General Statutes of North Carolina
Copyright 2016 by Matthew Bender & Company, Inc.
a member of the LexisNexis Group.
All rights reserved

*** Current through 2016 Regular Session ***

CHAPTER 115C. ELEMENTARY AND SECONDARY EDUCATION
SUBCHAPTER 10. PRIVATE AND PROPRIETARY SCHOOLS
ARTICLE 39. NONPUBLIC SCHOOLS
PART 2A. SCHOLARSHIP GRANTS

§ 115C-562.1. Definitions

The following definitions apply in this Part:

(1) Authority. -- The State Education Assistance Authority.

(2) Division. -- The Division of Nonpublic Education, Department of Administration.

(3) Eligible students. -- A student residing in North Carolina who has not yet received a high school diploma and who meets all of the following requirements:

a. Meets one of the following criteria:

1. Was a full-time student (i) assigned to and attending a public school pursuant to G.S. 115C-366 or (ii) enrolled in a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina, during the previous semester.

2. Received a scholarship grant during the previous school year.

3. Is entering either kindergarten or the first grade.

4. Is a child in foster care as defined in G.S. 131D-10.2(9).

5. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship grant application.

6. Is a child whose parent or legal guardian is on full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et seq., and 10 U.S.C. § 12401, et seq.

a1. Has not enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit.

b. Resides in a household with an income level not in excess of one hundred thirty-three percent (133%) of the amount required for the student to qualify for the federal free or reduced-price lunch program.

(4) Local school administrative unit. -- A local school administrative unit, charter school, or regional school.

(5) Nonpublic school. -- A school that meets the requirements of Part 1 or Part 2 of this Article as identified by the Division.

(5a) Reserve. -- The Opportunity Scholarship Grant Fund Reserve established under G.S. 115C-562.8.

(6) Scholarship grants. -- Grants awarded annually by the Authority to eligible students.

HISTORY: 2013-360, s. 8.29(a); 2016-94, s. 11A.3(a), (d).

NOTES:

EDITOR'S NOTE. --Session Laws 2013-360, s. 38.6, made this Part effective July 1, 2013.

Session Laws 2013-360, s. 8.29(e), provides: "Notwithstanding the awards criteria in G.S. 115C-562.2(a)(1) and (2), as enacted by this section, and the definition of eligible student in G.S. 115C-562.1(3), as enacted by this section, for the 2014-2015 school year, to be eligible to receive a scholarship grant, a student shall meet both of the following criteria:

"(1) Reside in a household with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.

"(2) Be a full-time student who has not yet received a high school diploma and is assigned to and attending a public school pursuant to G.S. 115C-366 during the 2014 spring semester.

"The Authority shall establish temporary rules and regulations for the administration and awarding of scholarship grants in 2014-2015, which may include a process for awarding grants using a random lottery system."

Session Laws 2013-360, s. 8.29(f), provides: "The Authority may retain up to four hundred thousand dollars ($400,000) annually for administrative costs associated with the scholarship grant program." Session Laws 2016-94, s. 11A.3(h), repeals Session Laws 2013-360, s. 8.29(f), effective July 1, 2017.

Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

Session Laws 2014-100, s. 8.25(j), provides: "Except as otherwise provided in this section, Part 2A of Article 39 of the General Statutes shall apply to the award of scholarship grants for the 2015 spring semester by the Authority."

Session Laws 2014-100, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2014.'"

Session Laws 2014-100, s. 38.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2014-2015 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2014-2015 fiscal year."

Session Laws 2014-100, s. 38.7, is a severability clause.

Session Laws 2016-94, s. 11A.3(c), provides: "It is the intent of the General Assembly to move the Opportunity Scholarship Grant program funding into the Opportunity Scholarship Grant Fund Reserve (Reserve) established under G.S. 115C-562.8, as enacted by this section, so that funds appropriated for scholarship grants in a fiscal year are awarded to students for the school year in the following fiscal year. This change shall provide additional program stability."

Session Laws 2016-94, s. 11A.3(i), made the amendment to subdivision (3) by Session Laws 2016-94, s. 11A.3(a), applicable beginning with the 2016-2017 school year.

Session Laws 2016-94, s. 1.2, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2016.'"

Session Laws 2016-94, s. 39.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2016-2017 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2016-2017 fiscal year."

Session Laws 2016-94, s. 39.7, is a severability clause.

EFFECT OF AMENDMENTS. --Session Laws 2016-94, s. 11A.3(a), (d), effective July 1, 2016, in subdivision (3), inserted "residing in North Carolina" in the introductory paragraph; in subdivision (3)a.1., inserted "(i)" and "(ii) enrolled in a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina"; added subdivisions (3)a.6. and (3)a1. See editor's note for applicability.

Session Laws 2016-94, s. 11A.3(d), effective July 1, 2016, added subdivision (5a).

CASE NOTES

CONSTITUTIONALITY. --Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because no prohibition in the constitution or in supreme court precedent foreclosed the General Assembly's enactment of the legislation; to the extent that taxpayers disagreed with the General Assembly's educational policy decision as expressed in the Opportunity Scholarship Program, their remedy was with the legislature, not the courts. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

§ 115C-562.2. Scholarship grants

(a) The Authority shall make available no later than February 1 annually applications to eligible students for the award of scholarship grants to attend any nonpublic school. Information about scholarship grants and the application process shall be made available on the Authority's Web site.

Beginning March 15, the Authority shall begin awarding scholarship grants according to the following criteria:

(1) First priority shall be given to eligible students who received a scholarship grant during the previous school year if those students have applied by March 1.

(2) After scholarship grants have been awarded to prior recipients as provided in subdivision (1) of this subsection, scholarships shall be awarded with remaining funds as follows:

a. At least fifty percent (50%) of the remaining funds shall be used to award scholarship grants to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.

b. No more than forty percent (40%) of the remaining funds shall be used to award scholarship grants to eligible students entering either kindergarten or first grade.

c. Any remaining funds shall be used to award scholarship grants to all other eligible students.

(b) Scholarship grants awarded to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of up to four thousand two hundred dollars ($ 4,200) per year. Scholarship grants awarded to eligible students residing in households with an income level in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of not more than ninety percent (90%) of the required tuition and fees for the nonpublic school the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school. No scholarship grant shall exceed four thousand two hundred dollars ($ 4,200) per year per eligible student, and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend.

(b1) Beginning with the 2017-2018 school year, within the funds appropriated by the General Assembly to award scholarship grants to eligible students under this Part, the Authority may award scholarship grants to at least 2,000 more eligible students each school year than were served in the prior school year.

(c) The Authority shall permit an eligible student receiving a scholarship grant to enroll in a different nonpublic school and remain eligible. An eligible student receiving a scholarship grant who transfers to another nonpublic school during the year may be eligible to receive a pro rata share of any unexpended portion of the scholarship grant for tuition and fees at the nonpublic school to which the student transfers.

(d) The Authority shall establish rules and regulations for the administration and awarding of scholarship grants and may include in those rules a lottery process for selection of scholarship grant recipients within the criteria established by this section.

(e) Scholarship applications and personally identifiable information related to eligible students receiving scholarship grants shall not be a public record under Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable information means any information directly related to a student or members of a student's household, including the name, birthdate, address, So-

cial Security number, telephone number, e-mail address, financial information, or any other information or identification number that would provide information about a specific student or members of a specific student's household.

HISTORY: 2013-360, s. 8.29(a); 2014-100, s. 8.25(a), (b); 2016-94, s. 11A.3(b), (e).

NOTES:

EDITOR'S NOTE. --Session Laws 2013-360, s. 8.29(e), provides: "Notwithstanding the awards criteria in G.S. 115C-562.2(a)(1) and (2), as enacted by this section, and the definition of eligible student in G.S. 115C-562.1(3), as enacted by this section, for the 2014-2015 school year, to be eligible to receive a scholarship grant, a student shall meet both of the following criteria:

"(1) Reside in a household with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.

"(2) Be a full-time student who has not yet received a high school diploma and is assigned to and attending a public school pursuant to G.S. 115C-366 during the 2014 spring semester.

"The Authority shall establish temporary rules and regulations for the administration and awarding of scholarship grants in 2014-2015, which may include a process for awarding grants using a random lottery system."

Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

Session Laws 2014-100, s. 8.25(g) provides: "Notwithstanding the requirement in G.S. 115C-562.2(a), as amended by this section, that the State Education Assistance Authority (Authority) make available applications for scholarship grants to attend nonpublic schools by February 1, the Authority shall make applications for the award of scholarships for the 2015 spring semester available no later than October 1, 2014, and the Authority shall notify parents in writing of the eligibility as soon as practicable. Notwithstanding the awards criteria in G.S. 115C-562.2(a), as amended by this section, and the definition of eligible student in G.S. 115C-562.1(2), to be eligible to receive a scholarship grant for the 2015 spring semester, a student shall meet both of the following criteria:

"(1) Reside in a household with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.

"(2) Be a full-time student who has not yet received a high school diploma and is assigned to and attending a public school pursuant to G.S. 115C-366 during the 2014 fall semester.

"The Authority shall establish temporary rules and regulations for the administration and awarding of scholarship grants for the 2015 spring semester. The Authority shall give priority to an eligible student who applied but did not receive an award for the 2014-2015 school year in the awarding of scholarship grants for the 2015 spring semester. The Authority may also develop a process for awarding grants using a random lottery system."

Session Laws 2014-100, s. 8.25(h) provides: "Notwithstanding G.S. 115C-562.2(b), scholarship grants awarded to eligible students for the 2015 spring semester shall be for amounts of up to two thousand one hundred dollars ($2,100). No scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school."

Session Laws 2014-100, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2014.'"

Session Laws 2014-100, s. 38.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2014-2015 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2014-2015 fiscal year."

Session Laws 2014-100, s. 38.7, is a severability clause.

Session Laws 2016-94, s. 11A.3(c), provides: "It is the intent of the General Assembly to move the Opportunity Scholarship Grant program funding into the Opportunity Scholarship Grant Fund Reserve (Reserve) established under G.S. 115C-562.8, as enacted by this section, so that funds appropriated for scholarship grants in a fiscal year are awarded to students for the school year in the following fiscal year. This change shall provide additional program stability."

Session Laws 2016-94, s. 11A.3(i), made the amendment to subdivision (a)(2) by Session Laws 2016-94, s. 11A.3(b), applicable beginning with the 2016-2017 school year.

Session Laws 2016-94, s. 1.2, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2016.'"

Session Laws 2016-94, s. 39.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2016-2017 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2016-2017 fiscal year."

Session Laws 2016-94, s. 39.7, is a severability clause.

EFFECT OF AMENDMENTS. --Session Laws 2014-100, s. 8.25(a), effective August 7, 2014, substituted "March 15" for "March 1" in the first paragraph of subsection (a).

Session Laws 2014-100, s. 8.25(b), effective retroactively to July 1, 2013, added subsection (e).

Session Laws 2016-94, s. 11A.3(b), effective July 1, 2016, substituted "forty percent (40%)" for "thirty-five percent (35%)" in subdivision (a)(2)b. See editor's note for applicability.

Session Laws 2016-94, s. 11A.3(e), effective July 1, 2016, added subsection (b1).

CASE NOTES

CONSTITUTIONALITY. --Trial court erred in declaring unconstitutional the Opportunity Scholarship Program; the responsibility placed on the State to deliver a sound basic education has no applicability outside of the education delivered in the public schools. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because no prohibition in the constitution or in supreme court precedent foreclosed the General Assembly's enactment of the legislation; to the extent that taxpayers disagreed with the General Assembly's educational policy decision as expressed in the Opportunity Scholarship Program, their remedy was with the legislature, not the courts. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because it was funded from general revenues, not sources of funding N.C. Const. art. IX, § 6 reserved for public schools; insofar as the General Assembly appropriates a portion of the State's general revenues for public schools, § 6 mandates that those funds be faithfully used for that purpose and does not prohibit the General Assembly from appropriating general revenue to support other educational initiatives. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

Trial court erred in declaring unconstitutional the Opportunity Scholarship Program; public funds may be spent on educational initiatives outside of the uniform system of free public schools. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because the legislation did not create an alternate system of publicly funded private schools legislation but provided modest scholarships to lower-income students for use at nonpublic schools of their choice; the uniformity clause of the constitution applies exclusively to the public school system and does not prohibit the General Assembly from funding educational initiatives outside of that system. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

Appropriations made by the General Assembly for the Opportunity Scholarship Program are for a public purpose because the ultimate beneficiary of providing these children additional educational opportunities is our collective citizenry; the provision of monetary assistance to lower-income families so that their children have additional educational opportunities is well within the scope of permissible governmental action and is intimately related to the needs of our state's citizenry. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

STANDING. --Because eligible students were capable of raising a discrimination claim on their own behalf should the circumstances warrant such action, taxpayers had no standing to assert a direct discrimination claim on the students' behalf; the taxpayers were not eligible students alleged to have suffered religious discrimination as a result of the admission or educational practices of a nonpublic school participating in the Opportunity Scholarship Program. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

§ 115C-562.3. Verification of eligibility

(a) The Authority may seek verification of information on any application for scholarship grants from eligible students. The Authority shall select and verify six percent (6%) of applications annually, including those with apparent errors on the face of the application. The Authority shall establish rules for the verification process and may use the federal verification requirements process for free and reduced-price lunch applications as guidance for those rules. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship grant to the eligible student.

(b) Household members of applicants for scholarship grants shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Revenue, the Department of Health and Human Services, and the Department of Public Instruction.

HISTORY: 2013-360, s. 8.29(a); 2014-100, s. 8.25(c).

NOTES:

EDITOR'S NOTE. --Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

Session Laws 2014-100, s. 8.25(k) provides: "Notwithstanding the requirements of G.S. 115C-562.3, as amended by this section, for applications received for the 2014-2015 school year or the 2015 spring semester, the State Education Assistance Authority shall select and verify no less than three percent (3%) of applications, including those with apparent errors on the face of the application."

Session Laws 2014-100, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2014.'"

Session Laws 2014-100, s. 38.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2014-2015 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2014-2015 fiscal year."

Session Laws 2014-100, s. 38.7, is a severability clause.

EFFECT OF AMENDMENTS. --Session Laws 2014-100, s. 8.25(c), effective August 7, 2014, in the second sentence in subsection (a), deleted "a random sample of no less than" following "select and verify" and added "including those with apparent errors on the face of the application" at the end.

§ 115C-562.4. Identification of nonpublic schools and distribution of scholarship grant information

(a) The Division shall provide annually by February 1 to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of this Article. The Division shall notify the Authority of any schools included in the list that the Division has determined to be ineligible within five business days of the determination of ineligibility.

(b) The Authority shall provide information about the scholarship grant program to the Division, including applications and the obligations of nonpublic schools accepting eligible students receiving scholarship grants. The Division shall ensure that information about the scholarship grant program is provided to all qualified nonpublic schools on an annual basis.

HISTORY: 2013-360, s. 8.29(a).

NOTES:
EDITOR'S NOTE. --Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving scholarship grants

(a) A nonpublic school that accepts eligible students receiving scholarship grants shall comply with the following:

(1) Provide to the Authority documentation for required tuition and fees charged to the student by the nonpublic school.

(2) Provide to the Authority a criminal background check conducted for the staff member with the highest decision-making authority, as defined by the bylaws, articles of incorporation, or other governing document, to ensure that person has not been convicted of any crime listed in G.S. 115C-332.

(3) Provide to the parent or guardian of an eligible student, whose tuition and fees are paid in whole or in part with a scholarship grant, an annual written explanation of the student's progress, including the student's scores on standardized achievement tests.

(4) Administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of the nonpublic school to all eligible students whose tuition and fees are paid in whole or in part with a scholarship grant enrolled in grades three and higher. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling, and mathematics. Test performance data shall be submitted to the Authority by July 15 of each year. Test performance data reported to the Authority under this subdivision is not a public record under Chapter 132 of the General Statutes.

(5) Provide to the Authority graduation rates of the students receiving scholarship grants in a manner consistent with nationally recognized standards.

(6) Contract with a certified public accountant to perform a financial review, consistent with generally accepted accounting principles, for each school year in which the school accepts students receiving more than three hundred thousand dollars ($ 300,000) in scholarship grants awarded under this Part.

(b) A nonpublic school that accepts students receiving scholarship grants shall not require any additional fees based on the status of the student as a scholarship grant recipient.

(c) A nonpublic school enrolling more than 25 students whose tuition and fees are paid in whole or in part with a scholarship grant shall report to the Authority on the aggregate standardized test performance of eligible students. Aggregate test performance data reported to the Authority which does not contain personally identifiable student data shall be a public record under Chapter 132 of the General Statutes. Test performance data may be shared with public or private institutions of higher education located in North Carolina and shall be provided to an independent research organization selected by the Authority for research purposes as permitted by the Federal Education Rights and Privacy Act, 20 U.S.C. § 1232g.

(c1) A nonpublic school shall not discriminate with respect to the categories listed in 42 U.S.C. § 2000d, as that statute read on January 1, 2014.

(d) A nonpublic school accepting students receiving scholarship grants that fails to comply with the requirements of this section shall be ineligible to receive future scholarship grants if the Authority determines that the nonpublic school is not in compliance with the requirements of this section. The nonpublic school shall notify the parent or guardian of any enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to receive future scholarship grants. A nonpublic school may appeal for reconsideration of eligibility after one year.

HISTORY: 2013-360, s. 8.29(a); 2014-100, s. 8.25(d), (d1).

NOTES:
EDITOR'S NOTE. --Session Laws 2013-360, s. 8.29(g), provides: "The Authority shall select an independent research organization, as required by G.S. 115C-562.7, as enacted by this section, beginning with the 2017-2018 school year. The first learning gains report required by G.S. 115C-562.7, as enacted by this section, shall not be due until December 1, 2018. The first financial review

for a nonpublic school that accepts scholarship grant funds, as required by G.S. 115C-562.5(a)(6), as enacted by this section, shall not be required until the 2015-2016 school year."

Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

Session Laws 2014-100, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2014.'"

Session Laws 2014-100, s. 38.7, is a severability clause.

EFFECT OF AMENDMENTS. --Session Laws 2014-100, s. 8.25(d) and (d1), effective August 7, 2014, in subdivision (a)(2), substituted "Provide to the Authority" for "Conduct" and inserted "conducted" following "background check" and inserted subsection (c1).

CASE NOTES

CONSTITUTIONALITY. --Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because no prohibition in the constitution or in supreme court precedent foreclosed the General Assembly's enactment of the legislation; to the extent that taxpayers disagreed with the General Assembly's educational policy decision as expressed in the Opportunity Scholarship Program, their remedy was with the legislature, not the courts. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

§ 115C-562.6. Scholarship endorsement

The Authority shall remit, at least two times each school year, scholarship grant funds awarded to eligible students to the nonpublic school for endorsement by at least one of the student's parents or guardians. The parent or guardian shall restrictively endorse the scholarship grant funds awarded to the eligible student to the nonpublic school for deposit into the account of the nonpublic school. The parent or guardian shall not designate any entity or individual associated with the nonpublic school as the parent's attorney-in-fact to endorse the scholarship grant funds but shall endorse the scholarship grant funds in person at the site of the nonpublic school. A parent's or guardian's failure

to comply with this section shall result in forfeit of the scholarship grant. A scholarship grant forfeited for failure to comply with this section shall be returned to the Authority to be awarded to another student.

HISTORY: 2013-360, s. 8.29(a).

NOTES:
EDITOR'S NOTE. --Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

Session Laws 2014-100, s. 8.25(i) provides: "Notwithstanding G.S. 115C-562.6, the Authority shall remit at least once during the 2015 spring semester scholarship grant funds awarded for that semester for endorsement by at least one of the student's parents or guardians. The requirements of G.S. 115C-562.6 shall otherwise apply to scholarship grants awarded for the 2015 spring semester."

Session Laws 2014-100, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2014.'"

Session Laws 2014-100, s. 38.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2014-2015 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2014-2015 fiscal year."

Session Laws 2014-100, s. 38.7, is a severability clause.

CASE NOTES

CONSTITUTIONALITY. --Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because no prohibition in the constitution or in supreme court precedent foreclosed the General Assembly's enactment of the legislation; to the extent that taxpayers disagreed with the General Assembly's educational policy decision as expressed in the Opportunity Scholarship Program, their remedy was with the legislature, not the courts. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

§ 115C-562.7. Authority reporting requirements

(a) Repealed by Session Laws 2014-100, s. 8.25(e), effective August 7, 2014.

(b) The Authority shall report annually, no later than April 1, to the Joint Legislative Education Oversight Committee on the following:

(1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship grants.

(2) Total amount of scholarship grant funding awarded.

(3) Number of students previously enrolled in local school administrative units or charter schools in the prior semester by the previously attended local school administrative unit or charter school.

(4) Nonpublic schools in which scholarship grant recipients are enrolled, including numbers of scholarship grant students at each nonpublic school.

(5) Nonpublic schools deemed ineligible to receive scholarships.

(c) The Authority shall report annually, no later than December 1, to the Department of Public Instruction and the Joint Legislative Education Oversight Committee on the following:

(1) Learning gains or losses of students receiving scholarship grants. The report shall include learning gains of participating students on a statewide basis and shall compare, to the extent possible, the learning gains or losses of eligible students by nonpublic school to the statewide learning gains or losses of public school students with similar socioeconomic backgrounds, using aggregate standardized test performance data provided to the Authority by nonpublic schools and by the Department of Public Instruction.

(2) Competitive effects on public school performance on standardized tests as a result of the scholarship grant program. The report shall analyze the impact of the availability of scholarship grants on public school performance on standardized tests by local school administrative units to the extent possible, and shall provide comparisons of the impact by geographic region and between rural and urban local school administrative units.

This report shall be conducted by an independent research organization to be selected by the Authority, which may be a public or private entity or university. The independent research organization shall report to the Authority on the results of its research. The Joint Legislative Education Oversight Committee shall review reports from the Authority and shall make ongoing recommendations to the General Assembly as needed regarding improving administration and accountability for nonpublic schools accepting students receiving scholarship grants.

HISTORY: 2013-360, s. 8.29(a); 2014-100, s. 8.25(e), (f).

NOTES:
EDITOR'S NOTE. --Session Laws 2013-360, s. 8.29(g), provides: "The Authority shall select an independent research organization, as required by G.S. 115C-562.7, as enacted by this section, beginning with the 2017-2018 school year. The first learning gains report required by G.S. 115C-562.7, as enacted by this section, shall not be due until December 1, 2018. The first financial review

for a nonpublic school that accepts scholarship grant funds, as required by G.S. 115C-562.5(a)(6), as enacted by this section, shall not be required until the 2015-2016 school year."

Session Laws 2013-360, s. 8.29(h), provides: "This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5 is a severability clause.

Session Laws 2014-100, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2014.'"

Session Laws 2014-100, s. 38.7, is a severability clause.

EFFECT OF AMENDMENTS. --Session Laws 2014-100, s. 8.25(e) and (f), effective August 7, 2014, repealed subsection (a) which read "The Authority shall report to the Department of Public Instruction annually, no later than September 1, the number and names of students who have received scholarship grants for the current school year and who were enrolled the prior semester in a local school administrative unit by the previously attended local school administrative unit. By September 15 of each year, the State Board of Education shall determine the amount of the reduction for each local school administrative unit by multiplying the students who have received scholarship grants for the current school year and who were enrolled the prior semester in a local school administrative unit by the per pupil allocation for average daily membership from the local school administrative unit. Local school administrative units shall identify to the Department of Public Instruction the reductions to State General Fund appropriations for Opportunity Scholarships by October 1 of each year."; and substituted "April 1" for "March 1" in the introductory language of subsection (b).

CASE NOTES

CONSTITUTIONALITY. --Trial court erred in declaring unconstitutional the Opportunity Scholarship Program because no prohibition in the constitution or in supreme court precedent foreclosed the General Assembly's enactment of the legislation; to the extent that taxpayers disagreed with the General Assembly's educational policy decision as expressed in the Opportunity Scholarship Program, their remedy was with the legislature, not the courts. Hart v. State, 368 N.C. 122, 774 S.E.2d 281 (2015).

§ 115C-562.8. (Effective until July 1, 2017) The Opportunity Scholarship Grant Fund Reserve

The Opportunity Scholarship Grant Fund Reserve is established as a reserve to be administered by the Board of Governors of The University of North Carolina for the purpose of allocating funds to the Authority for the award of scholarship grants in accordance with this Part. The Reserve shall consist of monies appropriated from the General Fund to the Reserve by the General Assembly and any interest accrued to it thereon. These funds shall be used to award scholarship grants to eligible students for the school year that begins in the fiscal year following the fiscal year in which the appropriation is made to the Reserve. The Board of Governors shall only use monies in the Reserve in accordance with the purposes set forth in this section. Funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year that are unexpended at the end of the fiscal year after the fiscal year in which the funds were appropriated shall be carried forward for one fiscal year and may be used for the purposes set forth in this section. Funds carried forward pursuant to this section that have not been spent within one fiscal year shall revert to the General Fund.

HISTORY: 2016-94, s. 11A.3(f).

NOTES:
SECTION SET OUT TWICE. --The section above is effective until July 1, 2017. For the section as in effect after July 1, 2017, see the following section, also numbered G.S. 115C-562.8.

EDITOR'S NOTE. --Session Laws 2016-94, s. 39.8 made this section effective July 1, 2016.

Session Laws 2016-94, s. 11A.3(c), provides: "It is the intent of the General Assembly to move the Opportunity Scholarship Grant program funding into the Opportunity Scholarship Grant Fund Reserve (Reserve) established under G.S. 115C-562.8, as enacted by this section, so that funds appropriated for scholarship grants in a fiscal year are awarded to students for the school year in the following fiscal year. This change shall provide additional program stability."

Session Laws 2016-94, s. 1.2, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2016.'"

Session Laws 2016-94, s. 39.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2016-2017 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2016-2017 fiscal year."

Session Laws 2016-94, s. 39.7, is a severability clause.

§ 115C-562.8. (Effective July 1, 2017) The Opportunity Scholarship Grant Fund Reserve

(a) The Opportunity Scholarship Grant Fund Reserve is established as a reserve to be administered by the Board of Governors of The University of North Carolina for the purpose of allocating funds to the Authority for the award of scholarship grants in accordance with this Part. The Reserve shall consist of monies appropriated from the General Fund to the Reserve by the General Assembly and any interest accrued to it thereon. These funds shall be used to award scholarship grants to eligible students for the school year that begins in the fiscal year following the fiscal year in which the appropriation is made to the Reserve. The Board of Governors shall only use monies in the Reserve in accordance with the purposes set forth in this section. Funds appropriated in a particular fiscal

year to be used for the award of scholarships in the following fiscal year that are unexpended at the end of the fiscal year after the fiscal year in which the funds were appropriated shall be carried forward for one fiscal year and may be used for the purposes set forth in this section. Funds carried forward pursuant to this section that have not been spent within one fiscal year shall revert to the General Fund.

(b) The General Assembly finds that, due to the critical need in this State to provide opportunity for school choice for North Carolina students, it is imperative that the State provide an increase of funds of at least ten million dollars ($ 10,000,000) each fiscal year for 10 years to the Opportunity Scholarship Grant Fund Reserve. Therefore, there is appropriated from the General Fund to the Reserve the following amounts for each fiscal year to be used for the purposes set forth in this section:

Fiscal Year	*Appropriation*
2017-2018	$ 44,840,000
2018-2019	$ 54,840,000
2019-2020	$ 64,840,000
2020-2021	$ 74,840,000
2021-2022	$ 84,840,000
2022-2023	$ 94,840,000
2023-2024	$ 104,840,000
2024-2025	$ 114,840,000
2025-2026	$ 124,840,000
2026-2027	$ 134,840,000

For the 2027-2028 fiscal year and each fiscal year thereafter, there is appropriated from the General Fund to the Reserve the sum of one hundred forty-four million eight hundred forty thousand dollars ($ 144,840,000) to be used for the purposes set forth in this section.

(c) Of the funds allocated to the Authority to award scholarship grants under this Part, the Authority may retain the lesser of up to four percent (4%) of the funds appropriated or one million five hundred thousand dollars ($ 1,500,000) each fiscal year for administrative costs associated with the scholarship grant program.

HISTORY: 2016-94, s. 11A.3(f), (g).

NOTES:
SECTION SET OUT TWICE. --The section above is effective July 1, 2017. For the section as effective until July 1, 2017, see the preceding section, also numbered G.S. 115C-562.8.

EDITOR'S NOTE. --Session Laws 2016-94, s. 39.8 made this section effective July 1, 2016.
Session Laws 2016-94, s. 11A.3(c), provides: "It is the intent of the General Assembly to move the Opportunity Scholarship Grant program funding into the Opportunity Scholarship Grant Fund

Reserve (Reserve) established under G.S. 115C-562.8, as enacted by this section, so that funds appropriated for scholarship grants in a fiscal year are awarded to students for the school year in the following fiscal year. This change shall provide additional program stability."

Session Laws 2016-94, s. 1.2, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2016.'"

Session Laws 2016-94, s. 39.4, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2016-2017 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2016-2017 fiscal year."

Session Laws 2016-94, s. 39.7, is a severability clause.

EFFECT OF AMENDMENTS. --Session Laws 2016-94, s. 11A.3(g), effective July 1, 2017, added the subsection designation (a) and added subsections (b) and (c).