

December 4, 2025

The Honorable Scott Bessent
Secretary of the Treasury
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

The Honorable Linda E. McMahon
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Docket ID IRS-2025-0466

Dear Secretary Bessent and Secretary McMahon:

This letter presents comments on “Request for Comments on Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations (Notice 2025-70)” published on the Federal Register on December 1, 2025. The passage of H.R. 1 (Public Law No. 119-21) created the “Tax Credit for Contributions of Individuals to Scholarship Granting Organizations,” which allows for individuals to receive federal tax credits for charitable donations to K-12 private school scholarship-granting organizations. The U.S. Department of Treasury must consider specific regulations to protect students, taxpayers, and private schools participating in the scholarship system and allow for all eligible donors and students to make effective use of this school choice opportunity.

First, in order for K-12 private schools to offer learning options for students benefitting from the scholarships, such organizations should only be required to provide a letter of determination to the governor of their state expressing their intent. Under section 25F(c)(5)(a), the regulation should state that governors must approve such letters if organizations meet the requirements of this section.

Churches and other religious organizations such as religious schools are automatically considered tax-exempt and should not be required to provide letters of determination to state officials. For these organizations, self-certification signed under penalty of perjury should be sufficient for participation.

Second, under (c)(5)(a)(ii), the determination that a scholarship-granting organization is not a private foundation shall be established by a statement under penalty of perjury and approved by the appropriate governing body if the organization has not filed a form 990-PF.

Third, under section (c)(5)(B), scholarship granting organizations can certify this requirement concerning the co-mingling of funds with a self-certification signed under penalty of perjury. Likewise, under (c)(5)(d)(1)(A-D), which deals with (A) the number of students attending the same school receiving scholarships under ECCA, (B) scholarship organization administrative spending, (C) scholarship uses and (D) scholarship award priorities, scholarship organizations should only be required to self-certify under penalty of perjury.

Fourth, concerning the provisions on “self-dealing” in part (2)(B), the term “similar” in the law should have the same meaning for scholarship granting organizations as applied to private foundations as related to “disqualified individuals” in the federal tax code (IRS Section 4946).¹

Fifth, participating private schools must retain the authority to set their own admissions standards for prospective students, as well as their own hiring standards for faculty and staff. Religious private schools shall not be required to alter their creed, practices, admissions policy or curriculum in order to accept students using a scholarship to participate as a qualified school.² Nothing in the law should give a government agency permission to exercise control or supervision over any nonpublic school. A qualified school that enrolls an eligible student using a scholarship is not an agent of any state or federal government.

Sixth, the regulations should not limit the total amount of scholarship money that students can receive and use for private school tuition. Students should be allowed to accept scholarships from more than one scholarship organization, combine the amounts, and apply the scholarship money for tuition costs.

Seventh, and capitalizing on the best practices of scholarship granting organizations in Arizona (which operates the oldest tax credit scholarship for private schools in the U.S.), scholarship granting organizations should be required to allocate 90 percent of their donations to scholarships within two fiscal years after the receipt of the donations.³

Finally, the rules should specify, to the extent possible through regulation, that the contributions and scholarships can only be used for private education services and not as a way for public school districts to raise additional spending for assigned school services.

Taxpayer spending per student is at its highest point in history and has increased 170 percent since the 1969-1970 school year.⁴ Student achievement remains at historical lows, however. The purpose of this program is to give more students private learning options when assigned systems

¹ See Internal Revenue Service, “IRC Section 4946 – Definitions of Disqualified Person,” available at <https://www.irs.gov/charities-non-profits/irc-section-4946-definition-of-disqualified-person>.

² See Arizona Revised Statutes, Chapter 19, Title 15, 15-2404, <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/15/02404.htm>.

³ See Arizona Department of Revenue, “School Tuition Organization Income Tax Credits in Arizona Fiscal Year 2024,” March 2025, p. 12, available at https://azdor.gov/sites/default/files/document/REPORTS_CREDITS_2025_fy2024-private-school-tuition-org-credit-report.pdf.

⁴ Author calculations using 2023 Digest of Education Statistics, “Current Expenditures Per Pupil in Average Daily Attendance in Public Elementary and Secondary Schools, by State or Jurisdiction: Selected Years, 1969-70 through 2020-21,” available at https://nces.ed.gov/programs/digest/d23/tables/dt23_236.70.asp?current=yes.

fail to help them succeed or push radical political theories on students, not to allow school districts in wealthy areas the ability to raise more money.

Thank you for your attention to these crucial regulations in an effort to give every child the chance to succeed in school and in life.

Sincerely,

Roger Severino
Vice President of Domestic Policy
The Heritage Foundation