



Rules Governing the Opportunity Scholarship Program

A Program of the State of North Carolina
Administered by the State Education Assistance Authority
3120 Poplarwood Court
Raleigh, NC 27604

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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) “*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.
- (d) “*CPA*” means a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners.
- (e) “*Criminal History*” means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties in overseeing State funds and the requirements of the scholarship program. Such crimes are those listed in G.S. § 115C-332(a)(1).

- (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) *“Education Student Accounts for Children with Disabilities Program”* means the scholarship program established under Article 41 of Chapter 115C of the North Carolina General Statutes.
- (h) *“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.
- (i) *“Executive Director”* means the executive director of the Authority as defined in G.S. 116-203(f1).
- (j) *“Financial Review”* means a financial review as that term is defined by the American Institute of CPAs.
- (k) *“Foster Care”* means foster care as defined in G.S. § 131D-10.2(9) and documented with a form acceptable to the Authority.
- (l) *“Foster Parent”* means a foster parent as defined in G.S. § 131D-10.2(9a).
- (m) *“Full-time student”* means a student enrolled exclusively in an Eligible School, or a student enrolled part-time in an Eligible School and part-time in another Eligible School, whose parent has released the local school administrative unit the student is eligible to attend of all obligations to educate the student while the student is receiving a Scholarship.
- (n) *“Graduation Rate”* means what percentage of Program recipients who started the fall semester of their senior year and graduated.
- (o) *“HDMA”* means 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.
- (p) *“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.
- (q) *“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.

- (r) *"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.
- (s) *"Licensed Psychologist"* means an individual who has been issued a license pursuant to the North Carolina Psychology Practice Act, N.C. Gen. Stat. § 90-270.135 *et seq.*, and whose license is in good standing and permits him or her to engage in the practice of psychology as defined in N.C. Gen. Stat. 90-270.136(6).
- (t) *"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.
- (u) *"National Aptitude Test"* means a test such as the Stanford-Binet, the Wechsler Preschool and Primary Scale of Intelligence, The Kaufman Anderson, or any other comparable tests.
- (v) *"Nationally Normed Achievement Test in either Reading or Mathematics"* means a test such as the Metropolitan Readiness Test, the Stanford Early School Achievement Test, the Mini Battery of Achievement, the Woodcock-Johnson, the Test of Early Mathematics (TEMA), the Test of Early Reading Ability (TERA), or any other comparable test.
- (w) *"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 or for grades nine through twelve measures competencies in the verbal and quantitative areas.
- (x) *"Part-time student"* means a student enrolled part time in a public school and part time in an Eligible School.
- (y) *"Scholarship"* means a grant awarded under the Program as defined in G.S. § 115C-562.1(6).
- (z) *"Parent"* means:
 - a. A biological, adoptive, or Foster parent;
 - b. A legal guardian or legal custodian, but not the State if the child is a ward of the State;

- c. An individual acting in the place of a biological 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.
- (aa) "*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.
- (bb) "*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.
- (cc) "*Program*" means the Opportunity Scholarship Program established under Part 2A of Article 39 of Chapter 115C of the North Carolina General Statutes.
- (dd) "*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.
- (ee) "*State*" means the State of North Carolina.
- (ff) "*State Per Pupil Allocation for Average Daily Membership*" means State funds allotted to all local school administrative units in the State on a per pupil basis according to the average daily membership in each unit, as calculated by the Department of Public Instruction for a fiscal year.
- (gg) "*Uniformed Services*" means uniformed services 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.
- (hh) "*Work Sample*" means a work sample in at least one of the following areas: independent reading, problem solving, advanced vocabulary, and some writing fluency. The work sample should show outstanding ability in art, math, writing, dramatic play, creative productions, science, social interactions, or any other area.

Part II

Student Eligibility Requirements

.0200. Student Eligibility - Generally.

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 two hundred percent (200%) 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 or is a child in Foster Care;
- (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, unless the student is a Part-time Student;
- (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, except if a student is the age of 4 on or before April 16 immediately preceding the Academic Year for which the student is applying, the student may be otherwise eligible if the HDMA of the Eligible School, finds the student meets all of the requirements set forth in Rule .0201 and those findings are documented by the HDMA of the Eligible School in the manner prescribed by the Authority;
- (f) Is younger than 22 as of the date of the beginning of the Semester;
- (g) Will enroll and attend an Eligible School as either a Full-time student or a Part-time student 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 assigned to and attending a North Carolina public school on a full-time basis 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. Was (a) a student enrolled in a nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes during the spring Semester prior to the school year for which the student is applying to receive scholarship funds and (b) was a student assigned to and attending on a full-time basis a North Carolina public school pursuant to G.S. § 115C-366 or a Department of Defense School located in North Carolina for at least one hundred fifty (150) school days of the school year two years prior to the school year for which the student is applying to receive scholarship funds;
4. Is entering either kindergarten, first grade, or second grade;
5. Is a child in Foster Care;
6. 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
7. Is a child whose Parent is either (a) on full-time duty status in the Uniformed Services, 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.* or (b) received an honorable discharge as an active duty member from the Uniformed Services of the United States within 12 months prior to application.

.0201. Student Eligibility – Additional Eligibility Requirements for Four-Year-Old Applicants.

(a) Evaluation and Testing.

1. Student Aptitude. The student must score at the 98th percentile or above on a National Aptitude (IQ) Test. The National Aptitude Test must be administered by a Licensed Psychologist.

2. Student Achievement. The student must also score at the 98th percentile or above on a Nationally Normed Achievement test in either Reading or Mathematics. The Nationally Normed Achievement Test may be administered by (i) the Licensed Psychologist who administered the student's National Aptitude Test; (ii) a member of the Licensed Psychologist's professional staff; or (iii) an impartial professional educator who is trained in the use of the instrument, so long as the impartial professional educator has no potential conflict of interest in the outcome of the assessment.
 3. Timing of the Administration of the Tests. The National Aptitude Test and the Nationally Normed Achievement Test must be administered after April 16th following the student's fourth (4th) birthday.
- (b) Determination of Readiness for Kindergarten by the HDMA. If the student meets the requirements in Rule .0201(a), then the HDMA at the school in which the student wishes to enroll, must decide if the four-year-old student applicant demonstrates readiness to attend kindergarten based on the following factors:
1. Student Performance. The student must be able to perform tasks well above same-age peers as evidenced by behaviors in one or more areas such as independent reading, problem solving skills, advanced vocabulary, and some writing fluency. Within the first 30 calendar days of the school's instructional year, the Parent shall submit a Work Sample to the HDMA.
 2. Observable Student Behavior/Student Interest. The student shall demonstrate (i) the social and developmental maturity needed for a structured school setting; (ii) the capability of following verbal instruction; and (iii) the ability to function independently within a group. Within the first 30 calendar days of the school's instructional year, the Parent shall provide to the HDMA two Letters of Recommendation with specific documentation of physical and social maturity, from the student's preschool teachers, childcare workers, pediatricians, or other adults with direct knowledge of the student.

3. Motivation/Student Interest. The HDMA or his/her designee shall conduct an informal interview with the student and a more structured interview with the parent to determine if the student seeks new and challenging learning situations.
- (c) Timing of Eligibility Determination for Four-Year-Old Applicant. The HDMA shall decide whether to grant the Parent's application for enrollment in kindergarten within three (3) weeks of the Parent's submissions of the testing, Work Sample, and the letters of recommendation required in Rules .0201(a) and (b).
 - (d) Documentation of Enrollment Decision. The HDMA will complete a form provided by the Authority verifying (i) that the student scored in the 98th percentile or above on the tests required in Rule .0201(a) and (ii) that he or she has determined "that the child is gifted and that the child has the maturity to justify admission to the school."
 1. A copy of this form must be submitted to the Authority in order for the student to be deemed eligible for the Scholarship.
 2. The signed form, the student's test scores, and all other submissions required under Rule .0201 associated with the admissions process, must be kept at the school and be presented to the Authority upon request.

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 into 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 into 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) For a Full-time student, each Scholarship shall be for an amount not to exceed 90% of the average State Per Pupil Allocation for Average Daily Membership in the prior fiscal year.
- (b) For a Part-time Student, each Scholarship shall be for an amount not to exceed 45% of the average State Per Pupil Allocation for Average Daily Membership in the prior fiscal year.
- (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 for a Full-time Student and not more than 45% of the required tuition and fees for the Eligible School the student will attend for a Part-time Student.
- (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 on behalf of Scholarship recipients.
- (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 notify the Authority of its intent to register for the Program no later than June 15 and must complete the initial registration process as established by the Authority, no later than June 30 prior to the Academic Year for which they wish to receive scholarship funds, including completing each and every subpart of the initial registration process as set forth in this Rule. Failure to complete the registration process by the deadlines set by the Authority 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. Prior to the disbursement of scholarship funds to the Eligible School, the Eligible School shall certify and attest that the student is a Full-time student or a Part-time student enrolled and attending 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 History Check.

1. Each Eligible School shall submit a criminal history check in a manner established by the Authority, national in scope and dated as of the date of submission, for the HDMA at the Eligible School.
2. Each Eligible School must submit a criminal history check every three (3) years in order to remain eligible for the Program.
3. An Eligible School shall notify the Authority if the HDMA 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. The Authority may request additional information regarding a pending charge of any crime listed in G.S. § 115C-332(a)(1).
4. An Eligible School shall notify the Authority within five (5) business days of employing a new HDMA and shall submit a criminal history check on that person as required by Rule .0401(g)1.
5. If during initial registration of a school, the determination is made under Rule .0404 that the Eligible School is ineligible based on the review of Criminal History of the HDMA, the school shall not be eligible to receive a disbursement of scholarship funds from the Program unless the Eligible School notifies the Authority of a new HDMA and submits a criminal history check on that person as required by Rule .0401(g)1. During the initial registration process, a nonpublic school may submit a criminal history check on a new HDMA until June 30 prior to the Academic Year in which the school will become eligible to receive a disbursement of funds on the behalf of students participating in the Program.

(h) Financial Reporting Requirements.

1. Each Eligible School that receives Opportunity Scholarship Program funds or Education Student Accounts for Children with Disabilities Program funds from seventy (70) or more students enrolled in the school for at least one semester during an 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 four (4) months 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.
 - c. 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.
 - d. Each Eligible School shall report Graduation Rates to the Authority by July 15 of each year in a manner prescribed by the Authority.
 - e. 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 and the school shall report any conflicting information to the Authority.
- (b) An Eligible School shall report to the Authority any misrepresentations, of which it is aware, made by a Parent that relate to the receipt of Program funds.

.0404. Review of the School's Criminal History Check.

- (a) The Authority will review each criminal history check submitted by an Eligible School, in accordance with Rule .0401(g), to determine if the HDMA has been convicted of a crime enumerated in G.S. § 115C-332(a)(1) and therefore have a Criminal History that may preclude the school from being eligible to receive scholarship funds from the Program.
- (b) If the HDMA has a Criminal History, the Executive Director shall review the Criminal History to make a determination as to whether the Criminal History indicates that the HDMA has any of the following disqualifying characteristics, which would preclude the school from being deemed eligible for the Program: (i) poses a threat to the physical safety of students or personnel; (ii) demonstrates that he or she does not have the integrity or honesty to fulfill his or her duties in overseeing State funds and the requirements of the Program; or (iii) has not fully satisfied the criminal sentencing obligations imposed following his or her conviction by a court of competent jurisdiction.
- (c) In making the determination, the Executive Director, shall consider the following:
 - 1. The level and seriousness of the crime;
 - 2. The nature of the crime;
 - 3. The circumstances surrounding the commission of the crime, if known;
 - 4. The amount of time that has elapsed since the person's last criminal activity;
 - 5. The age of the person when the crime was committed;
 - 6. The nexus between the criminal conduct of the person and his or her position at the Eligible School;
 - 7. The conduct and work activity of the person before and after the criminal activity;
 - 8. The prison, jail, probation, parole, rehabilitation, and/or employment records of the HDMA since the date the crime was committed;
 - 9. The frequency of convictions; and
 - 10. Evidence of rehabilitation.
- (d) The Authority may request the HDMA provide supplemental information to help make the determination.
- (e) The Executive Director shall make written findings regarding whether the Eligible School

is in compliance with the Act and eligible to receive a disbursement of funds from the Program and how the Criminal History was used in making the determination. A finding of ineligibility under this subsection for an Eligible School that has been receiving funds for students participating in the Program will make the school subject to the provisions of Rule .0500. An Eligible School may be provided an opportunity to notify the Authority of a new HDMA for the school and submit a criminal history check on that person as required by Rule .0401(g)1. under subsection (b) of Rule .0500.

Part V

Failure to Comply

.0500. Determination of Noncompliance.

- (a) An Eligible School that has failed to comply with any requirement of the Act, the Rules, or Program policies may be determined to be ineligible to receive a disbursement of funds from the Program or any other program administered by the Authority.
- (b) The Authority shall notify an Eligible School if the school is failing to meet any requirement that would lead to a determination of noncompliance and ineligibility for disbursement of funds to the nonpublic school from the Program. The Authority may provide a reasonable amount of time in which to correct the deficiency, unless the Executive Director of the Authority deems it to be in the best interest of the students enrolled in the Eligible School to revoke eligibility of the nonpublic school immediately due to its noncompliance. The Authority may develop policies and procedures for an Eligible School related to correcting deficiencies, including a period in which the school may submit supplemental documentation demonstrating progress towards compliance.
- (c) If an Eligible School is determined to be in noncompliance with the Act, the Rules, or Program policies by the Executive Director of the Authority, the Eligible School will no longer be eligible to receive a disbursement of scholarship funds and be ineligible to receive future scholarship funds from the Program or any other program administered by the Authority.
- (d) Upon receiving notice that the Eligible School is determined to be in noncompliance, 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 receive a disbursement of funds from the Program.
- (e) A school that is deemed ineligible to receive a disbursement of funds from 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.

.0501. Review for Reinstatement of Eligibility for an Eligible School.

- (a) A nonpublic school that is determined to be in noncompliance with any requirement of the Act, the Rules, or Program policies under Rule .0500 may apply for reconsideration of its eligibility to become an Eligible School for the school year that begins at least one full school year after the date in which the nonpublic school's eligibility was revoked.
- (b) The nonpublic school must apply for reconsideration of eligibility to the Executive Director of the Authority by February 1 of the year prior to the Academic Year in which it seeks to be reinstated and would enroll students receiving scholarship funds.
- (c) The application must include at least the following:
 - 1. Documentation that the nonpublic school corrected the deficiency that was the basis for the determination of noncompliance.
 - 2. Demonstrate the ability to otherwise meet the requirements as an Eligible School under Part IV of this Rule.
- (d) The Authority may request additional documentation from the nonpublic school as part of the Authority's reconsideration of eligibility.
- (e) The Authority will notify the nonpublic school by May 1 if it is determined by the Executive Director that the nonpublic school meets the necessary requirements for reinstatement and will become eligible to receive a disbursement of funds on the behalf of students participating in the Program for the next Academic Year.

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.

Statutory Authority: Part 2A of Article 39 of Chapter 115C of the North Carolina General Statutes; G.S. § 116-204(11).

I, Andrea Poole, 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 October 4, 2022 and adopted by the Board of Directors of the Authority, on October 4, 2022, and as approved as final pursuant to the authority delegated to me; these Rules are in full force and effect and have not been amended or rescinded.

WITNESS my hand and seal of the Authority, this the 20 day of October, 2022.



Andrea Poole

Executive Director and Secretary of the Board of Directors

