

IC 20-51-3

Chapter 3. Scholarship Granting Organizations; Certification; Administration of Contributions

IC 20-51-3-0.5

Severability

Sec. 0.5. Each provision of P.L.92-2011 is presumed to be and is severable from the remainder to the fullest extent and under IC 1-1-1-8. If any phrase, clause, sentence, or provision of IC 6-3.1-30.5 or IC 20-51, as added and amended, is held invalid for any reason, the invalidity does not affect the other provisions that are to be given effect without the invalid provision or application. The general assembly intends each provision to be passed into law individually and as a whole, without any provisions later found to be invalid or otherwise counter to constitutional or other legal requirements.

As added by P.L.63-2012, SEC.24.

IC 20-51-3-1

Certification requirements

Sec. 1. A program qualifies for certification as a school scholarship program if:

(1) the program:

(A) is administered by a scholarship granting organization;
and

(B) has the primary purpose of providing school scholarships to eligible students; and

(2) the scholarship granting organization administering the program:

(A) applies to the department on the form and in the manner prescribed by the department; and

(B) enters into an agreement with the department to comply with this article.

As added by P.L.182-2009(ss), SEC.364. Amended by P.L.92-2011, SEC.8.

IC 20-51-3-2

Department duties

Sec. 2. The department shall certify all programs that meet the qualifications under section 1 of this chapter as school scholarship programs.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-3

Certification agreements

Sec. 3. An agreement entered into under section 1 of this chapter between the department and a scholarship granting organization must require the scholarship granting organization to do the following:

- (1) Provide a receipt to taxpayers for contributions made to the scholarship granting organization that will be used in a school scholarship program. The department of state revenue shall prescribe a standardized form for the receipt issued under this subdivision. The receipt must indicate the value of the contribution and part of the contribution being designated for use in a school scholarship program.
- (2) Allow a taxpayer to designate a participating school for which the taxpayer's contribution must be used as scholarships.
- (3) Use not more than ten percent (10%) of the total amount of contributions for administrative costs.
- (4) Distribute one hundred percent (100%) of any income earned on contributions as school scholarships to eligible students.
- (5) Conduct criminal background checks on all the scholarship granting organization's employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds.
- (6) Make the reports required by this chapter.

As added by P.L.182-2009(ss), SEC.364. Amended by P.L.211-2013, SEC.8.

IC 20-51-3-4

Right to receive other contributions

Sec. 4. An agreement entered into under section 1 of this chapter may not prohibit a scholarship granting organization from receiving contributions other than contributions described in section 3(1) of this chapter.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-5

Restrictions on certified scholarships

Sec. 5. (a) An agreement entered into under section 1 of this chapter must prohibit a scholarship granting organization from distributing school scholarships for use by an eligible student to:

- (1) enroll in a school that has:
 - (A) paid staff or board members; or
 - (B) relatives of paid staff or board members;in common with the scholarship granting support organization;
- (2) enroll in a school that the scholarship granting organization knows does not qualify as a participating school; or
- (3) pay for the cost of education for a public school where the eligible student is entitled to enroll without the payment of tuition.

(b) An agreement entered into under section 1 of this chapter must prohibit a scholarship granting organization from limiting the availability of scholarships to students of only one (1) participating school. An agreement entered into under section 1 of this chapter

before July 1, 2011, must be amended to include the requirement specified in this subsection.

As added by P.L.182-2009(ss), SEC.364. Amended by P.L.92-2011, SEC.9.

IC 20-51-3-6

Annual reports

Sec. 6. (a) A scholarship granting organization certified under this chapter must publicly report to the department by August 1 of each year the following information regarding the organization's scholarships awarded in the previous school year:

- (1) The name and address of the scholarship granting organization.
- (2) The total number and total dollar amount of contributions received during the previous school year.
- (3) The:
 - (A) total number and total dollar amount of scholarships awarded during the previous school year; and
 - (B) total number and total dollar amount of school scholarships awarded during the previous school year.

The report must be certified under penalties of perjury by the chief executive officer of the scholarship granting organization.

(b) A scholarship granting organization certified under this chapter shall contract with an independent certified public accountant for an annual financial audit of the scholarship granting organization. The scholarship granting organization must provide a copy of the annual financial audit to the department and must make the annual financial audit available to a member of the public upon request.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-7

Report forms

Sec. 7. The department shall prescribe a standardized form for scholarship granting organizations to report information required under this chapter.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-8

Suspension and termination of certification

Sec. 8. The department may, in a proceeding under IC 4-21.5, suspend or terminate the certification of an organization as a scholarship granting organization if the department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements of this article or an agreement entered into under this article.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-9

Notice of suspension or termination

Sec. 9. If the department suspends or terminates the certification of an organization as a scholarship granting organization, the department shall notify affected eligible students and their parents of the decision as quickly as possible. An eligible student affected by a suspension or termination of a scholarship granting organization's certification remains an eligible student under this article until the end of the school year after the school year in which the scholarship granting organization's certification is suspended or terminated, regardless of whether the scholarship student currently meets the definition of an eligible student.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-10

Financial reviews; audits

Sec. 10. The department may conduct either a financial review or an audit of a scholarship granting organization certified under this chapter if the department of state revenue has evidence of fraud.

As added by P.L.182-2009(ss), SEC.364.

IC 20-51-3-11

Rules

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this article.

As added by P.L.182-2009(ss), SEC.364.