) an eligible service provider.

(4)(a) "Contracted entity employee" means an individual working for an entity contracted under Section 53F-6-404 in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Contracted entity employee" does not include:

- (i) an individual who volunteers for a contracted entity or for a qualifying provider;
- (ii) an individual who works for a qualifying provider; or
- (iii) a qualifying provider.

(5) "Contracted entity officer" means:

- (a) a member of the board of a contracted entity; or
- (b) the chief administrative officer of a contracted entity.

(6) "Department of Operations" means the section of the state board that oversees financial operations, procurement operations, data and statistics operations, school land trust, and information technology operations for the state board.

(7)(a) "Educational supplements" means:

(i) materials, tools, and equipment that:

- (A) are directly related to and necessary for subjects aligned with the core standards the state board establishes pursuant to Section 53E-4-202;
- (B) are used for specific learning objectives or competencies;
- (C) support structured learning activities or lessons; and
- (D) are consumable or non-reusable in nature;

(ii) supplemental learning materials that:

- (A) directly support or enhance the delivery of instruction in core academic subjects;

- 218 (B) are tied to specific educational goals or outcomes; and
219 (C) are not primarily for entertainment or general enrichment purposes;
220 (iii) arts and music education materials that:
221 (A) align with state core standards; and
222 (B) are used in structured arts or music instruction; and
223 (iv) other educational materials that the program manager determines are:
224 (A) necessary for meeting specific learning objectives;
225 (B) appropriate for the student's age or grade level; and
226 (C) primarily educational rather than recreational in nature.
227 (b) "Educational supplements" does not include:
228 (i) entertainment materials;
229 (ii) recreational equipment;
230 (iii) food or nutritional items;
231 (iv) furniture or household items;
232 (v) general office supplies not specific to an educational activity; or
233 (vi) other items that do not have a clear, direct educational purpose aligned with
234 academic instruction.
235 [(1)] (8) "Eligible student" means a student:
236 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;
237 (b) who is a primary resident of the state, including a child of a military service member,
238 as that term is defined in Section 53B-8-102;
239 (c) who, during the school year for which the student is applying for a scholarship
240 account:
241 (i) does not receive a scholarship under:
242 (A) the Carson Smith Scholarship Program established in Section 53F-4-302; or
243 (B) the Carson Smith Opportunity Scholarship Program established in Section
244 53E-7-402; and
245 (ii) ~~[is not enrolled in, upon]~~ before receiving the scholarship is not enrolled in:
246 (A) an LEA; or
247 (B) the Statewide Online Education Program to participate in a course with
248 funding provided under ~~[Title 53F,]~~ Chapter 4, Part 5, Statewide Online
249 Education Program, which does not include participation in a course by an
250 entity as described in Subsection 53F-6-409(7);
251 (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) [:-] ;

(f) who provides verification of primary residence in Utah, including a parent's utility bill, mortgage statement, lease agreement, or property tax records from the current calendar year in which the eligible student is renewing, reapplying, or applying for the scholarship for the first time; and

(g) for out-of-state military families, who attests that the student is not enrolled in a public school elsewhere while receiving the scholarship.

[(2)] (9) "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.

(10)(a) "Financial administrator" means an organization that:

(i) is not affiliated with any international organization;

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

(iii) is not involved in guiding or directing any curriculum or curriculum standards; and

(iv) contracts with the state board to administer scholarship payments in accordance with this part.

(b) "Financial administrator" may include an organization that serves as both program manager and financial administrator if the organization maintains appropriate separation of duties and meets all qualifications for both roles.

[(3)] (11)(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] attests to being [excused] exited from enrollment in [an LEA in accordance with Section 53G-6-204] a public school to attend a home school if the student was enrolled at any time in a public 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)] (12) "Household income" means:

(a) the combined gross income of all parents residing in the same household as the eligible student;

(b) the gross income of a single parent who claims the student as a dependent; or

(c) the gross income of a parent who claims the student as a dependent under the terms of a joint custody agreement.

(13) "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.]~~

(14) "Primary residence" means the one location where an individual resides for the majority of the year.

(15) "Private school" means a full-time, tuition-bearing educational institution where the student receives the majority of the student's academic instruction.

(16)(a) "Program manager" means a contracted entity or entities that:

(i) perform program operational functions outlined in the procurement agreement described in Section 53F-6-404, including:

(A) processing scholarship applications and eligibility determinations;

(B) maintaining scholarship account records;

(C) coordinating with qualifying providers and the financial administrator; and

(D) providing customer service to program participants;

(ii) in accordance with required program administration, implement established program standards and procedures; and

(iii) perform other operational duties as specified in the contract.

(b) "Program manager" may include an organization that serves as both program manager and financial administrator if the organization maintains appropriate separation of duties and meets all qualifications for both roles.

300 [(6)(a) "Program manager employee" means an individual working for the program
301 manager in a position in which the individual's salary, wages, pay, or compensation,
302 including as a contractor, is paid from scholarship funds.]
303 [(b) "Program manager employee" does not include:]
304 [(i) an individual who volunteers for the program manager or for a qualifying
305 provider;]
306 [(ii) an individual who works for a qualifying provider; or]
307 [(iii) a qualifying provider.]
308 [(7) "Program manager officer" means:]
309 [(a) a member of the board of a program manager; or]
310 [(b) the chief administrative officer of a program manager.]
311 [(8)] (17)(a) "Qualifying provider" means one of the following entities:
312 (i) an eligible school that the program manager approves in accordance with Section
313 53F-6-408; or
314 (ii) an eligible service provider that the program manager approves in accordance
315 with Section 53F-6-409.
316 (b) "Qualifying provider" does not include:
317 (i) a parent of a home-based scholarship student or a home school student solely in
318 relation to the parent's child; or
319 (ii) any other individual that does not meet the requirements described in Subsection [
320 (8)(a)] (17)(a).
321 [(9)] (18) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
322 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
323 sister-in-law, son-in-law, or daughter-in-law.
324 [(10)] (19) "Scholarship account" means the account to which a program manager allocates
325 funds for the payment of approved scholarship expenses in accordance with this part.
326 [(11)] (20)(a) "Scholarship expense" means an expense described in Section 53F-6-402
327 that a parent or scholarship student incurs in the education of the scholarship student
328 for a service or goods that a qualifying provider provides, including:
329 [(a)] (i) tuition and fees of a qualifying provider;
330 [(b)] (ii) fees and instructional materials at a technical college;
331 [(c)] (iii) tutoring services;
332 [(d)] (iv) fees for after-school or summer education programs;
333 [(e)] (v) textbooks, curricula, or other instructional materials, including any

334 supplemental materials or associated online instruction that a curriculum or a
335 qualifying provider recommends;

336 ~~[(f)]~~ (vi) educational software and applications;

337 ~~[(g)]~~ (vii) supplies or other equipment related to a scholarship student's educational
338 needs;

339 ~~[(h)]~~ (viii) computer hardware or other technological devices that are intended
340 primarily for a scholarship student's educational needs, not to exceed once every
341 three years for a scholarship student;

342 ~~[(i)]~~ (ix) fees for the following examinations, or for a preparation course for the
343 following examinations, that the program manager approves:

344 ~~[(i)]~~ (A) a national norm-referenced or standardized assessment described in
345 Section 53F-6-410, an advanced placement examination, or another similar
346 assessment;

347 ~~[(ii)]~~ (B) a state-recognized industry certification examination; and

348 ~~[(iii)]~~ (C) an examination related to college or university admission;

349 ~~[(j)]~~ (x) educational services for students with disabilities from a licensed or
350 accredited practitioner or provider, including occupational, behavioral, physical,
351 audiology, or speech-language therapies;

352 ~~[(k)]~~ (xi) contracted services that the program manager approves and that an LEA
353 provider ~~[provides]~~ offers, including individual classes, after-school tutoring
354 services, transportation, or fees or costs associated with participation in
355 extracurricular activities;

356 ~~[(l)]~~ (xii) ride fees or fares for a fee-for-service transportation provider to transport the
357 scholarship student to and from a qualifying provider, not to exceed \$750 in a
358 given school year;

359 ~~[(m)]~~ (xiii) in accordance with Subsection (20)(c), expenses related to extracurricular
360 activities, field trips, educational supplements, physical education experiences,
361 and other educational experiences; ~~[or]~~

362 (xiv) coursework or an educational supplement for arts and music that aligns with
363 state core standards;

364 (xv) a musical instrument rental, excluding purchase; or

365 ~~[(n)]~~ (xvi) any other expense for a good or service that:

366 ~~[(i)]~~ (A) a parent or scholarship student incurs in the education of the scholarship
367 student; and

- 368 ~~[(ii)] (B) the program manager approves~~~~[, in accordance with Subsection (5)(d).]~~ .
- 369 (b) "Scholarship expense" does not include:
- 370 (i) chaperone expenses, except that a family with one or more scholarship students
- 371 receiving the scholarship under Subsection 53F-6-402(2)(c)(i) may use
- 372 scholarship funds for one chaperone expense or pass per family, regardless of how
- 373 many scholarship students are in the family or household;
- 374 (ii) season tickets or subscriptions to entertainment venues;
- 375 (iii) ski passes or lift tickets;
- 376 (iv) access to recreational facilities unless for physical education of the student;
- 377 (v) playground equipment;
- 378 (vi) the purchase of any type of:
- 379 (A) furniture; or
- 380 (B) a musical instrument;
- 381 (vii) apparel; and
- 382 (viii) other non-educational expenses as the program manager determines.
- 383 (c)(i) A scholarship expense for extracurricular activities may not exceed 20% of the
- 384 total scholarship amount.
- 385 (ii) A scholarship expense for physical education requirements may not exceed an
- 386 additional 20% of the total scholarship amount from the amount described in
- 387 Subsection (20)(c)(i).
- 388 (iii) A scholarship expense for arts and music described in Subsection (20)(a)(xiv) is
- 389 not an extracurricular activity.

390 ~~[(12)]~~ (21) "Scholarship funds" means:

- 391 (a) funds that the Legislature appropriates for the program; and
- 392 (b) interest that scholarship funds accrue.

393 ~~[(13)]~~ (22)(a) "Scholarship student" means an eligible student, including a home-based

394 scholarship student, for whom the program manager establishes and maintains a

395 scholarship account in accordance with this part.

- 396 (b) "Scholarship student" does not include a home school student who does not receive a
- 397 scholarship award under the program.

398 ~~[(14)]~~ (23) "Utah Fits All Scholarship Program" or "program" means the scholarship

399 program established in Section 53F-6-402.

400 Section 3. Section 53F-6-402 is amended to read:

401 **53F-6-402 (Effective upon governor's approval). Utah Fits All Scholarship**

Program -- Scholarship account application -- Scholarship expenses -- Program information.

(1) ~~[There]~~ Subject to Section 53F-6-415.5, 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]~~ In accordance with this part and required program administration, 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, coordinate with the financial administrator to 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.]~~

(c) Each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:

(i) for a private school student, \$8,000;

(ii) for a home-based scholarship student age 5-11 as of September 1 of the scholarship year, \$4,000; and

(iii) for a home-based scholarship student age 12-18 as of September 1 of the scholarship year, \$6,000.

(d) Unless otherwise authorized under Section 53F-6-411, scholarship funds to eligible scholarship students shall be distributed to the program manager and through the financial administrator in two equal payments:

(i) the first payment no later than July 31 of the scholarship year; and

(ii) the second payment no later than December 31 of the scholarship year.

- (e) When a scholarship student exits the program during the school year:
- (i) the program manager or the financial administrator shall:
- (A) remove any remaining funds from the exited student's scholarship account; and
- (B) make those funds available for new scholarship awards within the same year;
- and
- (ii) any new scholarship award made during the same year and using funds from an
exited student's account shall be prorated as follows:
- (A) if awarded during the second quarter of the school year, no more than 75% of
the annual scholarship amount is allocated;
- (B) if awarded during the third quarter of the school year, no more than 50% of
the annual scholarship amount is allocated; and
- (C) no new scholarship awards shall be made during the fourth quarter of the
school year.
- (3)(a) [A] In accordance with required program administration, a program manager shall
direct the financial administrator to 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), and as long as the student meets the eligibility criteria.
- (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 for the following school year, a scholarship student or
the scholarship student's parent shall:
- (A) 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; or
- (B) submit results from an assessment as described in Section 53F-6-410.
- (ii) The portfolio or assessment described in Subsection (3)(d)(i) must be submitted:
- (A) no later than May 31; or
- (B) in accordance with the assessment schedule submitted to and approved by the
program manager.
- (iii) The receipt of the portfolio or assessment results by the program manager is a

- 470 condition of scholarship award for the following school year.
- 471 (iv) The program manager may not disclose the content of a given scholarship
- 472 student's portfolio except to the scholarship student's parent, unless the parent
- 473 provides written consent for the portfolio to be used as a sample or example, in
- 474 which case all personally identifiable information must be removed prior to such
- 475 use.
- 476 ~~[(d)(i) To maintain eligibility, a scholarship student or the scholarship student's~~
- 477 ~~parent shall annually complete and deliver to the program manager a portfolio~~
- 478 ~~describing the scholarship student's educational opportunities and achievements~~
- 479 ~~under the program for the given year.]~~
- 480 ~~[(ii) The program manager may not disclose the content of a given scholarship~~
- 481 ~~student's portfolio except to the scholarship student's parent.]~~
- 482 (4)(a) An application for a scholarship account shall contain an acknowledgment by the
- 483 student's parent that the qualifying provider selected by the parent for the student's
- 484 enrollment or engagement ~~[is capable of providing]~~ can provide education services for
- 485 the student.
- 486 (b) A scholarship account application form shall contain the following statement:
- 487 "I acknowledge that:
- 488 1: A qualifying provider may not provide the same level of disability services that are
- 489 provided in a public school;
- 490 2: I will assume full financial responsibility for the education of my scholarship
- 491 recipient if I agree to this scholarship account;
- 492 3: Agreeing to establish this scholarship account has the same effect as a parental refusal
- 493 to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals
- 494 with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and
- 495 4: My child may return to a public school at any time, and I will notify the program
- 496 manager within five business days if my child returns to a public school that is not a qualifying
- 497 provider or if we have elected to take courses from the public portion of a qualifying provider
- 498 ."
- 499 (c) Upon agreeing to establish a scholarship account, the parent assumes full financial
- 500 responsibility for the education of the scholarship student, including the balance of
- 501 any expense incurred at a qualifying provider or for goods that are not paid for by the
- 502 scholarship student's scholarship account.
- 503 (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 or financial administrator 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 and has submitted the required accountability measure;

(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%]~~ 300% 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) for any remaining scholarships, to an eligible student~~[:]~~ on a lottery basis.

~~[(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;]~~

538 [(ii) a wage statement from an employer; and]

539 [(iii) other methods or documents that the program manager identifies.]

540 (b) If the number of eligible students within any preference tier described in Subsection
541 (6)(a) exceeds available scholarship funds the program manager shall grant awards
542 on a lottery basis.

543 (c)(i) For income verification purposes, a parent of a scholarship student shall:

544 (A) provide written consent authorizing the State Tax Commission to disclose the
545 parent's state individual income tax return information to the program manager;
546 and

547 (B) submit the consent in a form prescribed by the State Tax Commission.

548 (ii) Upon receiving the consent described in Subsection (6)(c)(i), the State Tax
549 Commission shall provide state individual income tax information to the program
550 manager for income verification purposes regarding the parent within 10 business
551 days.

552 (d) For income verification purposes:

553 (i) the program manager shall require documentation of household income, not
554 individual income;

555 (ii) if the individual income tax is a business income filing, require:

556 (A) the most recently filed business tax returns;

557 (B) year-to-date profit and loss statements; and

558 (C) documentation of the owner's draw or distributions; and

559 (iii) for households awaiting completion of tax filings for the year immediately
560 preceding the current year, the program manager shall accept the following
561 documentation for conditional approval and only until such a time as the current
562 tax year returns, year-to-date profit and loss statements, or documentation of
563 owner's draw or distributions are provided for the current tax year:

564 (A) the most recent W-2s;

565 (B) a current pay stub showing year-to-date earnings; and

566 (C) an employer verification letter.

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

570 (b) A scholarship student or the scholarship student's parent may not use a scholarship
571 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 or financial administrator 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 scholarship 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~~[-]~~ ; and

(E) the program manager or financial administrator determines that the parent or scholarship student incurred the expense when the student was not enrolled in a public school.

(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 or financial administrator disburses from the Utah Fits All Scholarship Program Restricted

Account created in Section 53F-6-411 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~~ 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 or financial administrator, including the program ~~manager's~~ manager's or financial administrator's contact information; and

(c) an overview of the program.

(11) In accordance with required program administration, the program manager shall:

(a) in alignment with deadlines specified in Subsection 53F-6-405(1)(c), establish and communicate to an eligible student a deadline by which the eligible student must accept or deny the scholarship offer; and

(b) communicate to an eligible student that failure to respond by the deadline described in Subsection (11)(a) shall result in forfeiture of the scholarship offer.

(12) In accordance with Subsection 53F-6-403(7), the program manager shall:

(a) verify student eligibility status before removing any student from scholarship eligibility;

(b) establish protocols for reviewing disputed eligibility determinations;

(c) implement a process for immediate reinstatement of eligibility when errors are identified;

(d) maintain detailed records of all eligibility removals and reinstatements; and

(e) provide regular reports to the state board regarding eligibility status changes of a scholarship student.

Section 4. Section **53F-6-403** is amended to read:

53F-6-403 (Effective upon governor's approval). 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

640 expected to be received during the school year.

641 (2) If a program manager determines that a qualifying provider has violated a provision of
642 this part, the program manager may ~~[interrupt]~~ have the disbursement [of] interrupted or
643 withhold scholarship funds from the qualifying provider.

644 (3)(a) If the program manager determines that a qualifying provider no longer meets the
645 eligibility requirements described in this part, the program manager may withdraw
646 the organization's approval of the qualifying provider.

647 (b) A provider or person that does not have the approval of the program manager in
648 accordance with the following may not accept scholarship funds for services under
649 this part:

650 (i) Section 53F-6-408 regarding eligible schools; or

651 (ii) Section 53F-6-409 regarding eligible service providers.

652 (4) If a qualifying provider requires partial payment of tuition or fees before the beginning
653 of the academic year to reserve space for a scholarship student who has been admitted to
654 the qualifying provider, the program manager may direct the financial administrator to:

655 (a) pay the partial payment before the beginning of the school year in which the
656 scholarship funds are awarded; and

657 (b) deduct the amount of the partial payment from subsequent scholarship fund deposits
658 in an equitable manner that provides the best availability of scholarship funds to the
659 student throughout the remainder of the school year.

660 (5) If a scholarship student ~~[described in Subsection (4)(a)]~~ chooses to withdraw from or
661 otherwise not engage with the qualifying provider before the beginning of the school
662 year:

663 (a) the qualifying provider shall remit the partial payment described in Subsection (4)(a) [
664 ~~to the program manager~~] to the financial administrator; and

665 (b) the program manager shall direct the financial administrator to credit the remitted
666 partial payment to the scholarship student's scholarship account.

667 (6) A qualifying provider that is an LEA shall:

668 (a) comply with the additional requirements set forth in Section 53F-6-408, including
669 ensuring enrollment systems provide a distinct separation of a scholarship student
670 from a public education student;

671 (b) utilize the reporting process established under Subsection (7);

672 (c) submit enrollment verifications in accordance with rules established by the state
673 board; and

(d) maintain records of enrollment reporting and verification activities.

(7) The Department of Operations shall:

(a) establish a process for an LEA provider to report:

(i) instances of double counted enrollment; and

(ii) students who are erroneously removed from scholarship eligibility;

(b) develop a standardized reporting mechanism that:

(i) allows LEA providers to submit verification of accurate student enrollment status;

(ii) maintains documentation of enrollment discrepancies; and

(iii) tracks resolution of reported enrollment issues;

(c) implement data validation measures to:

(i) identify potential double counted enrollment across LEA providers; and

(ii) ensure students maintain proper scholarship eligibility status; and

(d) provide training to LEA providers on:

(i) proper enrollment reporting procedures;

(ii) use of the reporting mechanism described in Subsection (7)(b); and

(iii) resolution of enrollment discrepancies.

Section 5. Section 53F-6-404 is amended to read:

53F-6-404 (Effective upon governor's approval). State board procurement --

Failure to comply.

(1)(a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue ~~[a request]~~ requests 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.]~~ for entities to perform duties and functions necessary for program operations.

(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]~~ demonstrating:

(i) organizational qualifications and capacity to perform the specific duties or functions;

(ii) relevant experience in education program administration or financial management;

(iii) the proposed methodology for performing assigned responsibilities; and

(iv) an affidavit or other evidence that the organization:

(A) is not affiliated with any international organization;

- 708 (B) does not harvest data for the purpose of reproducing or distributing the data to
 709 another entity; and
- 710 (C) has no involvement in guiding or directing any curriculum standards.
- 711 [(i) a copy of the organization's incorporation documents;]
 712 [(ii) a copy of the organization's Internal Revenue Service determination letter
 713 qualifying the organization as being tax exempt under Section 501(c)(3), Internal
 714 Revenue Code;]
 715 [(iii) a description of the methodology the organization will use to verify a student's
 716 eligibility under this part;]
 717 [(iv) a description of the organization's proposed scholarship account application
 718 process; and]
 719 [(v) an affidavit or other evidence that the organization:]
 720 [(A) is not affiliated with any international organization;]
 721 [(B) does not harvest data for the purpose of reproducing or distributing the data
 722 to another entity; and]
 723 [(C) has no involvement in guiding or directing any curriculum standards.]
- 724 (c) The state board shall ensure that the agreement described in Subsection (1)(a):
- 725 (i) clearly delineates the specific duties and functions to be performed;
 726 (ii) ensures the efficiency and success of the program;
 727 (iii) maintains appropriate separation between program and contract administration
 728 and direct educational services;
 729 (iv) preserves the independence of educational decisions made between parents and
 730 providers; and
- 731 [(ii)] (v) does not impose any requirements on the program manager that:
 732 (A) are not essential to the basic administration of the program; or
 733 (B) create restrictions, directions, or mandates regarding instructional content or
 734 curriculum.
- 735 (2) The state board may regulate and take enforcement action as necessary against [a
 736 ~~program manager~~] a contracted entity in accordance with the provisions of the state
 737 board's agreement with the [~~program manager~~] contracted entity.
- 738 (3)(a) If the state board determines that a [~~program manager~~] contracted entity has
 739 violated a provision of this part or a provision of the state board's agreement with the [
 740 ~~program manager~~] contracted entity, the state board shall send written notice to the [
 741 ~~program manager~~] contracted entity explaining the violation and the remedial action

required to correct the violation.

(b) A ~~[program manager]~~ contracted entity that receives a notice described in Subsection (3)(a) shall, no later than 60 days after the day on which the ~~[program manager]~~ contracted entity receives the notice, correct the violation and report the correction to the state board.

(c)(i) If a ~~[program manager]~~ contracted entity 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]~~ contracted entity from further participation in the program.

(ii) A ~~[program manager]~~ contracted entity 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]~~ contracted entity may not accept state funds while the ~~[program manager]~~ contracted entity:

(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]~~ contracted entity 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]~~ contracted entity to report the information the ~~[program manager]~~ contracted entity 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]~~ a contracted entity for:

(a) subject to Subsection (6), the administration of scholarship accounts and disbursement of scholarship funds if a ~~[program manager]~~ contracted entity 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]~~ contracted entity is barred from participating in the program.

(b) The state board may, if the ~~[program manager]~~ contracted entity is barred from participating in the program, issue a new request for proposals and enter into a new

agreement with an alternative ~~[program manager]~~ contracted entity in accordance with this section and, if applicable, Section 53F-6-415.5.

~~[(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, includingscholarship expense denialsand 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)] (7) The state board may not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding:~~

~~(a) instructional content~~[-or-]~~ ;~~

~~(b) curriculum[-] ; or~~

~~(c) program operations that a contracted entity performs pursuant to an agreement under this section.~~

~~[(9)] (8) No later than 10 business days after~~[July 1 of each year]~~ each distribution described in Section 53F-6-411, 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.~~

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

53F-6-405 (Effective upon governor's approval). Program manager duties -- Audit -- Prohibitions.

(1) The program manager shall:

(a) administer the program, including:

~~[(a)]~~ (i) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;

- 810 ~~[(b)]~~ (ii) reviewing applications from and determining if a person is:
- 811 ~~[(i)]~~ (A) an eligible school under Section 53F-6-408; or
- 812 ~~[(ii)]~~ (B) an eligible service provider under Section 53F-6-409;
- 813 ~~[(c)]~~ (iii) establishing an application process~~[-including application dates opening~~
- 814 ~~before March 1, 2024, in accordance with Section 53F-6-402;]~~ that:
- 815 (A) opens March 1 of each year for existing scholarship students;
- 816 (B) opens April 1 of each year for new scholarship students;
- 817 (C) closes May 1 of each year;
- 818 (D) aligns with the acceptance deadline established under Subsection
- 819 53F-6-402(11) that shall be prior to July 1 of each year; and
- 820 (E) provides an eligible student with a decision regarding the eligible student's
- 821 application within 30 days of the application deadline specified in this
- 822 Subsection (1)(a);
- 823 ~~[(d)]~~ (iv) reviewing and granting or denying applications for a scholarship account;
- 824 (v) determining the eligibility of scholarship expenses, including establishing
- 825 necessary policies and procedures;
- 826 (vi) approving qualifying providers in accordance with Section 53F-6-403; and
- 827 (vii) maintaining a list of approved qualifying providers;
- 828 ~~[(e)]~~ expending all revenue from interest on scholarship funds or investments on
- 829 scholarship expenses;]
- 830 (b) direct the financial administrator to:
- 831 ~~[(e)]~~ (i) ~~[providing]~~ provide an online portal for the parent of a scholarship student to
- 832 access the scholarship student's account;
- 833 (ii) ~~[-to-]~~ facilitate payments to a qualifying provider from the online portal;
- 834 ~~[(f)]~~ (iii) ~~[ensuring-]~~ ensure that scholarship funds in a scholarship account are readily
- 835 available to a scholarship student within five business days after receipt of funds
- 836 from the state board;
- 837 (iv) process scholarship payments in accordance with the payment schedule
- 838 established in Section 53F-6-411, unless otherwise authorized;
- 839 (v) in accordance with program administration when needed, develop and implement
- 840 a commercially viable, cost-effective, and parent-friendly system that:
- 841 (A) processes scholarship payments;
- 842 (B) maximizes payment flexibility;
- 843 (C) allows scholarship students and scholarship student's parents to publicly rate,

- 844 review, and share information about qualifying providers; and
845 (D) provides the program manager with continuous, real-time, view-only access to
846 all scholarship account transactions and balances, payment processing status,
847 provider payment history, reimbursement tracking, and account reconciliation
848 data;
849 (vi) upon receiving notification under Subsection (1)(c):
850 (A) obtain reimbursement of scholarship funds from a qualifying provider that
851 provides the services in which a scholarship student is no longer enrolled or
852 with which the scholarship student is no longer engaged; and
853 (B) expend all revenue from interest on scholarship funds or investments on
854 scholarship expenses; and
855 (vii) implement accounting procedures to track partial payments and remaining
856 balances;
857 [(g)] (c) require a parent to notify the program manager if the parent's
858 scholarship student is no longer enrolled in or engaging a service:
859 (i) for which the scholarship student receives scholarship funds; and
860 (ii) that is provided to the scholarship student for an entire school year;
861 [(h) obtaining reimbursement of scholarship funds from a qualifying provider that
862 provides the services in which a scholarship student is no longer enrolled or with
863 which the scholarship student is no longer engaged;]
864 [(j)] (d) each time the program manager makes an administrative decision that is adverse
865 to a scholarship student or the scholarship student's parent, inform the
866 scholarship student and the scholarship student's parent of the opportunity and
867 process to appeal an administrative decision of the program manager in accordance
868 with the process described in Section ~~[53F-6-404]~~ 53F-6-417;
869 [(k)] (e) ~~[maintaining]~~ maintain a protected internal waitlist of all eligible students who
870 have applied to the program and are not yet scholarship students, including any
871 student who removed the student's application from the waitlist; ~~[and]~~
872 [(l)] (f) ~~[providing]~~ provide aggregate data regarding the number of scholarship students
873 and the number of eligible students on the waitlist described in Subsection ~~[(1)(k).]~~
874 (1)(e);
875 (g) contract for annual and random audits on scholarship accounts conducted:
876 (i) by a certified public accountant who is independent from:
877 (A) the program manager; and

- 878 (B) the financial administrator's accounts and records pertaining to scholarship
879 funds; and
880 (ii) in accordance with generally accepted auditing standards;
881 (h) require the financial administrator to demonstrate financial accountability through
882 annual reporting requirements described in Section 53F-6-405.5;
883 (i) develop and implement an annual orientation for qualifying providers;
884 (j) administer the appeals process described in Section 53F-6-417;
885 (k) in accordance with Subsection 53F-6-411(4), manage scholarship rollovers;
886 (l) track and ensure compliance of allowed scholarship expenses; and
887 (m) comply with enhanced accountability measures, including independent audits and
888 public disclosure of third-party contracts and fees related to the administration of the
889 program.

890 (2) The program manager shall:

- 891 ~~[(a) contract with one or more private entities to develop and implement a commercially~~
892 ~~viable, cost-effective, and parent-friendly system-]~~
893 (a) require the financial administrator to submit monthly financial reports including:
894 (i) a statement of financial position;
895 (ii) a statement of activities;
896 (iii) account reconciliation statements;
897 (iv) detailed transaction reports; and
898 (v) [to:] exception reports highlighting any unusual activity; and
899 ~~[(i) establish scholarship accounts;]~~
900 ~~[(ii) maximize payment flexibility by allowing:]~~
901 ~~[(A) for payment of services to qualifying providers using scholarship funds by~~
902 ~~electronic or online funds transfer from the online portal; and]~~
903 ~~[(B) pre-approval of a reimbursement to a parent for a good that is a scholarship~~
904 ~~expense; and]~~
905 ~~[(iii) allow scholarship students and scholarship student's parents to publicly rate,~~
906 ~~review, and share information about qualifying providers;]~~
907 (b) oversee the financial administrator's compliance with requirements regarding:
908 ~~[(b)]~~ (i) except for a reimbursement authorized under this part, [ensuring] the use of
909 scholarship funds from the online portal directly to a qualifying provider to pay
910 for scholarship expenses without the availability of withdrawal or other direct
911 access to scholarship funds by an individual; and

[~~(c)~~] (ii) [~~ensure that the~~] system [~~complies~~] compliance 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~~] each contracted entity; and
- (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~~] 53F-6-417.;
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~~] any person 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~~] the person poses a risk to the appropriate use of scholarship funds, as determined by background checks the program manager conducted in accordance with Section 53F-6-407;

(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 or financial administrator obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or

- 946 criminal investigation; and
- 947 (iii) ensure that a scholarship student whose eligibility is suspended or disqualified
- 948 under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the
- 949 student's parent regains eligibility if the student is placed with a different parent or
- 950 otherwise no longer resides with the parent related to the suspension or
- 951 disqualification; and
- 952 (c) notify the ~~[state board]~~ financial administrator, scholarship student, and scholarship
- 953 student's parent in writing:
- 954 (i) of the suspension described in Subsection (4)(b)(i);
- 955 (ii) that no further transactions, disbursements, or reimbursements are allowed;
- 956 (iii) that the scholarship student or scholarship student's parent may take corrective
- 957 action within 10 business days of the day on which the program manager provides
- 958 the notification; and
- 959 (iv) that without taking the corrective action within the time period described in
- 960 Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.
- 961 (5)(a) A program manager may not direct the financial administrator to:
- 962 (i) disburse scholarship funds to a qualifying provider or allow a qualifying provider
- 963 to use scholarship funds if:
- 964 (A) the program manager determines that the qualifying provider intentionally or
- 965 substantially misrepresented information on overpayment;
- 966 (B) the qualifying provider fails to refund an overpayment in a timely manner; or
- 967 (C) the qualifying provider routinely fails to provide scholarship students with
- 968 promised educational services; or
- 969 (ii) reimburse with scholarship funds an individual for the purchase of a good or
- 970 service if the program manager determines that:
- 971 (A) the scholarship student or the scholarship student's parent requesting
- 972 reimbursement intentionally or substantially misrepresented the cost or
- 973 educational purpose of the good or service; or
- 974 (B) the relevant scholarship student was not the exclusive user of the good or
- 975 service.
- 976 (b) A program manager shall notify a scholarship student if the program manager:
- 977 (i) stops disbursement of the scholarship student's scholarship funds to a qualifying
- 978 provider under Subsection (5)(a)(i); or
- 979 (ii) refuses reimbursement under Subsection (5)(a)(ii).

- 980 (6)(a) At any time, a scholarship student may change the qualifying provider to which
981 the scholarship student's scholarship account makes distributions.
- 982 (b) If, during the school year, a scholarship student changes the student's enrollment in
983 or engagement with a qualifying provider to another qualifying provider, the program
984 manager may direct the financial administrator to prorate scholarship funds between
985 the qualifying providers based on the time the scholarship student received the goods
986 or services or was enrolled.
- 987 (7) A program manager may not subvert the enrollment preferences required under Section
988 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of
989 a relative [~~of a program manager officer~~] of a contracted entity employee or contracted
990 employee officer.
- 991 (8) In regards to customer service needs related to the program, the program manager shall:
- 992 (a) provide customer service regarding:
- 993 (i) program eligibility determinations;
- 994 (ii) application status;
- 995 (iii) qualifying provider approvals;
- 996 (iv) scholarship expense eligibility;
- 997 (v) program policies and requirements;
- 998 (vi) appeals and grievances;
- 999 (vii) accessibility for disabled individuals; and
- 1000 (viii) general program information;
- 1001 (b) ensure the financial administrator provides customer service regarding:
- 1002 (i) scholarship account access;
- 1003 (ii) payment processing status;
- 1004 (iii) technical support for the payment portal;
- 1005 (iv) account balance inquiries;
- 1006 (v) transaction history; and
- 1007 (vi) reimbursement status;
- 1008 (c) establish customer service standards that the program manager and the financial
1009 administrator must meet;
- 1010 (d) require the financial administrator to:
- 1011 (i) maintain adequate customer service staffing;
- 1012 (ii) meet specified response time requirements; and
- 1013 (iii) track and report on customer service metrics; and

- 1014 (e) coordinate with the financial administrator to ensure seamless referral of inquiries
 1015 between contracted entities.
- 1016 [(8) The program manager shall:]
- 1017 [(a) ~~contract for annual and random audits on scholarship accounts conducted;~~
- 1018 ~~[(i) by a certified public accountant who is independent from;~~
- 1019 ~~[(A) the program manager;~~
- 1020 ~~[(B) the state board; and]~~
- 1021 ~~[(C) the program manager's accounts and records pertaining to scholarship funds;~~
- 1022 ~~and]~~
- 1023 ~~[(ii) in accordance with generally accepted auditing standards;]~~
- 1024 [(b) demonstrate the program manager's financial accountability by annually submitting
- 1025 to the state board the following:]
- 1026 [(i) a financial information report that a certified public accountant prepares and that
- 1027 includes the total number and total dollar amount of scholarship funds disbursed
- 1028 during the previous calendar year; and]
- 1029 [(ii) no later than 180 days after the last day of the program manager's fiscal year, the
- 1030 results of the audits described in Subsection (8)(a), including the program
- 1031 manager's financial statements in a format that meets generally accepted
- 1032 accounting principles.]
- 1033 [(9)(a) The state board:]
- 1034 [(i) shall review a report described in this section; and]
- 1035 [(ii) may request that the program manager revise or supplement the report if the
- 1036 report does not fully comply with this section.]
- 1037 [(b) The program manager shall provide to the state board a revised report or a
- 1038 supplement to the report no later than 45 days after the day on which the state board
- 1039 makes a request described in Subsection (9)(a).]
- 1040 (9) Contracted entities may not charge processing fees to an eligible student or pass on
 1041 third-party fees related to the use or management of scholarship funds.
- 1042 Section 7. Section 53F-6-405.5 is enacted to read:
- 1043 **53F-6-405.5 (Effective upon governor's approval). Financial administrator**
 1044 **duties and requirements.**
- 1045 (1) The financial administrator shall:
- 1046 (a) operate independently in processing and distributing scholarship funds while:
- 1047 (i) following program requirements the program manager establishes;

- 1048 (ii) implementing payment directives from the program manager regarding:
1049 (A) scholarship student eligibility;
1050 (B) qualifying provider status;
1051 (C) payment timing; and
1052 (D) other established program requirements;
1053 (iii) maintaining separate systems and controls from program administration; and
1054 (iv) providing necessary reporting while preserving operational independence;
1055 (b) implement and maintain a payment processing system that:
1056 (i) provides an online portal for scholarship account access;
1057 (ii) facilitates electronic payments to qualifying providers;
1058 (iii) enables pre-approval of parent reimbursements for eligible expenses;
1059 (iv) includes provider rating and review capabilities;
1060 (v) processes payments efficiently;
1061 (vi) prevents unauthorized access;
1062 (vii) provides real-time reporting to the program manager; and
1063 (viii) maintains backup systems and disaster recovery capabilities;
1064 (c) process payments only:
1065 (i) to qualifying providers approved by the program manager;
1066 (ii) for scholarship expenses determined eligible by the program manager, including
1067 the reimbursement for the scholarship expense to parents; and
1068 (iii) when directed by the program manager;
1069 (d) maintain security measures that:
1070 (i) prevent unauthorized access to scholarship funds;
1071 (ii) comply with industry standards for data privacy; and
1072 (iii) ensure compliance with federal education privacy laws; and
1073 (e) process scholarship payments according to the distribution schedule described in
1074 Section 53F-6-411, including:
1075 (i) tracking initial and second-half payments;
1076 (ii) managing early disbursement authorizations; and
1077 (iii) reconciling payment records with the Utah Fits All Scholarship Restricted
1078 Account balance.
1079 (2) For financial accountability, the financial administrator shall:
1080 (a) maintain detailed records of:
1081 (i) all scholarship account transactions to the service or item level;

- 1082 (ii) payment processing activities; and
1083 (iii) reimbursements and refunds;
1084 (b) provide monthly reports to the program manager including:
1085 (i) scholarship account balances and activity;
1086 (ii) payment processing status and issues;
1087 (iii) provider payment summaries; and
1088 (iv) reimbursement tracking; and
1089 (c) submit annual financial reports including:
1090 (i) total scholarship funds disbursed;
1091 (ii) account reconciliation statements; and
1092 (iii) audit results and responses.
1093 (3) The financial administrator shall:
1094 (a) implement payment suspensions or cancellations as directed by the program manager;
1095 (b) process reimbursements from providers as required;
1096 (c) credit returned funds to appropriate scholarship accounts; and
1097 (d) maintain records of all suspended or canceled payments.
1098 (4) The financial administrator:
1099 (a) may not:
1100 (i) approve or deny scholarship expenses;
1101 (ii) determine provider eligibility;
1102 (iii) establish program policies; and
1103 (iv) charge processing fees to an eligible student or pass on third-party fees related to
1104 the use or management of scholarship funds; and
1105 (b) shall:
1106 (i) follow all program manager directives regarding fund disbursement;
1107 (ii) maintain separation between policy decisions and payment processing; and
1108 (iii) implement internal controls to prevent unauthorized payments.
1109 (5) The financial administrator shall:
1110 (a) cooperate with all program audits;
1111 (b) provide requested financial records;
1112 (c) respond to audit findings as directed; and
1113 (d) implement corrective actions as required by the program manager.
1114 Section 8. Section 53F-6-406 is amended to read:
1115 **53F-6-406 (Effective upon governor's approval). Qualifying provider regulatory**

- 1116 **autonomy -- Home school autonomy -- Student records -- Scholarship student status.**
- 1117 (1) Nothing in this part:
- 1118 (a) except as expressly described in this part, grants additional authority to any state
- 1119 agency or LEA to regulate or control:
- 1120 (i) a private school, qualifying provider, or home school;
- 1121 (ii) students receiving education from a private school, qualifying provider, or home
- 1122 school;
- 1123 (b) applies to or otherwise affects the freedom of choice of a home school student,
- 1124 including the curriculum, resources, developmental planning, or any other aspect of
- 1125 the home school student's education; or
- 1126 (c) except as expressly provided in Section 53F-6-408 regarding LEA providers,
- 1127 expands the regulatory authority of the state, a state office holder, or an LEA to
- 1128 impose any additional regulation of a qualifying provider beyond any regulation
- 1129 necessary to administer this part.
- 1130 (2) A qualifying provider:
- 1131 (a) has a right to maximum freedom from unlawful governmental control in providing
- 1132 for the educational needs of a scholarship student who attends or engages with the
- 1133 qualifying provider; and
- 1134 (b) is not an agent of the state by virtue of the provider's acceptance of payment from a
- 1135 scholarship account in accordance with this part.
- 1136 (3) Except as provided in Section 53F-6-403 regarding qualifying providers, Section
- 1137 53F-6-408 regarding eligible schools, or Section 53F-6-409 regarding eligible service
- 1138 providers, a program manager may not require a qualifying provider to alter the
- 1139 qualifying provider's creed, practices, admissions policies, hiring practices, or curricula
- 1140 in order to accept scholarship funds.
- 1141 (4) An LEA or a school in an LEA in which a scholarship student was previously enrolled
- 1142 shall provide to the scholarship student's parent a copy of all school records relating to
- 1143 the student that the LEA possesses within 30 days after the day on which the LEA or
- 1144 school receives the parent's request for the student's records, subject to:
- 1145 (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and
- 1146 (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
- 1147 (5) By virtue of a scholarship student's involvement in the program and unless otherwise
- 1148 expressly provided in statute, a scholarship student is not:
- 1149 (a) enrolled in the public education system; or

1150 (b) otherwise subject to statute, administrative rules, or other state regulations as if the
1151 student was enrolled in the public education system.

1152 Section 9. Section **53F-6-407** is amended to read:

1153 **53F-6-407 (Effective upon governor's approval). Background checks for**
1154 **program manager -- Bureau responsibilities -- Fees.**

1155 (1) As used in this section:

1156 (a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
1157 within the Department of Public Safety.

1158 (b) "Department" means the Department of Public Safety.

1159 (c) "Division" means the Criminal Investigations and Technical Services Division
1160 created in Section 53-10-103.

1161 (d) "Personal identifying information" means:

1162 (i) current name;

1163 (ii) former names;

1164 (iii) nicknames;

1165 (iv) aliases;

1166 (v) date of birth;

1167 (vi) address;

1168 (vii) telephone number;

1169 (viii) driver license number or other government-issued identification number;

1170 (ix) social security number; and

1171 (x) fingerprints.

1172 (e) "Rap back system" means a system that enables authorized entities to receive
1173 ongoing status notifications of any criminal history reported on individuals whose
1174 fingerprints are registered in the system.

1175 (f) "WIN Database" means the Western Identification Network Database that consists of
1176 eight western states sharing one electronic fingerprint database.

1177 (2) ~~[The program manager]~~ Each contracted entity shall:

1178 (a) require an employee or officer of the ~~[program manager]~~ contracted entity to submit
1179 to a criminal background check and ongoing monitoring;

1180 (b) collect the following from an employee or officer of the ~~[program manager]~~
1181 contracted entity:

1182 (i) personal identifying information;

1183 (ii) a fee described in Subsection (4); and

- 1184 (iii) consent, on a form specified by the program manager, for:
- 1185 (A) an initial fingerprint-based background check by the bureau;
- 1186 (B) retention of personal identifying information for ongoing monitoring through
- 1187 registration with the systems described in Subsection (3); and
- 1188 (C) disclosure of any criminal history information to the ~~[program manager]~~
- 1189 contracted entity;
- 1190 (c) submit the personal identifying information of an employee or officer of the [
- 1191 ~~program manager~~] contracted entity to the bureau for:
- 1192 (i) an initial fingerprint-based background check by the bureau; and
- 1193 (ii) ongoing monitoring through registration with the systems described in Subsection
- 1194 (3) if the results of the initial background check do not contain disqualifying
- 1195 criminal history information as determined by the program manager;
- 1196 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
- 1197 that the ~~[program manager]~~ contracted entity only receives notifications for
- 1198 individuals with whom the ~~[program manager]~~ contracted entity maintains an
- 1199 authorizing relationship; and
- 1200 (e) submit the information to the bureau for ongoing monitoring through registration
- 1201 with the systems described in Subsection (3).
- 1202 (3) The bureau shall:
- 1203 (a) upon request from the program manager, register the fingerprints submitted by the [
- 1204 ~~program manager~~] contracted entity as part of a background check with the WIN
- 1205 Database rap back system, or any successor system;
- 1206 (b) notify the program manager when a new entry is made against an individual whose
- 1207 fingerprints are registered with the WIN Database rap back system regarding:
- 1208 (i) an alleged offense; or
- 1209 (ii) a conviction, including a plea in abeyance;
- 1210 (c) assist the ~~[program manager]~~ contracted entity to identify the appropriate privacy risk
- 1211 mitigation strategy that is to be used to ensure that the ~~[program manager]~~ contracted
- 1212 entity only receives notifications for individuals with whom the authorized ~~[entity~~
- 1213 ~~maintains]~~ entity maintains an authorizing relationship; and
- 1214 (d) collaborate with the ~~[program manager]~~ contracted entity to provide training to
- 1215 appropriate ~~[program manager]~~ contracted entity employees on the notification
- 1216 procedures and privacy risk mitigation strategies described in this section.
- 1217 (4)(a) The division shall impose fees that the division sets in accordance with Section

- 1218 63J-1-504 for the fingerprint card of an employee or officer of the program manager,
1219 for a name check, and to register fingerprints under this section.
- 1220 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
1221 as a dedicated credit by the department to cover the costs incurred in providing the
1222 information.
- 1223 Section 10. Section **53F-6-408** is amended to read:
- 1224 **53F-6-408 (Effective upon governor's approval). Eligible schools.**
- 1225 (1) To be eligible to receive scholarship funds on behalf of a scholarship student as an
1226 eligible school, a private school with 150 or more enrolled students shall:
- 1227 (a)(i) contract with an independent licensed certified public accountant to conduct an
1228 agreed upon procedures engagement as the state board adopts, or obtain an audit
1229 and report that:
- 1230 (A) a licensed independent certified public accountant conducts in accordance
1231 with generally accepted auditing standards;
- 1232 (B) presents the financial statements in accordance with generally accepted
1233 accounting principles; and
- 1234 (C) audits financial statements from within the 12 months immediately preceding
1235 the audit; and
- 1236 (ii) submit the audit report or report of the agreed upon procedure to the program
1237 manager when the private school applies to receive scholarship funds;
- 1238 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
- 1239 (c) provide a written disclosure to the parent of each prospective scholarship student,
1240 before the student is enrolled, of:
- 1241 (i) the education services that the school will provide to the scholarship student,
1242 including the cost of the provided services;
- 1243 (ii) tuition costs;
- 1244 (iii) additional fees the school will require a parent to pay during the school year; and
- 1245 (iv) the skill or grade level of the curriculum in which the prospective scholarship
1246 student will participate; and
- 1247 (d) require the following individuals to submit to a nationwide, fingerprint-based
1248 criminal background check and ongoing monitoring, in accordance with Section
1249 53G-11-402, as a condition for employment or appointment, as authorized by the
1250 Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:
- 1251 (i) an employee who does not hold:

- 1252 (A) a current Utah educator license issued by the state board under Title 53E,
1253 Chapter 6, Education Professional Licensure; or
- 1254 (B) if the private school is not physically located in Utah, a current educator
1255 license in the state where the private school is physically located; and
1256 (ii) a contract employee.
- 1257 (2) A private school described in Subsection (1) is not eligible to receive scholarship funds
1258 if:
- 1259 (a) the private school requires a scholarship student to sign a contract waiving the
1260 scholarship student's right to transfer to another qualifying provider during the school
1261 year;
- 1262 (b) the audit report described in Subsection (1)(a) contains a going concern explanatory
1263 paragraph; or
- 1264 (c) the report of the agreed upon procedures described in Subsection (1)(a) shows that
1265 the private school does not have adequate working capital to maintain operations for
1266 the first full year.
- 1267 (3) To be eligible to receive scholarship funds on behalf of a scholarship student as an
1268 eligible school, a private school with fewer than 150 enrolled students shall:
- 1269 (a) provide to the program manager and financial administrator:
- 1270 (i) a federal employer identification number;
- 1271 (ii) the provider's address and contact information;
- 1272 (iii) a description of each program or service the provider proposes to offer a
1273 scholarship student; and
- 1274 (iv) any other information as required by the program manager or financial
1275 administrator; and
- 1276 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.
- 1277 (4) A private school described in Subsection (3) is not eligible to receive scholarship funds
1278 if the private school requires a scholarship student to sign a contract waiving the
1279 student's rights to transfer to another qualifying provider during the school year.
- 1280 (5) To be eligible to receive scholarship funds on behalf of a scholarship student as an
1281 eligible school, an LEA shall:
- 1282 (a) provide to the program manager and financial administrator:
- 1283 (i) a federal employer identification number;
- 1284 (ii) the LEA's address and contact information; and
- 1285 (iii) the amount to be charged under the program[~~for~~], in correlation with the LEA's

- 1286 course and activity fee schedules, and a description of a class, program, or service
1287 the LEA provides to a [~~home-based~~]scholarship student;
- 1288 (b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and
- 1289 (c) ensure the provision of services to a scholarship student through which:
- 1290 (i) the scholarship student does not enroll in the LEA; and
- 1291 (ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU
1292 funding related to the student's participation with the LEA[~~]~~ ;
- 1293 (d) treat a scholarship student the same as the LEA would treat an enrolled student,
1294 including in:
- 1295 (i) participation allowances;
- 1296 (ii) audition rules;
- 1297 (iii) athletic team participation;
- 1298 (iv) extracurricular activities; and
- 1299 (v) co-curricular activities;
- 1300 (e) not deny a scholarship student participation in any activity, team, or program simply
1301 because:
- 1302 (i) the student is a scholarship student; or
- 1303 (ii) of liability concerns specific to the student's scholarship status;
- 1304 (f) establish a transparent and fair fee structure for scholarship expenses offered by the
1305 LEA, including a fee schedule that:
- 1306 (i) is based on actual costs of providing services;
- 1307 (ii) is consistent with fees charged to enrolled students;
- 1308 (iii) itemizes all charges and fees;
- 1309 (iv) explains the basis for each fee; and
- 1310 (v) is updated annually;
- 1311 (g) provide the same liability coverage to scholarship students as provided to enrolled
1312 students; and
- 1313 (h) in accordance with Subsection 53F-6-402(7), create and maintain a distinct identifier
1314 in the LEA's student information system that:
- 1315 (i) clearly identifies a scholarship student; and
- 1316 (ii) distinguishes the scholarship student from a student enrolled in the LEA.
- 1317 (6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:
- 1318 (a) the LEA requires a public education system scholarship student to sign a contract
1319 waiving the student's rights to engage with another qualifying provider for a

- 1320 scholarship expense during the school year; or
- 1321 (b) the LEA refuses to offer services that do not require LEA enrollment to scholarship
- 1322 students under the program.
- 1323 (7) Residential treatment facilities licensed by the state are not eligible to receive
- 1324 scholarship funds.
- 1325 (8) A private school or LEA intending to receive scholarship funds shall:
- 1326 (a)(i) for a private school, submit an application to the program manager; or
- 1327 (ii) for an LEA, submit a notice to the program manager containing the information
- 1328 described in Subsection (5)(a); and
- 1329 (b) agree to not refund, rebate, or share scholarship funds with scholarship students or
- 1330 scholarship student's parents in any manner except remittances or refunds processed
- 1331 through the financial administrator to a scholarship account in accordance with this
- 1332 part and procedures that the program manager establishes, and the payment schedule
- 1333 described in Section 53F-6-411.
- 1334 (9) The program manager shall:
- 1335 (a) if the private school or LEA meets the eligibility requirements of this section,
- 1336 recognize the private school or LEA as an eligible school and, for a private school,
- 1337 approve the application; and
- 1338 (b) make available to the public a list of eligible schools approved under this section.
- 1339 (10) A private school approved under this section that changes ownership shall:
- 1340 (a) cease operation as an eligible school until:
- 1341 (i) the school submits a new application to the program manager; and
- 1342 (ii) the program manager approves the new application; and
- 1343 (b) demonstrate that the private school continues to meet the eligibility requirements of
- 1344 this section.
- 1345 (11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1346 state board shall establish rules for an LEA to create and publish fee structures for
- 1347 scholarship students.
- 1348 Section 11. Section **53F-6-409** is amended to read:
- 1349 **53F-6-409 (Effective upon governor's approval). Eligible service providers.**
- 1350 (1) To be an eligible service provider, a private program or service:
- 1351 (a) shall provide to the program manager and financial administrator:
- 1352 (i) a federal employer identification number;
- 1353 (ii) the provider's address and contact information;

- 1354 (iii) a description of each program or service the provider proposes to offer directly to
1355 a scholarship student; and
- 1356 (iv) subject to Subsection (2), any other information as required by the program
1357 manager;
- 1358 (b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and
- 1359 (c) may not act as a consultant, clearing house, or intermediary that connects a
1360 scholarship student with or otherwise facilitates the student's engagement with a
1361 program or service that another entity provides.
- 1362 (2) The program manager shall adopt policies that maximize the number of eligible service
1363 providers, including accepting new providers throughout the school year, while ensuring
1364 education programs or services provided through the program meet student needs and
1365 otherwise comply with this part.
- 1366 (3) A private program or service intending to receive scholarship funds shall:
- 1367 (a) submit an application to the program manager;
- 1368 (b) complete all required orientation programs established by the program manager
1369 before receiving any scholarship funds and maintain a current orientation status
1370 throughout participation in the program; and
- 1371 ~~[(b)]~~ (c) agree to not refund, rebate, or share scholarship funds with scholarship students
1372 or scholarship students' parents in any manner except remittances or refunds
1373 processed through the financial administrator to a scholarship account in accordance
1374 with this part and procedures that the program manager establishes.
- 1375 (4) The program manager shall:
- 1376 (a) if the private program or service meets the eligibility requirements of this section,
1377 recognize the private program or service as an eligible service provider and approve a
1378 private program or service's application to receive scholarship funds on behalf of a
1379 scholarship student; and
- 1380 (b) make available to the public a list of eligible service providers approved under this
1381 section.
- 1382 (5) A private program or service approved under this section that changes ownership shall:
- 1383 (a) cease operation as an eligible service provider until:
- 1384 (i) the program or service submits a new application to the program manager; and
- 1385 (ii) the program manager approves the new application; and
- 1386 (b) demonstrate that the private program or service continues to meet the eligibility
1387 requirements of this section.

- 1388 (6) The following are not eligible service providers:
- 1389 (a) a parent of a home-based scholarship student or a home school student solely in
- 1390 relation to the parent's child; or
- 1391 (b) any other individual that does not meet the requirements described in this section.
- 1392 (7) Nothing prohibits an entity that provides education services under the Statewide Online
- 1393 Education Program described in~~[-Title 53F,-]~~ Chapter 4, Part 5, Statewide Online
- 1394 Education Program, from operating as an eligible service provider under this part to
- 1395 provide education services to scholarship students.
- 1396 Section 12. Section **53F-6-410** is amended to read:
- 1397 **53F-6-410 (Effective upon governor's approval). Parental rights -- Optional**
- 1398 **assessment.**
- 1399 (1) In accordance with Section 53G-6-803 regarding a parent's right to academic
- 1400 accommodations, nothing in this chapter restricts or affects a parent's interests and role
- 1401 in the care, custody, and control of the parent's child, including the duty and right to
- 1402 nurture and direct the child's upbringing and education.
- 1403 (2)(a) A parent may request that the program manager facilitate one of the following
- 1404 assessments of the parent's scholarship student:
- 1405 (i) a standards assessment described in Section 53E-4-303;
- 1406 (ii) a high school assessment described in Section 53E-4-304;
- 1407 (iii) a college readiness assessment described in Section 53E-4-305;
- 1408 (iv) an assessment of students in grade 3 to measure reading grade level described in
- 1409 Section 53E-4-307; or
- 1410 (v) a nationally norm-referenced assessment.
- 1411 (b)(i) Notwithstanding any other provision of law, the entity administering an
- 1412 assessment described in Subsection (2)(a) to a scholarship student in accordance
- 1413 with this section may not report the result of or any other data pertaining to the
- 1414 assessment or scholarship student to a person other than the program manager, the
- 1415 scholarship student, or the scholarship student's parent.
- 1416 (ii) The program manager may not report or communicate the result or data described
- 1417 in Subsection (2)(b)(i) to a person other than the relevant scholarship student and
- 1418 the scholarship student's parent unless the result or data is included in a
- 1419 de-identified compilation of data related to all scholarship students.
- 1420 (c) In any communication from the program manager regarding an assessment described
- 1421 in this Subsection (2), the program manager shall include a disclaimer that no

1422 assessment is required.

1423 (d) The completion of an optional assessment under this section satisfies the portfolio
1424 eligibility qualification described in Subsection 53F-6-402(3)(d).

1425 (3) The rights described in this section shall be exercised in conjunction with the
1426 procedures for students with special needs as described in Section 53F-6-416.

1427 Section 13. Section **53F-6-411** is amended to read:

1428 **53F-6-411 (Effective upon governor's approval). Program funding.**

1429 (1) [H] Except as provided in Subsection (7), if a scholarship student enters or reenters the
1430 public education system during a given school year:

1431 (a) no later than five business days after the day on which the student enters or reenters
1432 the public education system, the program manager shall direct the financial
1433 administrator to immediately remove the balance in the scholarship student's
1434 scholarship account for other use within the program;

1435 (b) the state board may not distribute any remaining state funds to the program manager
1436 or financial administrator for the student; and

1437 (c) the program manager may direct the financial administrator to use the balance
1438 described in Subsection (1)(a) for another scholarship student.

1439 (2) At the end of a school year, a program manager shall:

1440 (a) direct the financial administrator to:

1441 (i) withdraw any remaining scholarship funds in a scholarship account; and

1442 (ii) ~~[retain the scholarship funds for disbursement in the following year.]~~ allocate
1443 these funds as rollovers in accordance with Subsection (4); and

1444 (b) return any funds not allocated as rollovers to the program manager or the state board
1445 to be deposited in the restricted account described in Subsection (4).

1446 (3)(a) To administer the program, the program manager may use up to ~~[the lesser of]~~ 5% [
1447 ~~or \$2,500,000~~] of the funds the Legislature appropriates for the program.

1448 (b) ~~[Subject to Subsection (3)(a), the]~~ The funds for program administration described in
1449 Subsection (3)(a) are nonlapsing.

1450 (c) The program manager may not retain administrative cost balances in excess of 25%
1451 of total administrative costs in any fiscal year.

1452 (4)(a) There is created a restricted account within the Income Tax Fund known as the
1453 "Utah Fits All Scholarship Program Restricted Account."

1454 (b) The restricted account shall consist of:

1455 (i) money appropriated to the restricted account by the Legislature;

- 1456 (ii) interest earned on the restricted account; and
1457 (iii) in accordance with Subsection (6), unused scholarship funds returned to the
1458 restricted account under this section.
- 1459 (5)(a) Subject to legislative appropriations, the state board shall distribute scholarship
1460 funds to the program manager or financial administrator from the restricted account
1461 in two equal payments:
- 1462 (i) the first payment at the beginning of the scholarship year; and
1463 (ii) the second payment during the second half of the scholarship year.
- 1464 (b) Notwithstanding Subsection (5)(a), the program manager may authorize
1465 disbursement of a scholarship student's full annual award amount at the beginning of
1466 the scholarship year if:
- 1467 (i) the funds are for private school tuition; or
1468 (ii) the program manager determines immediate disbursement is necessary for the
1469 student's education.
- 1470 (6) The program manager shall:
- 1471 (a) allow unused scholarship funds to rollover in a 2:1 ratio, where:
- 1472 (i) for every three dollars of unused scholarship funds, two dollars rollover to the
1473 scholarship student to be added to the student's scholarship award for the next
1474 scholarship year, up to a maximum rollover amount of \$2,000 that may cumulate;
1475 and
- 1476 (ii) the remaining unused funds return to the restricted account;
- 1477 (b) verify the scholarship student maintains program eligibility before executing any
1478 rollover; and
- 1479 (c) direct the financial administrator to return any unused funds not allocated as
1480 rollovers to the restricted account described in this section.
- 1481 (7)(a) Before determining a student has reentered public education, the program
1482 manager shall:
- 1483 (i) notify the parent in writing of:
- 1484 (A) the identified public school enrollment; and
1485 (B) the parent's right to verify or dispute the enrollment finding; and
- 1486 (ii) allow the parent five business days to:
- 1487 (A) confirm the accuracy of the enrollment; or
1488 (B) provide evidence disputing the enrollment finding.
- 1489 (b) A parent may appeal an incorrect reentry determination by submitting documentation

1490 to the program manager within the time specified in Subsection (7)(a).

1491 Section 14. Section **53F-6-412** is amended to read:

1492 **53F-6-412 (Effective upon governor's approval). Reports.**

1493 [~~Beginning in 2025 and in~~] In accordance with Section 68-3-14 and the Family
1494 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, the program manager shall submit
1495 a report on the program to the Education Interim Committee no later than September 1 of each
1496 year that includes:

1497 (1) the number and outcomes of appeals processed through the appeals process established
1498 in Section 53F-6-417;

1499 (2) the total amount and usage of rollover funds as described in Section 53F-6-411;

1500 (3) a summary of the income verification process and outcomes, including the number of
1501 households verified through each method described in Section 53F-6-402;

1502 (4) for scholarship rollovers:

1503 (a) the total amount of funds rolled over;

1504 (b) the number of students with rollovers; and

1505 (c) the impact on subsequent year scholarship amounts;

1506 (5) for restricted expenses:

1507 (a) the total amount spent on extracurricular and physical education expenses;

1508 (b) the percentage of scholarship funds used for restricted expenses by students; and

1509 (c) the number of students reaching:

1510 (i) the 20% restriction limit for physical education expenses; and

1511 (ii) the 20% limit for extracurricular related expenses;

1512 (6) in consultation with the financial administrator, all financial data necessary for the
1513 preparation of the report required under this section no later than 30 days before each
1514 reporting deadline;

1515 [~~(1)~~] (7) the total amount of tuition and fees qualifying providers charged for the current
1516 year and previous two years;

1517 [~~(2)~~] (8) the total amount of goods paid for with scholarship funds in the previous year and a
1518 general characterization of the types of goods;

1519 [~~(3)~~] (9) administrative costs of the program;

1520 [~~(4)~~] (10) the number of scholarship students from each county and the aggregate number of
1521 eligible students on the waitlist described in Section 53F-6-405;

1522 [~~(5)~~] (11) the percentage of first-time scholarship students who were enrolled in a public
1523 school during the previous school year or who entered kindergarten or a higher grade for

1524 the first time in Utah;
1525 [(6)] (12) the program manager's strategy and outreach efforts to reach eligible students
1526 whose family income is at or below 200% of the federal poverty level and related
1527 obstacles to enrollments;
1528 [(7)] (13) in the report that the program manager submits in 2025, information on steps the
1529 program manager has taken and processes the program manager has adopted to
1530 implement the program; [and]

1531 (14) breakdown of scholarship students by:

1532 (a) private school enrollment versus home-based education; and

1533 (b) enrollment preference tier through which the student received the scholarship; and

1534 [(8)] (15) any other information regarding the program and the program's implementation
1535 that the committee requests.

1536 Section 15. Section 53F-6-415.5 is enacted to read:

1537 **53F-6-415.5 (Effective upon governor's approval). Transition provisions.**

1538 (1) As used in this section:

1539 (a) "Previous contracted entity" means an organization that was contracted to perform
1540 program functions immediately prior to a transition event.

1541 (b) "Transition event" means:

1542 (i) the expiration or termination of a contracted entity contract;

1543 (ii) the inability of a contracted entity to perform required duties; or

1544 (iii) any other circumstance requiring transition to a new contracted entity, including
1545 legislative changes to this part or the program appropriations.

1546 (c) "Transition period" means the time between:

1547 (i) the occurrence of a transition event; and

1548 (ii) the effective date of a contract with a new contracted entity selected through the
1549 state's procurement process.

1550 (2) Upon the occurrence of a transition event, the Department of Operations shall:

1551 (a) serve as a temporary bridge program administrator solely during the time required to:

1552 (i) maintain essential program operations with the full cooperation from the previous
1553 contracted entity that is undergoing termination of contract; and

1554 (ii) complete the procurement process for selecting new contracted entities;

1555 (b) immediately initiate and complete the procurement process described in Section
1556 53F-6-404 in an expedited manner;

1557 (c) establish clear timelines and procedures for the transition process between the

- 1558 previous contracted entity to the Department of Operations to the new contracted
1559 entity;
- 1560 (d) if the transition event affects the financial administrator:
- 1561 (i) immediately secure temporary financial services through an emergency
1562 procurement process to ensure continuity of payment processing;
- 1563 (ii) ensure the temporary financial services provider meets all qualifications of a
1564 financial administrator under Section 53F-6-401; and
- 1565 (iii) maintain separation between program administration and financial operations
1566 during the transition period; and
- 1567 (e) provide proper notice to and coordinate with:
- 1568 (i) qualifying providers;
- 1569 (ii) parents;
- 1570 (iii) all contracted entities;
- 1571 (iv) the state board; and
- 1572 (v) other affected parties.
- 1573 (3) During the transition period, the Department of Operations:
- 1574 (a) shall ensure with full cooperation and support of the previous contracted entity:
- 1575 (i) all existing scholarship accounts remain valid and operational;
- 1576 (ii) all qualifying provider approvals remain in effect;
- 1577 (iii) no interruption in:
- 1578 (A) scholarship payments;
- 1579 (B) account access for parents;
- 1580 (C) contracted entity operations; and
- 1581 (D) other essential program functions;
- 1582 (iv) if a temporary financial services provider is necessary:
- 1583 (A) the provider's compliance with program requirements;
- 1584 (B) proper processing of scholarship payments; and
- 1585 (C) appropriate separation of duties is maintained between the provider and the
1586 Department of Operations;
- 1587 (v) preservation of all program data and records for transfer to new contracted
1588 entities; and
- 1589 (vi) continuation of necessary reporting and compliance activities;
- 1590 (b) may not:
- 1591 (i) implement new policies or procedures;

- 1592 (ii) modify existing program operations; or
1593 (iii) directly handle or process any scholarship funds; and
1594 (c) shall maintain the program's operational independence from governmental control.
1595 (4) The Department of Operations' temporary bridge program administrator role:
1596 (a) is limited to maintaining essential program functions;
1597 (b) may not extend beyond the minimum time necessary to complete the procurement
1598 process;
1599 (c) does not constitute ongoing program management or operations;
1600 (d) shall be performed solely to maintain program continuity during the transition to a
1601 new program manager; and
1602 (e) shall terminate immediately upon the new program manager assuming the duties of a
1603 program manager.
1604 (5) All contracts, agreements, and obligations with the previous contracted entity shall:
1605 (a) remain in effect during the transition period unless specifically terminated through
1606 appropriate procedures;
1607 (b) be reviewed by the Department of Operations for continuation, modification, or
1608 termination; and
1609 (c) if necessary, be transferred to appropriate entities as determined through the
1610 procurement process.
1611 (6) Upon selection and awarding of a new contract to a contracted entity, the Department of
1612 Operations shall:
1613 (a) facilitate an orderly transfer of all relevant program operations, records, and data;
1614 (b) ensure the new contracted entity is prepared to assume all relevant program
1615 responsibilities; and
1616 (c) except for contract administrator duties, terminate all temporary administrative duties.
1617 (7) During the transition period:
1618 (a) if a temporary financial services provider is necessary:
1619 (i) the provider shall process all program payments and maintain all scholarship
1620 accounts;
1621 (ii) the Department of Operations may not directly handle or process any scholarship
1622 funds; and
1623 (iii) the temporary financial services provider shall receive the portion of
1624 administrative funds necessary for financial operations;
1625 (b) the state board shall:

- 1626 (i) allocate administrative funds as directed by the Department of Operations to:
1627 (A) the temporary financial services provider for financial operations; and
1628 (B) other contracted entities continuing to perform program functions; and
1629 (ii) ensure the total administrative costs do not exceed the limit in Subsection
1630 53F-6-411(3)(a)(i); and
1631 (c) the Department of Operations:
1632 (i) shall maintain detailed accounting of all transition period administrative
1633 expenditures;
1634 (ii) shall report transition period expenditures to the state board;
1635 (iii) may not directly handle scholarship funds or accounts; and
1636 (iv) shall ensure proper separation between program administration and financial
1637 operations is maintained throughout the transition period.
1638 (8) Any unexpended administrative funds at the end of the transition period shall:
1639 (a) transfer to the newly contracted entities upon completion of the procurement process;
1640 or
1641 (b) return to the restricted account described in Section 53F-6-411 if not needed for
1642 contracted entity operations.
1643 (9) Within 30 days after terminating temporary administrative duties under Subsection
1644 (6)(c), the Department of Operations shall submit a report to the Executive
1645 Appropriations Committee that includes:
1646 (a) a summary of actions taken during the transition period;
1647 (b) an accounting of all expenditures made during the transition period;
1648 (c) confirmation that all program operations, records, and data have been properly
1649 transferred to new contracted entities; and
1650 (d) verification that all temporary administrative duties have been terminated.
1651 Section 16. Section **53F-6-416** is enacted to read:
1652 **53F-6-416 (Effective upon governor's approval). Students with special needs.**
1653 The program manager shall coordinate with the program manager of the Carson Smith
1654 Opportunity Scholarship Program created in Section 53E-7-402 and the Carson Smith
1655 Scholarship Program created in Section 53F-4-302 to ensure that a student is not receiving
1656 duplicate benefits.
1657 Section 17. Section **53F-6-417** is enacted to read:
1658 **53F-6-417 (Effective upon governor's approval). Appeals process for denied**
1659 **reimbursements.**

1660 In accordance with required program administration the program manager shall:
1661 (1) follow an appeals process for when a student's eligibility is suspended or disqualified
1662 under Section 53F-6-405; and
1663 (2) establish the process and procedures for the appeals process described in this section.

1664 Section 18. **Effective Date.**

1665 This bill takes effect:

1666 (1) except as provided in Subsection (2), May 7, 2025; or
1667 (2) if approved by two-thirds of all members elected to each house:
1668 (a) upon approval by the governor;
1669 (b) without the governor's signature, the day following the constitutional time limit of
1670 Utah Constitution, Article VII, Section 8; or
1671 (c) in the case of a veto, the date of veto override.