

December 19, 2025

Internal Revenue Service
CC:PA:01:PR (Notice 2025-70), Room 5503
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: Request for comments on the implementation of the new federal tax credit for individual contributions to Scholarship Granting Organizations, under OBBBA ([Notice 2025-70/IRS-2025-0466](#)).

Dear Mr. Waters,

EdTrust is committed to advancing policies and practices to dismantle the racial and economic barriers embedded in the American education system. We believe a strong education improves the lives of young people, is vital to sustaining our democracy, and strengthens America in the global economy.

We appreciate the U.S. Department of Treasury (Treasury) and the Internal Revenue Service (IRS) for providing an opportunity to comment on forthcoming guidance for the implementation of the new federal tax credit for individual contributions to scholarship granting organizations (SGOs). This new program is unheard-of in its scale and could have significant education equity implications across the nation.

We firmly believe that public funds — including those that donors would otherwise pay in income taxes — should be exclusively invested in public services, including public schools. Voucher programs [drain funds](#) from public schools and [fail to sufficiently](#) address the actual educational needs of students, especially students who have been historically underserved in public and non-public school settings.

Without significant and deliberate steps to increase financial and academic accountability and transparency, and to clarify and preserve state discretion to select and oversee SGOs and set additional requirements, we are deeply concerned about the harms this new federal voucher program will pose to our country's most vulnerable students.

Section 3. Request for Comments on State Lists and Certifications

3.04 Request for Comments on State Policies and Procedures

- 1. What types of uniform policies, procedures, recordkeeping or other requirements would be reasonable to help ensure that a State will be able to reliably verify that each SGO meets each of the requirements in § 25F(c)(5)?*
- 2. For States already participating in State-level programs similar to § 25F, how do those States determine that organizations are meeting the applicable State requirements?*

It is our view that the SGO requirements currently listed in the statute function more as a floor that states must minimally meet, and that the Treasury and the IRS should not interpret the language in 25F(g) as a ceiling on the state's role in regulating SGOs operating in the state. Any policies, procedures, recordkeeping, or other requirements issued by the federal government will need to be built upon by states to ensure quality and fair implementation, including the selection of SGOs on state lists.

The Treasury and the IRS should affirm that states with existing state tax-credit voucher programs maintain their authority to apply existing laws to organizations seeking to award scholarships funded by the federal voucher tax-credit program or amend these existing programs. Importantly, this will help reduce administrative burdens on states that already have longstanding verification systems in place, reducing the need to effectively approve SGOs under different sets of requirements.

Furthermore, the Treasury and the IRS must not prohibit states that do not have existing state tax-credit voucher programs from establishing state laws and regulations with which SGOs must comply. Governors and state legislators have a responsibility to keep residents safe and oversee the stewardship of public funds and resources (including donations made through this program). Preserving states' rights will help ensure that states can dutifully certify organizations pursuant to 25F(g)(2).

Below, we provide two examples of how states can verify SGOs that participate in similar state-level programs. Our inclusion of state examples is not an endorsement of the described approaches, as we believe states can and should do more to oversee SGOs. States already have existing infrastructure to verify that SGOs meet

requirements for state-level programs that can be built upon by the Treasury or states as they create or refine their programs.

Louisiana's Tax Donation Credit Program

An organization must submit a Notice of Intent to the Louisiana Department of Education (LDOE) to indicate its interest in becoming a qualified School Tuition Organization (STO). This form requires an STO to provide pertinent information such as proof of its 501(c)(3) status, employee and board lists, copies of criminal background checks for all employees and board members, a copy of the organization's background check policy, organizational information including the name of the principal and financial officers and contact information, the organization's mailing address, federal tax ID, and the organization's website. Importantly, STOs must agree to follow the tax-credit voucher program rules and policies stipulated by state regulations.

Indiana Scholarship Granting Organization Program

Interested organizations must submit an application to the Indiana Department of Education (IDOE). Applicants must provide the name of their organization, the contact person and their information, the physical address of the organization, and the organization's Employer Identification Number. They must also provide information for the scholarship program if the information for the program is different from the SGO. Additionally, there are several assurances, such as contracting with an independent certified public accountant for an annual financial audit, that SGOs and the scholarship granting program (SGP) must adhere to upon IDOE's approval. Failure to comply with state laws and the agreement may result in IDOE suspending or terminating the SGOs certification.

Importantly, both states maintain public lists of certified and participating SGOs and participating schools. For example, IDOE's "[Certified Participating SGOs](#)" list includes the organization's name, physical location, mailing address, scholarship coordinator name, business email address, business phone number, and date that the SGO was certified as eligible by the state.

Pursuant to 25F(d)(1), we urge the Treasury and state education agencies charged with SGO oversight at the state level to prioritize public transparency of SGOs participating in the federal tax-credit voucher program.

Section 4. Request for Comments Regarding SGO Requirements

4.01 Request for Comments Regarding Income

- 1. Does this interpretation of income pose practical challenges for SGOs? If so, what alternative interpretation would be allowed under the statute, and why would any alternative interpretation be a superior reading of the statute?*

We believe that SGOs should be required to ensure that 90% of all contributed funds by donors intending to receive the federal tax credit go directly to students. Limiting “income” to all qualified contributions would ensure that contributions are used appropriately to fund scholarships for students. It would also enable an organization to invest in other expenses (e.g., local education foundations that also collect contributions or grants to purchase school equipment) or to offset costs such as administration by raising separate funds (e.g., applying for a grant from a foundation to cover costs of a marketing program to reach out to families about the scholarships available).

Transparency and accountability of taxpayer dollars is essential to prevent fraud, waste, and abuse, and the IRS and the Treasury must take every action possible to discourage and prevent such outcomes. A [recent audit](#) of Florida’s private school voucher program, the nation’s largest, revealed the mishandling of \$270 million in taxpayer dollars — illustrating the perils of weak financial accountability systems and the rapid expansion of a system that diverts public funds from public schools.

The statute explicitly prohibits the co-mingling of funds, and we believe that the IRS and the Treasury should require SGOs to maintain separate accounts for all contributions made for the purpose of scholarships funded by the federal tax credit pursuant to 25F(c)(5)(B).

- 2. Should forthcoming proposed regulations address potential fluctuations in income and expenses, such as potential start-up costs to the organization in its first year of operation or the smoothing of this calculation over a certain number of years?*

The Treasury should carefully consider the trade-offs inherent in providing flexibility related to fluctuations in income and expenses, including start-up costs for SGOs. Not

providing such flexibility would favor both existing SGOs and large, national multistate SGOs that have the infrastructure to withstand fluctuation in revenues, including potentially large increases in donations as result of this program. This would simultaneously limit the ability of newer, smaller SGOs to set up operations in response to local demand, particularly in states that opt into the federal program but do not currently have similar state-level programs. Conversely, allowing such flexibility could incentivize the establishment of new SGOs without a proven track record of providing scholarships for high-quality programs to enter the marketplace and dedicate substantial resources to uses that don't directly serve students.

4.02 Request for Comments on Multistate Organizations

1. *For a multistate organization, should the requirement that it provide scholarships to 10 or more students who do not all attend the same school apply with respect to scholarships provided by the organization in all states in the aggregate or on a state-by-state basis?*
2. *For a multistate organization, should the requirement that it spend not less than 90 percent of its income on scholarships for eligible students apply with respect to the organization's operations in all states in the aggregate or on a state-by-state basis? If the latter, how should the organization's income be allocated for this purpose?*
3. *For a multistate organization, should satisfaction of the following requirements be analyzed with respect to all states on whose State list it appears, or on a state-by-state basis: (a) does not provide scholarships for any expenses other than qualified elementary or secondary education expenses, (b) provides a scholarship to eligible students with a priority for students awarded a scholarship the previous school year, and then for any eligible students who have a sibling who was awarded a scholarship from such organization, (c) does not earmark or set aside contributions for scholarships on behalf of any particular student, (d) verifies the annual household income and family size of eligible students who apply for scholarships to ensure income does not exceed limits, (e) does not engage in self-dealing?*

Pursuant to 25F(d)(1), the IRS and the Treasury should require all donors to a multistate organization to designate the state in which they want their qualified contributions to be used — providing donors assurances that funds are going to the state intended by the donor. This will allow for state-by-state accounting of income and the use of funds. Further, we urge the Treasury and the IRS to not weaken or alter

requirements for multistate organizations — these SGOs are making a choice to facilitate scholarships across state lines and thus should be required to meet all requirements for every state list they appear on, not in the aggregate. This is important to prevent potential favoritism or concentration of funds in one state or school, which would violate the statute, over the remaining states in which they operate. For instance, if an SGO were operating in Maryland, Louisiana, and Georgia, this approach would prevent that SGO from spending more than 90% of donated funds in Maryland and Georgia but only 60% in Louisiana by averaging spending across all three states. Requiring this on a state-by-state basis will also enhance accountability and transparency for where the funds are going.

4.03 Request for Comments on Other Fact Patterns

We strongly urge the Treasury and the IRS to ensure that organizations wishing to be qualified as a SGO meet all the requirements in 25F(d)(1). It is our view that any organization not directly awarding scholarships to students would not qualify as an SGO.

4.05 Request for Comments on Reporting and Recordkeeping Requirements.

1. *How should reporting requirements balance IRS information needs with burden on organizations?*

By providing a 100% tax credit for donations to SGOs with no limit on contributions nationwide, this program is unprecedented in scale and scope. Given its size, and the stated goal of the program to support the improved options — and ultimately outcomes — for students across the country, it's essential that robust reporting be required of SGOs and states. States have substantial infrastructure in place to report on the conditions and outcomes of public schools, as well as similar state tax credit and scholarship programs, which should be leveraged to support the collection and public reporting of key aspects of this program. The initial development of reporting systems may require time and investment on the part of states and SGOs. However, the prevailing national interest is in understanding the extent to which taxpayers' contributions are supporting improved access and outcomes for students. It will be essential to understand how the programs are supporting students from vulnerable groups and those currently enrolled in under-performing public schools, given that the contributions would otherwise be federal tax revenue supporting public programs.

Specifically, it will be essential that states — through SGOs, private schools, and other participating organizations — collect and publicly report the following data annually. To the extent possible, while still protecting individual student privacy, this data should be disaggregated by SGO, school, race/ethnicity, disability status, English learner status, household income, urbanicity, grade, and gender, as well as the length of time students have participated in the program:

- Results on state required academic assessments in English language arts (ELA) and math, by performance level
- Attendance rates (in alignment with state definitions)
- Four-year graduation and college enrollment rates (for high school students only)
- Results of an annual parent survey regarding their experience using the program
- Number of students utilizing the program and where they are enrolled
- Type of school that students were last enrolled in before entering the program (public, private, homeschool)
- Retention rates of participating students (i.e., the number and percent of students who remain participants for the entire year)

Given the need for states to verify student enrollment as a condition for being added to a state’s list of SGOs via 25F(d)(1)(a), the Treasury certainly has the authority to require the collection of data on student enrollment, including their previous attended school type and retention rates. These and the other metrics listed above are key for understanding the extent to which donations subject to the tax credit are improving opportunities and outcomes for students in participating states. By providing transparency around the use of funds and outcomes of individual SGOs, donors will have the opportunity to direct their contributions to organizations that are most effective at boosting the academic outcomes of students. Similarly, families will have a better understanding of which SGOs, schools, and providers are offering scholarships and opportunities that will meet the unique needs of their children. Finally, the data will provide policymakers and the public with essential information on the collective impacts of the federal investment in these tax credits, to support future decision-making — including state annual opt-in decisions and future amendments to the program from Congress and federal administrators. Without requiring this reporting, the Treasury would allow billions of dollars of federal revenue to flow to SGOs and other entities without any accountability for the impact on students — and ultimately, the future of the nation.

2. Is there existing reporting to States?

Currently, nearly 30 states and Washington D.C. operate voucher and/or tax credit policies that provide scholarships for educational expenses. Some states operate multiple programs, some of which provide universal benefits, while others are targeted for specific student populations. Nearly all programs require fiscal reporting around the number and dollar amount of scholarships issued annually. For instance, the [LDOE](#) requires the following reporting from SGOs participating in the state-level tax-credit program:

- **Quarterly enrollment and certification reports** of all scholarships issued each quarter and the donations used to fund them
- **An annual program report** prepared by a certified public accountant that includes a financial summary of the STO's operations, the schools the STO awarded, and the number and amount of donations received in the previous calendar year
- **An annual financial information report** prepared by a certified public accountant, that complies with generally accepted financial procedures
- **An annual accounting of donated funds** that were paid out or are reserved for student scholarships, as well as donated funds that were retained from previous calendar years

Additionally, our independent review of 39 existing programs across 29 states indicates that two-thirds of these programs also require some level of annual public reporting and accountability of student outcomes. In alignment with the goal of ensuring funds are spent on effective educational programs, most state programs require participating entities to administer and report the results of academic assessments for participating students. While many of these programs allow entities to choose the assessment used and reported, five states (Indiana, Iowa, Ohio, Wisconsin, and Washington, D.C.) require participants to use the results of the same assessment required by public school students in the state. We strongly recommend that the Treasury follow the lead of these states, including D.C. — until now, the only private school scholarship program financed via federal funds — and require participating states to mandate the administration of state academic assessments in alignment with policies for public schools. Doing so will ensure that evaluations of this program at the state and/or national levels can be based on valid comparisons between participants and nonparticipants, as well as changes over time for participants that enroll in private institutions after previously being enrolled in public schools. Failure to include such a requirement in forthcoming regulations should be viewed as failing to provide needed transparency to donors, students, families, stakeholders, and policymakers who deserve to know the extent to which these funds are supporting the academic needs of participating students.

Beyond test results, 10 states require reporting on the graduation rates of participating students. This ensures participating schools and SGOs are held accountable for students' high school completion — an essential component of all students' long-term well-being and success. Two of these states — Missouri and D.C. — also require reporting on college enrollment, acknowledging the importance of postsecondary education for the long-term outcomes of students. Given the importance of parent and family choice inherent to such programs, these 10 states also require reporting results on surveys of participating parental satisfaction. The Treasury requiring similar reporting for states can ensure that participating students are not only receiving adequate academic preparation, but that the specific needs of families, along with the wellbeing of their children, are being met to the satisfaction of parents. Similarly, two of these states, Arkansas and D.C., require reporting on the retention of participating students over the course of the year to understand whether students and their families are being adequately supported by the schools and providers funded through the program.

As noted above, D.C. is currently the only state program being directly supported by federal funds. This program also stands out as having the most robust reporting requirements for participating schools — requiring all the accountability reporting metrics recommended above. We strongly urge the Treasury to maintain federal support for robust data collection through their regulations to ensure that the federal government and taxpayers can determine if the funds for this program result in improved student opportunities and outcomes as Congress intended.

3. Under what circumstances should relief be justified?

As stated in our response to question 4.05.01, the unprecedented scope and scale of this educational program operating outside the public system requires the collection and public reporting of the outcomes for participating students and the programs supporting them. Given this, we don't foresee specific instances for which relief from required reporting would be justified. However, we do recommend that the Treasury, in cooperation with the U.S. Department of Education (ED) — and other federal agencies that may be responsible for administering related educational programs via recent transfers of duties outside of ED — work to provide technical assistance and guidance to support states in collecting and reporting this data clearly while maintaining student privacy. These agencies could also benefit from collaborating with the states noted above that have existing infrastructure. Doing so could provide guidance to states that opt in, which may lack state-level programs or have programs with minimal reporting requirements.

4. *If any member of the household of the eligible student did not have a Federal return filing requirement, how should the SGO verify such household member's income?*

We are troubled by the fact that despite an income eligibility requirement, the federal tax-credit will likely benefit wealthier families, who already can pay for private school and other qualified expenses. For example, in the D.C. suburbs, families making almost \$500,000 a year would be able to participate in the program. In states that have recently relaxed or removed income requirements for voucher programs, most students benefiting come from [white and affluent households](#). Considering that the majority of school-aged children in the U.S. are of color and from middle- and lower-income backgrounds, we are concerned about this new federal voucher program furthering inequitable educational opportunities and outcomes in our nation.

Given that states already have income-verification policies and procedures in place to comply with other state and federal program requirements, we urge the Treasury and the IRS to, as noted above, interpret 25F(g)(2) as a floor and first defer to states. States should have discretion over SGOs to leverage existing policies and procedures to guide what SGOs must abide by to verify income eligibility of students. More broadly, however, we believe that any income-verification process should be accessible and not disproportionately burdensome for low-income families, families of color, and multilingual families.

Furthermore, there are low-income families who do not file federal tax returns. Many states allow households to submit other forms of documentation beyond federal tax returns to prove their income status. Alternatives that households can submit to prove their income status include employer letters, pay stubs, IRS non-filer statements, and benefit award letters. As stated previously, we urge the Treasury and the IRS to affirm states' right to establish policies and procedures that SGOs must abide by to verify income eligibility of students. Additionally, we urge the Treasury and the IRS to make it clear that documents beyond a federal tax return can and should be used to verify household income. Failure to allow for alternative documentation will likely limit access to students from low-income backgrounds.

5. *What types of reporting and recordkeeping requirements could allow the organization to demonstrate that it satisfies, for each State on whose State list it appears, the requirements of § 25F(c)(5), including that at least 90 percent of its income allocated to a State is spent on scholarships within that State?*

6. *For multistate organizations, if such an organization could be eligible to be listed on one or more State lists as an SGO, what recordkeeping or other requirements could allow such an organization to establish that contributions to it qualify as contributions to an SGO defined in § 25F(c)(5)?*

We urge the Treasury and the IRS to ensure that multistate SGOs adhere to and meet reporting and recordkeeping requirements in each state where they are listed as a certified operating SGO. To facilitate this, the Treasury could issue guidance around uniform reporting requirements for multistate organizations that states could adopt in addition to any other state-level reporting requirements.

Thank you again for providing the opportunity to provide comments on how the Treasury and the IRS can regulate this unprecedented program. We welcome the opportunity to engage further with your team on these regulations. For more information, or to discuss further, please reach out to Reid Setzer, director of government affairs, at rsetzer@edtrust.org.

Sincerely,
EdTrust