



## **Rules Governing the Opportunity Scholarship Program**

A Program of the State of North Carolina  
Administered by the State Education Assistance Authority  
2 UNC-TV Drive  
Research Triangle Park, NC 27709

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## Part I

### Short Title, Purpose, and Definitions

#### **.0100. Short Title.**

The Rules Governing the Opportunity Scholarship Program may hereinafter be cited as the “Rules.”

#### **.0101. Purpose and Scope.**

The Opportunity Scholarship Program was established by the 2013 General Assembly. The Authority administers the Program as directed by the General Assembly. Funding for the Program is contingent each year upon appropriations made available to the Authority by the General Assembly.

#### **.0102. Definitions.**

Unless the context clearly indicates some other meaning, the following capitalized words and phrases shall have the corresponding meanings in the Rules:

- (a) “*Academic Year*” means two Semesters, beginning with the fall Semester.
- (b) “*Act*” means Part 2A of Article 39 of Chapter 115C of the North Carolina General Statutes, any revision, amendment or extension thereof, and any subsequent budget or appropriations act affecting the Program.
- (c) “*Active Uniformed Service*” means an individual on full-time duty in the active uniformed service of the United States as that term is defined in 37 U.S.C. §101(3), including the United States Air Force, Army, Coast Guard, Marine Corps, or Navy, as well as any member of a reserve component of the foregoing who is on active duty orders pursuant to 10 U.S.C. §12301 *et seq.* or 10 U.S.C. §12401 *et seq.* or any member of the National Guard who is on active orders pursuant to 10 U.S.C. §12301 *et seq.* or 10 U.S.C. §12401 *et seq.*
- (d) “*Authority*” means the State Education Assistance Authority, a political subdivision of the State, created under Article 23 of Chapter 116 of the North Carolina General Statutes.
- (e) “*CPA*” means a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners.

- (f) *“Department of Defense School”* means a Department of Defense domestic dependent elementary and secondary school established pursuant to 10 U.S.C. §2164 and located within the State of North Carolina.
- (g) *“Eligible School”* means a North Carolina nonpublic school as defined in G.S. § 115C-562.1(5) that has completed the Opportunity Scholarship Program registration process established by the Authority.
- (h) *“Financial Review”* means a financial review as that term is defined by the American Institute of CPAs.
- (i) *“Graduation Rate”* means what percentage of Program recipients who started the fall semester of their senior year and graduated.
- (j) *“Household”* means a group of related or unrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.
- (k) *“Income”* means earnings, wages, salary, public assistance or welfare payments, support payments, pensions, retirement income, unemployment compensation, social security income or benefits, disability benefits, veteran’s benefits, interest and dividend income, cash withdrawn from savings, and any other cash income from any source before any deductions for taxes, but does not include distributions from the estate of a decedent.
- (l) *“Income Eligibility Guidelines”* means the family-size income level prescribed annually by the Secretary of the Department of Agriculture for use by states in establishing eligibility for free and reduced price meals.
- (m) *“Lottery Number”* means a number generated at random by computer software operated by the Authority that determines the Parent applicant’s order of placement in the lottery for purposes of awarding a Scholarship.
- (n) *“Nationally Standardized Test”* means a published, nationally normed test or other nationally standardized equivalent measurement which provides a valid and reliable measure of a student’s present achievement level in comparison with age or grade and also measures achievement in the areas of English grammar, reading, spelling, and mathematics.
- (o) *“Scholarship”* means a grant awarded under the Program as defined in G.S. § 115C-562.1(6).
- (p) *“Parent”* means:
  - a. A natural, adoptive, or foster parent;

- b. A guardian, but not the State if the child is a ward of the State;
  - c. An individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative, and with whom the child lives;
  - d. An individual who is legally responsible for the child's welfare; or
  - e. A surrogate if one is appointed under G.S. § 115C-109.2.
- (q) *“Participation Agreement”* means the agreement, in a form acceptable to the Authority, by which an Eligible School agrees to comply with the Act and the Rules and otherwise meets the requirements for receiving Scholarships on behalf of students who are eligible for the Program.
- (r) *“Priority Deadline”* means March 1 of each Academic Year and is the deadline by which a Parent must submit a complete application in order to be entered into the Program lottery.
- (s) *“Program”* means the Opportunity Scholarship Program.
- (t) *“Semester”* means one of two semesters; the fall semester is the first half of the school year consisting of days in which school attendance is required as determined by the Eligible School between July and January and the spring semester is the second half of the school year consisting of days in which school attendance is required as determined by the Eligible School between January and June.
- (u) *“State”* means the State of North Carolina.

## Part II

### Student Eligibility Requirements

#### **.0200. Student Eligibility.**

Student eligibility is determined each Academic Year. A student qualifies to receive a Scholarship if the student meets all of the following conditions:

- (a) Is a legal resident of North Carolina;
- (b) Resides in a Household with an Income 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 for the school year for which the student is applying, as set forth in the Income Eligibility Guidelines;
- (c) Will not be enrolled in a North Carolina public school to which he or she has been assigned as provided in G.S. § 115C-366 for the Semester in which the student is receiving the Scholarship;
- (d) Is eligible to attend a North Carolina public school pursuant to G.S. § 115C-364 and 366;
- (e) Has reached or will reach the age of 5 on or before August 31;
- (f) Is younger than 22 as of the date of the beginning of the Semester;
- (g) Will attend the Eligible School full-time for the school year for which the student applies;
- (h) Has not been placed in an Eligible School or facility by a public agency at public expense;
- (i) Has not been enrolled full-time in a postsecondary institution;
- (j) Does not have a high school diploma or its equivalent; and
- (k) Meets at least one of the following criteria:
  - 1. Received a Scholarship the previous Semester;
  - 2. Was a full-time student assigned to and attending a North Carolina public school pursuant to G.S. § 115C-366 or a Department of Defense School located in North Carolina for at least ten (10) school days of the prior Semester;
  - 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 adopted and has an adoption decree that was signed by the clerk not more than one year prior to the submission of the student's Program application; or
  - 6. Is a child whose Parent is on full-time duty status in the Active Uniformed Service.

## Part III

### Application, Verification, and Awards

#### **.0300. Applications and Supporting Documentation.**

- (a) To apply for a Scholarship, the student's Parent shall complete an application as instructed by the Authority.
- (b) The Parent completing the application must be a Parent with whom the child resides.
- (c) The Parent shall complete a new application for renewal each Academic Year.
- (d) If any information presented on the Parent's initial or renewal application changes, the Parent applicant is responsible for notifying the Authority of any such change.
- (e) Disbursements for tuition are disbursed on behalf of the Parent who completes the application.

#### **.0301. Verification.**

- (a) The Parent shall comply with any processes established by the Authority to verify information on the Parent's application, including the Income information for all members of the student's Household.
- (b) The Authority may require an applicant to submit documentation or additional information to substantiate information presented in the application, including additional information to verify documentation of the Household Income.
- (c) The Parent shall provide consent for the release of the student's education record from the student's school and other entities as may be necessary for the Authority to complete the verification process.
- (d) Failure to cooperate with the verification process by the Parent or any member of the Household may result in the revocation of the Scholarship.

#### **.0302. Application Deadlines and Priority Selection.**

- (a) Applications received on or before the Priority Deadline that are complete will be considered submitted by the Priority Deadline.
- (b) An application is not considered submitted until it is complete and received by the Authority.
- (c) In order to qualify for the Priority Deadline, the information on the application must be accurate and verifiable at the time the application is submitted.

- (d) First priority for the award of a Scholarship shall be given to eligible students who received a Scholarship during the prior Academic Year if those students have applied on or before the Priority Deadline.
- (e) Second priority for the award of a Scholarship shall be given to eligible students who submitted an application on or before the Priority Deadline and who were selected in the lottery, to the extent scholarship funds are available based on appropriation directives of the General Assembly.
- (f) If the number of Scholarships awarded to applicants who submitted their application on or before the Priority Deadline and who were selected in the lottery does not exceed the amount of funding for the Program for the Academic Year, third priority shall be given to eligible students who submitted their application on or before the Priority Deadline and who were not selected in the lottery.
- (g) Applications for a Scholarship received after the Priority Deadline will be considered in the order the application was submitted.

**.0303. Lottery Process.**

- (a) All students whose Parents submit an application on or before the Priority Deadline are screened for eligibility.
- (b) Those Parent applicants that submitted an application on or before the Priority Deadline and whose students are deemed eligible will be placed in to a computerized program operated by the Authority that will randomly assign a number to the Parent.
- (c) A Parent that applies for multiple students will only be placed in to the computerized program once and receive one Lottery Number assigned to all eligible students of the same Household.
- (d) The Lottery Number determines what priority order to award the Scholarship.
- (e) A Parent that has been selected through the random lottery process will have a deadline as set by the Authority to accept or decline the Scholarship and failure to notify the Authority by the deadline may result in the Scholarship being revoked.

**.0304. Wait List.**

If additional funding becomes available, the Authority will award Scholarships in the order that the Parent is on the wait list.

**.0305. Parental Notification of Choice of School.**

A Parent that has been notified of the award of a Scholarship will have a deadline as set by the Authority to notify the Authority of the Parent's choice of Eligible School and failure to notify the Authority by the deadline may result in the Scholarship being revoked.

**.0306. Parent Endorsement.**

- (a) The Parent shall endorse the Scholarship funds awarded to the eligible student each Semester for the direct deposit of the Scholarship into the Eligible School's account.
- (b) The Parent shall not designate any entity or individual associated with the Eligible School to act as the Parent's attorney-in-fact to perform the endorsement.

**.0307. Transfers.**

- (a) A student who transfers from one Eligible School to another Eligible School during the Academic Year may be entitled to a pro-rata share of any unexpended portion of a Scholarship, in accordance with the policies of the Authority, to be used at the Eligible School to which the student transfers, depending upon when during the Semester the student transfers.
- (b) A student will not be eligible for a pro-rata share of any unexpended portion of a Scholarship, in accordance with the policies of the Authority, if the student transfers more than one time during the Semester.

**.0308. Scholarship Amount.**

- (a) Each Scholarship shall be for an amount not to exceed two thousand one hundred dollars (\$2,100) per Semester.
- (b) Scholarships awarded to students residing in Households with Income not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for an amount up to two thousand one hundred dollars (\$2,100) per Semester.
- (c) Scholarships awarded to students residing in Households with Income in excess of the amount required to qualify for the federal free or reduced-price lunch program shall be for amounts of not more than 90% of the required tuition and fees for the Eligible School the student will attend.
- (d) No Scholarship shall exceed the required tuition and fees charged by the Eligible School for the student to attend the Eligible School.

## Part IV

### Eligible School Requirements

#### **.0400. General Provisions.**

- (a) The Eligible School shall be identified by the Division of Nonpublic Education as meeting the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (b) The Eligible School shall be physically located in North Carolina.
- (c) Home schools as defined in G.S. § 115C-563(a) are not eligible to participate in the Program.
- (d) The Authority will disburse Scholarships directly to the Eligible Schools.
- (e) Scholarships shall be for a student that meets the eligibility requirements in Rule .0200.
- (f) Disbursement of Scholarships directly to Eligible Schools will be made only after the Authority receives all documentation required under Rules .0401 and .0402 and in a manner acceptable to the Authority.
- (g) Disbursements shall not be made until the Parent endorses the Scholarship for direct deposit in to the Eligible School's account.
- (h) Disbursements shall be made after the beginning of each Semester at a date established by the Authority.

#### **.0401. Eligible School Registration Process and Requirements.**

##### (a) Applicability.

All schools participating in the Program must complete an initial registration process as established by the Authority, including completing each and every subpart of the initial registration process as set forth in this Rule. Failure to complete the registration process shall result in a determination that the school is ineligible for the Program.

##### (b) General Responsibilities.

###### 1. Execute a Participation Agreement.

- a. To receive direct disbursement of Scholarships, the Eligible School must sign a Participation Agreement.
- b. The agreement shall remain in effect until it is terminated pursuant to the terms of

the Participation Agreement.

2. Other Required Forms.

- a. The Eligible School shall complete and submit an Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification, prior to disbursement of the Scholarship.
- b. The Authority may require the Eligible School to complete and submit other forms as necessary to disburse the Scholarships in accordance with the Act.

(c) Tuition and Fees.

1. The Eligible School shall provide the Authority with a complete copy of its tuition and fee schedule for each Academic Year prior to the Authority disbursing Scholarships to the Eligible School for tuition and fees.
2. The Eligible School shall provide the Authority with documentation of the required tuition charged to the student prior to the Authority's disbursing Scholarships for that student.
3. The Eligible School shall not require payment of any additional fees based on the status of the student as a recipient of a Scholarship.

(d) Scholarship Endorsement.

1. The Eligible School shall certify and attest that the student is enrolled full-time and attending the Eligible School, prior to the Authority's disbursing the Scholarship funds to the School.
2. Following the Parent's endorsement of Scholarship funds for direct deposit in to the Eligible School's account, the Eligible School shall certify and attest that the tuition and fees charged to the student are true and accurate, prior to the Authority's disbursing the Scholarship funds to the School.

(e) Crediting the Student Account.

The Eligible School shall credit the student's account within ten (10) days of the receipt of a Scholarship.

(f) Refund Policy.

Each Eligible School shall comply with the Authority's policies for return of funds for the Program, including the Opportunity Scholarship Program Student Withdrawal and Refund policy.

(g) Criminal Background Check.

1. Each Eligible School shall conduct a criminal background check in a manner established by the Authority, national in scope and dated within one year of submission, for the staff member with the highest decision-making authority at the Eligible School as defined by the bylaws, articles of incorporation, or other governing document of the Eligible School to ensure that the person has not been convicted of any crime listed in G.S. § 115C-332(a)(1). An Eligible School shall notify the Authority if the staff member with the highest decision-making authority is charged or convicted of any crime listed in G.S. § 115C-332(a)(1) within five (5) business days of the charge or conviction.
2. An Eligible School shall notify the Authority within five (5) business days of employing a new staff member with the highest decision-making authority as defined by bylaws, articles of incorporation, or other governing document of the Eligible School and shall obtain a criminal background check on that person as required by sub-subsection of Rule .0401(g)(1).

(h) Financial Reporting Requirements.

1. Each Eligible School that receives more than \$300,000 in Scholarship funds in a single Academic Year shall contract with a CPA to perform a Financial Review consistent with generally accepted accounting principles and in a format acceptable to the Authority.
2. A copy of the Financial Review report prepared by the CPA must be submitted annually to the Authority in electronic format within ninety (90) days of the end of the Eligible School's fiscal year.
3. If the Financial Review report documents significant findings regarding the Eligible School's administration of Program funds, the Authority may withhold Program funds from the Eligible School until the findings are resolved.

(i) Academic Progress Reporting Requirements.

1. Nationally Standardized Test.
  - a. At least once a year, each Eligible School shall administer a Nationally Standardized Test, selected by the chief administrative officer of the Eligible School, to all students in grades three and higher whose tuition and fees are paid in whole or in part by the Program.

- b. Each Eligible School shall report the scores of the Nationally Standardized Tests to the Authority by July 15 of each year in the manner prescribed by the Authority.
2. Each Eligible School that enrolls more than twenty-five (25) students receiving Scholarships shall report Nationally Standardized Test scores in the aggregate to the Authority by July 15 of each year in a manner prescribed by the Authority.
3. Each Eligible School shall report Graduation Rates to the Authority by July 15 of each year in a manner prescribed by the Authority.
4. Each Eligible School will provide the Parent of each student who receives a Scholarship with a written explanation of the student's progress, including the Nationally Standardized Test scores, at least annually.

(j) Inspection, Retention, Review and Audit of Program Records.

1. Inspection of Records.

Each Eligible School shall provide the Authority with access to all records related to the administration of the Program upon request.

2. Retention of Records.

Each Eligible School shall retain all Program records for five (5) years from the end of the Academic Year or until all audit findings are resolved, whichever is longer.

3. Review and Audit.

Each Eligible School shall be subject to examination by the Authority and any other audit process designated by the Authority to determine whether it has administered the Program in accordance with the Act and the Rules.

**.0402. Duty to Update Contact Information.**

Each Eligible School shall update the Authority within five (5) days of any change in its contact information, including the name of the school administrator, the email address, the street address and phone numbers.

**.0403. Confirmation of Student Eligibility.**

(a) Eligible Schools shall confirm that information that the Authority has regarding each student is consistent with the information that the Eligible School has for the student.

(b) An Eligible School shall report any conflicting information to the Authority.

## Part V

### Failure to Comply

#### **.0500. Failure to Comply.**

- (a) If the Authority determines that an Eligible School has failed to comply with any requirement of the Act, the Rules, or Program policies, the Eligible School may be ineligible to participate in the Program or any other program administered by the Authority.
- (b) Upon receiving notice that the Eligible School is ineligible to participate in the Program, the Eligible School must notify the Parent of any enrolled student scheduled to receive or receiving a Scholarship that the school is no longer eligible to participate in the Program.
- (c) A school that is deemed ineligible to participate in the Program may be required to return a pro-rata share of the Scholarship that was to be used for tuition for the student to attend the Eligible School, depending upon when during the Semester the school is deemed ineligible, and as determined in accordance with the policies of the Authority.

## Part VI

### Interpretive Guidance

#### **.0600. The Authority as Program Administrator.**

The Authority is hereby authorized and directed to develop, adopt and implement such policies, procedures, and forms as necessary from time to time in order to administer the Program in accordance with the Act and Rules.

#### **.0601. Interpretive Guidance.**

The Authority may, from time to time, issue guidance for interpreting the Rules in the form of policy memoranda or questions and answers. All interpretative guidance shall have the force and effect of the Rules.

*I, Elizabeth V. McDuffie, Executive Director and Secretary of the Board of Directors of the State Education Assistance Authority, DO HEREBY CERTIFY that the foregoing is a true and exact copy of the Rules Governing the Opportunity Scholarship Program as amended effective June 26, 2018 and adopted by the Board of Directors of the Authority on October 3, 2018 and as approved as final pursuant to the authority delegated to me; these Rules are in full force and effect.*

*WITNESS my hand and seal of the Authority, this the 3<sup>rd</sup> day of October, 2018.*

  
Elizabeth V. McDuffie  
Executive Director and Secretary of the Board of Directors