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Title 28 EDUCATION

Part CLIII. Bulletin 133—Scholarship Programs

Chapter 1. General Provisions

§101. Definitions

Department—the state Department of Education.

Eligible Nonpublic School—a non-public school that meets the following criteria:

1. is approved by the state Board of Elementary and Secondary Education as either an accredited approved school, a non-accredited approved school, a Louisiana Montessori accredited approved school, or a Louisiana Montessori provisionally accredited approved school pursuant to R.S. 17:11; and

2. is approved according to *Brumfield, et al. v. Dodd, et al.* 425 F. Supp. 528.

Eligible Public School—a public school with a letter grade of "A" or "B", or any variation thereof, for the most recent school year a letter grade is available, pursuant to the school and district accountability system.

Eligible Student—a student who resides in Louisiana, is a member of a family with a total income that does not exceed two hundred fifty percent of the current federal poverty guidelines as established by the federal office of management and budget, and who meets any one of the following criteria:

1. is entering kindergarten and has enrolled in the local school system in which the public school he/she would have otherwise attended is located or in a school under the jurisdiction of the Recovery School District; or

2. was enrolled in a public school in Louisiana on October first and on February first of the most recent school year pursuant to the definition of student membership established by the state board for purposes of the Minimum Foundation Program formula, and such school received a letter grade of "C", "D", or "F" or any variation thereof, for the most recent year a letter grade is available, pursuant to the school and district accountability system; or

3. received a scholarship pursuant to this Program in the previous school year.

Fees—standard educational fees that are charged to all students at a participating school.

Participating School—a school that meets program requirements and seeks to enroll scholarship recipients pursuant to this Chapter or a public school that meets program requirements and seeks to enroll scholarship recipients pursuant to this Chapter subject to any court-ordered desegregation plan in effect for the school system in which the public school is located.

Program—the Student Scholarships for Educational Excellence Program.

Provisionally Accredited Approved School—a school that is working toward meeting accreditation requirements and has met all other criteria for approval by the state Board of Elementary and Secondary Education.

1. eligible accrediting entities shall be:

a. Southern Association of Colleges and Schools accreditation organizations;

b. Cognia accreditation organizations;

c. National Association of Independent Schools accreditation organizations;

d. Louisiana Montessori Association; and

e. Diocese or Archdiocese in which the provisionally accredited approved school is located.

2. A provisionally accredited approved schools shall be removed from the program if it does not receive accreditation within four years of initial program approval.

Scholarship Recipient—an eligible student who is awarded a scholarship pursuant to this Program.

Transfer—a change in enrollment status resulting from the movement of an eligible student from one participating school to another participating school during the current school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR: 38:3129 (December 2012), amended LR 40:2521 (December 2014), amended LR 48:29 (January 2022).

Chapter 3. Registration

§301. School Registration Process

A. In administering the school registration process for the program, the department shall:

1. receive an annual notice of intent from eligible public and eligible nonpublic schools seeking to participate in the program;

2. establish and publish a timeline for the submission of notices of intent from eligible schools seeking to participate in the program; and

3. establish an internal review process for determining initial and continuing school eligibility, including assessment of whether a school meets the criteria for participation as determined by the department and, as needed, additional site visits, audits, and assessments of compliance with applicable

health and safety regulations. Guidance on the criteria for participation shall be published annually by the department.

B. Participating schools shall:

1. submit an annual notice of intent with the following information:

a. the number of available seats per grade. Enrollment of scholarship recipients in a participating school that has been approved for less than two years shall not exceed 20 percent of the school's total student enrollment;

b. whether the school elects to offer an enrollment preference to a student based on the parish in which the student resides;

c. any other information requested by the department;

d. for eligible nonpublic schools:

i. if a nonpublic school elects to provide special education services, the school must provide information regarding special education services it is able to and shall provide, the services the local school system is able to and shall provide, and the services the local school system currently provides to children with special needs as defined in R.S. 17:1942;

ii. schools charging tuition must include the maximum amount of tuition, including all allowable fees;

iii. tuition and fees may not be higher than those charged to non-scholarship students;

e. for eligible public schools, the notice of intent must be submitted by the principal of the school with the approval of the local superintendent. The local school board shall delegate the authority to participate in the program to the local superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3129 (December 2012), amended LR 40:2521 (December 2014).

§303. Student Enrollment Process

A. In administering the program, the department shall:

1. determine student eligibility for scholarships;

2. accept applications from parents or legal guardians of eligible students which indicate the parent or legal guardian's choice(s) of participating schools;

3. process applications from students:

a. in the event there are more eligible students who submit applications than there are available seats at participating schools for any grade, the department shall conduct a random selection process to award scholarships that provides each eligible student an equal opportunity for selection based on students' indicated preferences;

b. only after each student who attended or otherwise would be attending a public school that received a letter grade

of "D" or "F" or any variation thereof has been placed at a participating school which the parent or legal guardian indicated as a choice on the eligible student's application shall a student who attended a public school that received a letter grade of "C" or any variation thereof be entered into the random selection process. At such time, each student who attended or otherwise would be attending a public school that received a letter grade of "C" or any variation thereof shall be provided an equal opportunity for selection into that particular school;

c. the department may give preference to the following:

i. siblings of students already enrolled in the participating school;

ii. students enrolled in the Nonpublic School Early Childhood Development Program at the participating school;

iii. participating students transferring from an ineligible school; and

iv. students residing in the parishes as indicated pursuant to the notice of intent, if applicable;

d. for the purposes of the random selection process, twins, triplets, quadruplets, and other such multiple births shall constitute one individual;

4. notify parents or legal guardians of eligible students who applied for scholarships whether they have been awarded a scholarship and placed at a particular participating school;

5. notify participating schools of the roster of students assigned through the program;

6. the department will remit scholarship payments to participating schools on behalf of a scholarship recipient. See Chapter 5 of this Bulletin for more details;

7. conduct site visits each school year at schools that receive a scholarship cohort index below 50 in the most recent accountability cycle.

B. Parent/Legal Guardian Obligations

1. Once students are notified of their scholarship award to a participating school, their parents or legal guardians shall have fourteen days to notify the participating school of their intention to enroll their student.

2. If a scholarship recipient enrolled in a participating nonpublic school would have been entitled to receive special education services in the public school he would otherwise be attending, his parent or legal guardian shall acknowledge in writing, as part of the enrollment process that the parent or legal guardian agrees to accept only such services as are available to all students enrolled in the nonpublic school.

3. Enrollment of a scholarship recipient in a participating school constitutes acceptance of any such rules, policies, and procedures of such school, including but not limited to academic policies, disciplinary rules, and procedures of the school.

C. LEA Obligations

1. Each local school system shall conduct its annual kindergarten enrollment process in accordance with the department's timeline and shall report such enrollment to the department prior to the program enrollment process.

2. Each local school system shall include and identify scholarship recipients in its student information system, as determined by the department.

D. Participating School Obligations

1. Participating schools shall:

a. not discriminate against a child with special educational needs during the program admissions process. However, a participating nonpublic school is required to offer only those services that it already provides or such services as necessary to assist students with special needs that it can provide with minor adjustments;

b. provide assistance with the student application process, as determined by the department;

c. provide an assurance to the department accepting responsibility for costs associated with any participating students enrolled who are found to be ineligible to participate in the program;

d. inform the parent or legal guardian of a scholarship recipient of any and all rules, policies, and procedures of such school, including but not limited to academic policies, disciplinary rules, and procedures of the school. Furthermore, the parent/legal guardian shall acknowledge, in writing, the policies, rules, and procedures that have been provided.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3130 (December 2012), amended LR 48:29 (January 2022).

Chapter 5. Finance

§501. Finance

A. The LDE shall allocate annually from funds appropriated or otherwise available for the program an amount per pupil to each participating school equal to the amount allocated per pupil as provided in the minimum foundation program formula, inclusive of the calculations of both the local and state per pupil allocations, to the local school system in which the scholarship recipient resides, considering all student characteristics.

B. For a participating school that charges tuition, if the maximum amount of tuition plus incidental or supplementary fees that are charged to non-scholarship students enrolled in such school and any costs incurred in administering the tests required pursuant to R.S. 17:4023 is less than the amount allocated per pupil to the local school system in which the student resides, then the amount allocated per pupil to the school shall be equal to the sum of such maximum tuition amount, such incidental or supplementary fees charged to non-scholarship students, and such testing costs.

C. The maximum amount of tuition and fees to be paid for scholarship students including annual increases shall be determined as follows.

1. When tuition and fees for participating nonpublic schools are increased, payments for scholarship students shall be determined as follows:

a. if tuition and fees were at or above two-thirds of the MFP per pupil amount for the district in which the school is located, then the department shall not pay more than a 5 percent annual increase for participating scholarship students at the school; and

b. if tuition and fees were below two-thirds of the MFP per pupil amount for the district in which the school is located, then the department shall not pay more than two-thirds of the MFP per pupil amount for the district in which the school is located or a 5 percent annual increase for participating schools, whichever is higher;

c. once tuition and fees are equal to or greater than the MFP per pupil amount for the district in which the school is located, then the payment to the nonpublic school shall be no greater than the MFP per pupil for the district in which the school is located. The nonpublic school may continue to increase tuition and fees for privately-funded students.

D. Attendance of students in a participating school must be supported by appropriate documentation of daily attendance, either written or electronic, to include dates of absences.

E. The amount to be paid for a scholarship shall be divided into four equal payments to be made to each participating school in September, December, February, and May of each school year.

1. Payments shall be based on per pupil count dates as determined by the department. No refunds shall be made to the department or to the parent or legal guardian if the scholarship recipient withdraws from the program or is otherwise not enrolled prior to the next count date. The school in which the scholarship recipient is enrolled on the next count date shall receive the next payment.

2. The LDE shall annually set a timeline for the independent financial audit required by statute.

3. If the audit yields a finding regarding tuition and fees or attendance, payment adjustments will be made to the May payment.

F. If a participating nonpublic school charges a higher tuition for students receiving special education services and meets the criteria set forth below, the LDE shall allocate funds appropriated or otherwise available to the program an amount per pupil to each participating nonpublic school equal to a special education tuition amount based on the cost of providing special education services identified for that student to the participating nonpublic school. This amount shall be in addition to the participating nonpublic schools' maximum scholarship payment, but the total of the payment and the special education tuition shall not exceed the amount that

would be allocated for that student to the local school system if the student otherwise would be attending public school.

1. Only a participating non-public school meeting the criteria below shall be allowed to charge a higher tuition for scholarship recipients receiving special education services:

a. for at least two years, the participating non-public school has provided needed educational services to students with exceptionalities, as defined in R.S. 17:1942, excluding students deemed to be gifted or talented; and

b. the participating non-public school has provided needed services to students by teachers holding appropriate special education certification or other appropriate education and training as defined in Bulletin 1706; and

c. the participating non-public school provides services and instruction in accordance with a student's individual education plan and/or services plan.

G. A participating non-public school shall submit to the department an independent financial audit of the school conducted by a certified public accountant who has been approved by the legislative auditor.

1. Such audit shall be accompanied by the auditor's statement that the report is free of material misstatements and fairly presents the participating school's maximum tuition or actual cost of educating a student pursuant to R.S. 17:4016.

2. The audit shall be limited in scope to those records necessary for the department to make scholarship payments to the participating school and shall be submitted to the legislative auditor for review and investigation of any irregularities or audit findings.

3. The participating school shall account for all scholarship funds separately from other funds by maintaining funds in a separate account or by using accounting procedures that allow the legislative auditor to identify the separate funds. Such accounting shall allow for thorough auditing of the receipt and expenditure of state scholarship funds allocated through the LDE.

4. The participating school shall return to the state any funds that the legislative auditor determines were expended in a manner inconsistent with state law or program regulations.

5. The participating school shall pay the cost of such audit unless funds are appropriated by the legislature for such purpose, in which case the department shall pay the cost of such audit.

H. The department shall receive independent financial audits from participating nonpublic schools as required in §501.E.

1. The department shall place any participating school that fails to comply with the audit provisions pursuant to R.S. 17:4022(3) on probation for a period of one year during which such school shall not be permitted to enroll additional scholarship recipients.

2. If such school is not in full compliance by the end of the one-year probationary period, the school shall be

ineligible to participate in the program until such time as the department has determined that the school is in full compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3130 (December 2012), amended LR 40:498 (March 2014), LR 40:2521 (December 2014).

Chapter 7. Testing

§701. Required Participation in the State Testing Program

A. Scholarship recipients attending participating public schools shall participate in the state assessment program as outlined in Bulletin 118.

B. Nonpublic Schools

1. Participating nonpublic schools shall administer all state assessments that are subject to the Louisiana School and District Accountability System to their eligible student with nonpublic school staff in the school setting.

2. The participating nonpublic school will develop and submit to the department annually a test security policy in compliance with Bulletin 118, Chapter 3 approved by its board. After review of the test security policy by the department, the participating nonpublic school may be required to make revisions and resubmit.

3. Participating nonpublic schools shall follow BESE's test security policy as stated in Bulletin 118.

4. The participating nonpublic school shall name a school test coordinator for the school and provide contact information to the department.

a. The school test coordinator for the participating nonpublic school shall attend the pretest workshop designed for the participating nonpublic schools as well as any additional training required to administer the state tests.

b. All designated school test coordinators are required to provide the department with a valid work email address. Personal email addresses (Yahoo!, Hotmail, Google, etc.) will not be accepted.

c. When the school test coordinator changes, the participating nonpublic school shall provide the name and contact information of the new school test coordinator to the department on school letterhead within 15 days of the change in appointment.

5. The participating nonpublic school shall be responsible for all required accountability and demographic coding of testing documents.

6. The participating nonpublic school shall investigate and report any testing irregularities and/or violations of test security to the department. In addition, the department has the authority to conduct an investigation and void any scores deemed to be invalid.

7. The department staff shall have the authority to:

- a. monitor the implementation of the state testing;
 - b. require changes to the testing plan as deemed necessary; and
 - c. conduct site visits during testing.
8. The department staff shall:
- a. notify participating nonpublic schools of any new requirements in state testing; and
 - b. evaluate annually the testing plan to ensure full compliance with policies and procedures.

9. The local school district shall not test any students enrolled in participating nonpublic schools unless there is a written agreement between the local school district and the participating nonpublic school to this effect. No local school district shall ever be required to test students attending the participating nonpublic schools under the scholarship program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3131 (December 2012).

Chapter 9. Continued Eligibility

§901. Continued Eligibility

A. For continued eligibility in the scholarship program, participating schools must:

- 1. use an open admissions process in enrolling scholarship recipients in the program;
- 2. within ten business days of the first day of school as determined by the participating school, notify the department of scholarship recipients enrolled;
- 3. comply with all testing requirements listed in Chapter 7;
- 4. accept the scholarship amount as full payment of all educational costs, including all fees;
- 5. prior to enrollment, inform the parent or legal guardian of a scholarship recipient of any and all rules, policies, and procedures of the school, including but not limited to academic policies, disciplinary rules, and procedures of the school;
- 6. submit an annual independent financial audit as described in Chapter 5;
- 7. notify the department of any expulsion within two days; and
- 8. meet the criteria for participation as determined by the department and, as needed, additional site visits, audits, and assessments of compliance with applicable health and safety regulations.

B. If a school elects to withdraw from the scholarship program or to no longer accept new students, it shall notify the department on a timeline established by the department.

1. If a school notifies the department that it will no longer participate in the program after the established deadline for continuing school participation in the program, the department may disallow the school from participating in the program for up to five academic years.

2. Schools electing to no longer accept new students from the scholarship program may continue to receive scholarship payments for all continuing students.

C. If a school withdraws from or becomes ineligible to participate in the scholarship program in the middle of a school year, it shall allow all enrolled scholarship recipients to remain at the school for the remainder of the school year and shall pay for the educational services for those students.

D. The department shall assist any scholarship recipient attending a school that is ineligible to participate in the program in transferring to another participating school, provided such school has sufficient capacity at the appropriate grade level.

E. If enrolled in a participating school that fails to meet eligibility criteria established in this Bulletin, then scholarship recipients may transfer to another participating school for the succeeding school year without loss of eligibility, and such recipients shall be given preference for enrollment at other participating schools.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3132 (December 2012).

Chapter 11. Reporting

§1101. Reporting

A. The department shall annually report to the Senate Committee on Education, the House Committee on Education, the Joint Legislative Committee on the Budget, and each individual legislator regarding the implementation of the program. The report, at a minimum, shall include the following information:

- 1. the total number of students receiving scholarships;
- 2. a list of all schools participating in the program;
- 3. a list of all schools participating in the program grouped by legislative district;
- 4. the total enrollment of each participating school, the number of scholarship recipients enrolled in each school, and the percentage of the total enrollment of each school represented by scholarship recipients; and
- 5. aggregate test result data for the scholarship recipients enrolled in each participating school.

B. No later than April 30 of each year, the department shall send a printed copy of the report required by this Section to each legislative committee as provided in Subsection A of this Section and to each member of the Legislature.

C. The department shall annually publish the following information for all schools participating in the program:

1. the most recent aggregate average proficiency rates on state assessments for scholarship recipients enrolled at each participating school;
2. a list of all public schools with a letter grade of "C", "D", or "F", or any variation thereof;
3. the rate at which scholarship recipients finish the highest grade level offered at a participating school, by entering cohort;
4. the retention rate for scholarship recipients;
5. the percentage of parents or legal guardians of scholarship recipients who are satisfied with the participating school; and
6. the rate at which all participating schools admit and serve students with special education needs.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3132 (December 2012), amended LR 40:2521 (December 2014).

Chapter 13. Criteria for School Participation in the Student Scholarships for Educational Excellence Program

§1301. Purpose

A. The Student Scholarships for Educational Excellence Act requires the LDE to “develop criteria for [school] participation that includes an accountability system for participating students at participating schools.” In accordance with this requirement, the criteria set forth in this Chapter shall reflect the following values:

1. achievement—a common standard for student performance across the system of traditional public, charter public, and nonpublic schools;
2. autonomy—minimizing bureaucracy and complexity;
3. responsibility—upholding the public trust when public funds are involved;
4. safety—protection of children’s health and welfare.

B. The purpose of these criteria shall be to protect children while avoiding a labyrinth of policies that tie the hands of educators and families. They exist to minimize the rare harmful circumstance rather than to regulate day-to-day conditions in participating schools. In applying these criteria, the state superintendent may waive any provisions of this Chapter needed to ensure the academic welfare, health, or safety of participating students, or to address extenuating circumstances.

C. Any revisions to this Chapter shall be referred to the Nonpublic Schools Council for review and comment prior to consideration by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:82 (January 2013).

§1303. Participation Criteria for Nonpublic Schools

A. To participate in the scholarship program, nonpublic schools shall satisfy the criteria within this Chapter in addition to criteria for participation already established in law. Schools that do not meet these criteria may be declared ineligible to participate in the program. Ineligibility to participate may result in the school enrolling no new students for one or more years, enrolling no new students permanently, or ending all participation immediately.

Focus Area	Standard
Enrollment	Participating schools shall indicate the number of students they are able and willing to serve. If the increase to total student enrollment would result in total student enrollment that is greater than 125 percent of their total student enrollment in the previous school year or 50 students more than were enrolled in the previous school year, including pre-kindergarten enrollment, the LDE shall consider granting the request after a review of parent demand (demonstrated through the student application process) and the school’s demonstrated capacity to effectively serve such students.
Financial Practice	<p>Participating schools shall comply with the following rules regarding financial practice. Violations may result in a school being declared ineligible to participate.</p> <p><i>Use of Funds—</i> Scholarship funds shall be spent only on “educational purposes,” as defined in the most recently approved Minimum Foundation Program formula. Any expenditure of scholarship funds constituting gross irresponsibility or gross individual enrichment is prohibited. No officer, administrator, director, manager, or employee of a participating school shall use the authority of his office or position in connection with the school’s participation in the scholarship program, directly or indirectly, in a manner intended to compel or coerce any person to provide himself or any other person with anything of economic value.</p> <p><i>Tuition and Fees—</i> Tuition and fees received through the scholarship program for participating students shall not exceed tuition and fees charged to enrolled students not participating in the program. Tuition and fees shall be defined as the total payment charged to enrolled students not participating in the scholarship program, and paid on behalf of those students. Scholarship funds may not be used to pay tuition and fees for students not participating in the scholarship program.</p> <p><i>Annual Independent Scholarship Audit—</i> The LDE shall publish guidance as to the contents of the annual independent scholarship audit so as to ensure compliance with the limits entailed in the law. The audit shall address rules of financial practice contained in this bulletin. Failure to correct violations of the rules contained in this bulletin, or evidence of gross fiscal irresponsibility, may result in penalties including the school being</p>

Focus Area	Standard
	declared ineligible to participate. Schools that do not obtain an audit or do not submit the audit according to a timeline established by the LDE may incur penalties including being declared ineligible to participate.
Student Mobility	In participating schools, the LDE may investigate instances in which the rate of students remaining enrolled from the beginning of one school year to the next school year falls short of the average of all participating schools by a significant percentage. Schools with exaggerated, repeated, or uncorrected patterns of low relative rates of continued enrollment may be instructed to enroll no new students for one year or to fully end participation.
Health, Safety and Welfare of Students	Participating schools shall be in compliance with all federal, state, and local laws and regulations pertaining to the health, safety, and welfare of students for public or nonpublic schools, as applicable.
	Participating schools shall not have an employee, or any person having supervisory or disciplinary authority over children, who has been convicted of or pled nolo contendere to any crime listed in R.S. 15:587.1(C) except R.S. 14:74 or has been convicted under the laws of any state or of the United States or of any foreign government or country of a crime which, if committed in Louisiana, would be an R.S. 15:587.1 crime.
	The state superintendent may immediately declare a school ineligible to participate if the school's continued participation endangers the academic welfare, health, or safety of children.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:82 (January 2013).

§1305. Accountability System for Participating Nonpublic Schools

A. Accountability criteria shall serve the goal of ensuring the public trust that all schools participating promote student achievement.

B. Within the accountability system, the state superintendent may adjust individual numeric performance targets and thresholds to accommodate changing policies and circumstances outside the accountability system.

C. Because some schools are larger participants than others in the program, and thus take on a larger share of the public trust, accountability criteria shall vary depending on the number of scholarship students enrolled in the school as of October 1 of each academic year, as follows.

D. As nonpublic schools approved by the board in accordance with Article 8, Section 4 of the Louisiana State Constitution, all participating schools shall continue to demonstrate a sustained curriculum of quality at least equal to that prescribed for similar public schools. In accordance with R.S. 17:11, the LDE will periodically determine whether the nonpublic school is maintaining such quality.

Number of Participating Students	Means of Academic Numeric Measurement and Reporting
Average of 0-9.9 participating students per K-12 grade in the school and fewer than 40 students enrolled in tested grades	Per state and federal law, state test scores will be reported publicly for the entirety of the scholarship program student cohort if the school has 10 or more participating students taking tests, as well as for any grade level with 10 or more participating students taking tests.
Average of ≥10 participating students per K-12 grade in the school or 40 or more students enrolled in tested grades	Per state and federal law, state test scores will be reported publicly for the entirety of the scholarship program student cohort if the school has 10 or more participating students taking tests, as well as for any grade level with 10 or more participating students taking tests. A Scholarship Cohort Index, calculated in a manner that is substantially similar to the school performance score outlined in Bulletin 111 and is based on state assessments of student learning, shall be produced after the school year in which assessments were taken. The scholarship Cohort Index will measure only students in the scholarship program rather than the school as a whole.

E. Nonpublic Schools that Receive Scholarship Cohort Indexes

1. There shall be three fundamental rules of the accountability system for participating nonpublic schools that receive scholarship cohort indexes. Starting with the 2012-2013 school year

a. Scholarship cohort indexes will be released after the school year on which they are based. If the school receives a scholarship cohort index below 50 in the second year of participation or in any year thereafter (on a scale of 150), the school shall not enroll additional scholarship recipients for the next school year. Students attending a participating school that receives a score below 50 in any year shall have priority admission to attend another participating school the following year;

b. following four school years of program participation, and in any period of four school years thereafter, if the participating school has scored below 50 for the majority of years in which it received a scholarship cohort index, the school shall be able to enroll new scholarship recipients only after achieving a score greater than 50 and a satisfactory quality review by the LDE.

c. beginning with the 2021-2022 school year, a participating school that for three consecutive years receives a scholarship cohort index below 50 shall be ineligible to participate in the program.

2. The following exceptions shall exist.

a. The state superintendent shall waive each of the provisions in Paragraph 1 of this Subsection for a given school if likely new enrollees otherwise would predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

b. The state superintendent may waive any of the above provisions for a given school if the school has improved by more than 15 points on the scholarship cohort index over the last four school years, with the 2012-2013 school year being the first such year.

c. The state superintendent may waive any of the above provisions for a given school if the school received a score higher than an equivalent school performance score correlating to a letter grade of an “F” according to the school performance score formula outlined in *Bulletin 111—the Louisiana School, District, and State Accountability System*.

3. In accordance with the Louisiana Constitution, the board shall ensure that approved nonpublic schools maintain a curriculum of quality at least equal to that prescribed for similar public schools and periodically determine whether the nonpublic school is maintaining such quality. If, in the process of such a periodic review, or at any other time, a participating school is found to have demonstrated gross or persistent lack of basic academic competence, the school may incur penalties including ineligibility to participate or ineligibility to accept new students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:83 (January 2013), amended LR 42:553 (April 2016), amended LR 48:29 (January 2022).

Chapter 15. Louisiana Giving All True Opportunity to Rise (LA GATOR) Scholarship Program

§1501. Purpose

A. The purpose of this Chapter is to establish guidelines for the implementation and operation of the Louisiana Giving All True Opportunity to Rise (LA GATOR) Scholarship Program, created to ensure that all students have access to diverse educational opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.1; R.S. 17:4037.5; and R.S. 17:4037.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1813 (December 2024).

§1503. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever the words appear in this Chapter, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

Account—an education scholarship account established in R.S. 17:4037.1, et seq. and composed of state funds deposited on behalf of a student eligible to participate in the LA GATOR Program.

Account Funds—the funds deposited into an ESA account on behalf of a participating student.

Account Holder—the parent(s) of a participating student or a participating student who has attained the age of majority, who signs the agreement, and who is responsible for complying with all of the ESA requirements.

Applicant—a prospective participating student who has attained the age of majority or the parent of a prospective participating student applying to the LA GATOR Program on behalf of the student.

Department or LDOE—the Louisiana Department of Education.

Department’s Website or LDOE Website—the website created and maintained by or on behalf of the LDOE to make program information available to the public.

Eligible Nonpublic School—a nonpublic school having received approval according to *Brumfield, et al. v. Dodd, et al.* 425 F. Supp.528 and having been approved, provisionally approved, or probationally approved by BESE pursuant to R.S. 17:11.

ESA—an education scholarship account established pursuant to R.S. 17:4037.1, et seq.

ESA Funds—funding from one or more ESAs.

LA GATOR Program—the Louisiana Giving All True Opportunity to Rise Scholarship Program.

Louisiana Scholarship Program—the Student Scholarships for Educational Excellence Program as provided in R.S. 17:4014, et seq. and Chapter 13 of this Part.

Norm-Referenced Examination or Norm-Referenced Test—a type of assessment that reports results on a scale that is nationally normed. Such norming is established using a representative sample of examinees from across the country, matched by age or educational level, and are derived through national norming studies.

Parent—a parent, legal guardian, or custodian.

Parental Placement—students with disabilities enrolled by their parents in private, including religious, schools or facilities pursuant to LAC 28:XLIII.130.

Participating Nonpublic School—a nonpublic school that is approved by the LDOE to receive ESA funds and agrees to enroll students; not a service provider.

Participating Service Provider—a business, individual, nonprofit organization, city or parish public school, public charter school, or other entity that offers educational materials, courses, or educational services that are qualifying ESA expenses as defined pursuant to §1511 of this Chapter and has been approved for participation pursuant to §1517 of this Chapter.

Participating Student—an eligible student for whom an ESA has been awarded and established.

Program Manager—an entity selected by the LDOE and approved by BESE to administer the LA GATOR Program as provided in R.S. 17:4037.5.

Resident—a student who is physically present in the State of Louisiana, whose residence has not been established in another state by operation of law, and who is in the state for the purpose of making a home and not solely for school purposes.

Resident School System—the city or parish public school system within the boundaries of which the student resides and which the student is zoned to attend.

State Board or *BESE*—the Louisiana State Board of Elementary and Secondary Education.

Students with Exceptionalities—a student identified as having a disability consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5 and R.S. 17:4037.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1813 (December 2024).

§1505. Student Eligibility

A. For a student to be eligible for an ESA, the following conditions must be met:

1. The student must be a resident of Louisiana and meet at least one of the following:

a. The student participated in the Louisiana Scholarship Program for the previous school year.

b. The student is entering kindergarten.

c. The student was enrolled in a public school for the previous school year.

d. The student is from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines.

2. An applicant must submit an application according to a process and timeline outlined by the LDOE and provide information as required by the LDOE.

3. An applicant must attest to and agree with, at a minimum, the following:

a. The applicant has full authority to make this application for the prospective participating student and to attest to and take all of the actions herein listed;

b. The applicant will provide for the education of the participating student in at least the subjects of English language arts (ELA), mathematics, social studies, and science;

c. The applicant will use account funds only for qualified education expenses of the participating student;

d. The applicant will ensure the provision of an education for the participating student that satisfies the compulsory school attendance requirement. Each participating student who fails to comply with the attendance requirements shall be reported to the state director of child welfare and attendance by the participating nonpublic school or service provider and shall be subject to the provisions of

R.S. 17:233 which may include referral to juvenile or family court;

e. The applicant agrees that the student will participate in student assessments as required by BESE policy including arranging transportation to and from the testing location;

f. The applicant agrees to comply with the acceptable uses of ESA funds and all responsibilities as the account holder;

g. The applicant agrees to comply with all statutory and regulatory program requirements;

h. The applicant agrees to immediately disenroll from the LA GATOR program upon enrollment in a public school, home study program, Course Choice Program, or School Choice Program for Certain Students with Exceptionalities;

i. The applicant agrees that the student shall not participate concurrently with a home study program approved by BESE or a home study program registered with LDOE as a nonpublic school not seeking state approval, the Course Choice Program, or the School Choice Program for Certain Students with Exceptionalities;

j. The applicant agrees to share the participating student's personally identifiable, assessment, performance, and attendance information with the LDOE to be used to monitor program effectiveness and for other purposes consistent with state law and policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1814 (December 2024).

§1506. Phase 2 and Phase 3 Implementation

A. In the initial phase of program implementation, student eligibility shall be determined in accordance with §1505 of this Chapter. Upon legislative appropriation of funds sufficient to provide for program participation of all students eligible according to phase 1 criteria, additional applications shall be accepted from students meeting phase 2 eligibility criteria according to this Section. Should sufficient funds exist after all students eligible according to phase 2 criteria have been granted participation, additional applications shall be accepted from students meeting phase 3 eligibility criteria according to this Section.

B. In Phase 2, for a student to be eligible for an ESA, the student must be a resident of Louisiana and meet at least one of the following:

a. The student is entering kindergarten.

b. The student was enrolled in a public school for the previous school year.

c. The student is from a family with a total income at or below four hundred percent of the federal poverty guidelines.

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C. In Phase 3, for a student to be eligible for an ESA, the student must be a resident of Louisiana.

D. To be considered for participation, an applicant must submit an application according to a process and timeline outlined by the LDOE and provide information as required by the LDOE.

E. An applicant must attest to and agree with, at a minimum, the following:

1. The applicant has full authority to make this application for the prospective participating student and to attest to and take all of the actions herein listed;

2. The applicant will provide for the education of the participating student in at least the subjects of English language arts (ELA), mathematics, social studies, and science;

3. The applicant will use account funds only for qualified education expenses of the participating student;

4. The applicant will ensure the provision of an education for the participating student that satisfies the compulsory school attendance requirement. Each participating student who fails to comply with the attendance requirements shall be reported to the state director of child welfare and attendance by the participating nonpublic school or service provider and shall be subject to the provisions of R.S. 17:233 which may include referral to juvenile or family court;

5. The applicant agrees that the student will participate in student assessments as required by BESE policy including arranging transportation to and from the testing location;

6. The applicant agrees to comply with the acceptable uses of ESA funds and all responsibilities as the account holder;

7. The applicant agrees to comply with all statutory and regulatory program requirements;

8. The applicant agrees to immediately disenroll from the LA GATOR program upon enrollment in a public school, home study program, Course Choice Program, or School Choice Program for Certain Students with Exceptionalities;

9. The applicant agrees that the student shall not participate concurrently with a home study program approved by BESE or a home study program registered with LDOE as a nonpublic school not seeking state approval, the Course Choice Program, or the School Choice Program for Certain Students with Exceptionalities;

10. The applicant agrees to share the participating student's personally identifiable, assessment, performance, and attendance information with the LDOE to be used to monitor program effectiveness and for other purposes consistent with state law and policy.

F. In Phase 2 implementation, if allocated funds are insufficient to fund all students eligible for LA GATOR Program participation, an award process shall be established by the LDOE as follows:

1. Students shall be prioritized for participation in the following order:

a. students currently participating in the Louisiana Scholarship Program or the LA GATOR Program;

b. students entering kindergarten;

c. students enrolled in a public school for the previous school year;

d. students from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines and students identified as having a disability under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401;

e. students from a family with a total income at or below four hundred percent of the federal poverty guidelines;

f. siblings of students currently participating in the LA GATOR Program;

g. other eligible students.

2. Eligible students for whom funding is not available will be placed on a waiting list according to the prioritization criteria in this Subsection.

3. Students placed on a waiting list will be notified of their status and initial position on the waiting list.

G. In Phase 3 implementation, if allocated funds are insufficient to fund all students eligible for LA GATOR Program participation, an award process shall be established by the LDOE as follows:

1. Students shall be prioritized for participation in the following order:

a. students currently participating in the Louisiana Scholarship Program or the LA GATOR Program;

b. students from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines and students identified as having a disability under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401;

c. students from a family with a total income at or below four hundred percent of the federal poverty guidelines;

d. siblings of students currently participating in the LA GATOR Program;

e. other eligible students.

2. Eligible students for whom funding is not available will be placed on a waiting list according to the prioritization criteria in this Subsection.

3. Students placed on a waiting list will be notified of their status and initial position on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:268 (February 2025).

§1507. Student Application Process

A. The LDOE shall commence accepting online student applications no later than March 1, 2025, for the 2025-2026 school year. For the 2026-2027 school year and beyond, online applications will be accepted beginning with a date specified by the LDOE to facilitate efficient administration and participation in the program.

B. An online application must be completed and submitted according to procedures, including the provision of information and deadlines, set by the LDOE.

C. If an application is denied, the LDOE shall notify the applicant, outlining the reasons for the denial and steps to rectify the submission and appeal the denial.

D. If an application is approved so that a student is deemed eligible, then an account will be awarded except as limited by the legislative appropriation.

E. The LDOE shall inform the account holder, at the time of the participating student's initial entry into the program and at the beginning of the student's school year in grades eight through twelve, of the eligibility requirements for the Taylor Opportunity Program for Students for participating students as provided in R.S. 17:5029(F).

F. An applicant may apply annually to the program, except for an account that has been terminated pursuant to §1513.A.4 of this Chapter.

G. Existing account holders must submit an annual renewal application according to procedures established by the LDOE to ensure continued eligibility according to program requirements. Failure to annually reaffirm participation may result in a suspension of quarterly funding allocation to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1814 (December 2024).

§1509. Funds Transfer and Management

A. The LDOE shall establish procedures to effectuate the ESA funds transfer process into accounts and from accounts to nonpublic schools and service providers.

B. The program manager will facilitate the electronic transfer of funds to accounts and to nonpublic schools and service providers through procedures established by the program manager and the department.

C. Tuition and fee payments will be transferred quarterly to participating nonpublic schools subject to submission of required student enrollment and attendance data for the quarter according to the procedures established by the LDOE.

1. If a participating school requires partial payment of tuition or fees prior to the start of the school year to reserve space for a student, the LDOE may transfer the partial payment prior to the start of the school year and deduct the amount from subsequent quarterly account deposits to ensure adequate funds remain available throughout the school year; however, if the parent decides not to use the school or service

provider, the school or service provider shall return the partial reservation payment to the LDOE, which shall credit the amount to the account.

D. Frequency of payments to service providers will be established according to procedures developed by LDOE and commonly used within marketplace settings.

E. If a student begins participating in the LA GATOR Program for less than an entire school year, the ESA award amount transferred to the account shall be prorated for that school year.

F. If the account holder is unable to administer a student's account for any reason, the account holder may file a request to designate a secondary account holder at any time during the school year. The LDOE will approve a secondary account holder request if the proposed secondary account holder is deemed one of the following:

1. a biological or adoptive parent;
2. a legal guardian or custodian;
3. a person standing in loco parentis to a participating student; or
4. another person with legal authority to act on behalf of a participating student.

G. The LDOE shall allow an applicant parent for multiple participating students to access all accounts through one portal, but with the individual accounts remaining separate and segregated at all times.

H. Funds remaining in an account closed when a participating student becomes ineligible or withdraws from the LA GATOR Program during the fiscal year, will be transferred by the program manager to the department for use towards new accounts as feasible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1814 (December 2024).

§1511. Use of Funds

A. Any of the following expenses are allowable for the use of the funds deposited in the ESA according to established procedures:

1. tuition or fees at a participating nonpublic school or for nonpublic online learning programs;
2. curricula and textbooks or other instructional materials, including but not limited to supplemental materials or online instruction required by a participating nonpublic school or service provider;
3. tuition, fees, instructional materials, and examination fees at a career or technical school;
4. fees for assessments approved by the LDOE, Advanced Placement examinations, CLEP examinations, International Baccalaureate examinations, and other examinations related to postsecondary education institution admission;

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5. educational services and therapies, including but not limited to occupational, behavioral, physical, speech-language, and audiology therapies;

6. tuition and fees at a postsecondary education institution providing instruction for a student participating in dual enrollment;

7. tutoring provided by a tutor or a tutoring service;

8. services contracted for and provided by a participating public school, including, but not limited to, individual classes and extracurricular activities and programs;

9. computer hardware or other technological devices primarily used to help meet a student's educational needs;

10. educational software applications;

11. school uniforms;

12. tuition or fees for summer education programs and before or after-school education or childcare programs that offer academic support;

13. parent navigation services, including professional consultations to assist parents with the selection of, application for, and enrollment in educational services addressing the academic needs of students, curriculum selection, and advice on career and postsecondary education opportunities; and

14. any other educational supplies or expenses approved by BESE.

B. A student participating in the LA GATOR Program may use account funds to obtain educational services through in-person education, virtual education, or a hybrid approach that combines both methods.

C. An account holder may only use funds in an account for the participating student to whom the funds were allocated.

D. ESA funds may not be used for tuition or fees at a non-participating nonpublic school.

E. Account holders are not required to spend the entire sum each year; however, a portion of the funds must be used each year on approved expenses for the benefit of the student participating in the LA GATOR Program.

F. Any unused funds in a student's account at the end of an academic year will remain in the renewed account and carry forward for the student's use during the upcoming academic year so long as their eligibility and participation in the program is maintained.

G. Any tuition or fees charged by a participating school, program, postsecondary institution, or service provider that exceed the ESA amount shall be the responsibility of the account holder.

H. The LDOE shall provide account holders with a written explanation of the allowable uses of ESA funds and the responsibilities of account holders regarding ESA funds. The LDOE shall also provide account holders a written explanation of the department's duties.

I. No account funds shall be refunded, rebated, or shared with a parent or student in any manner. Any rebate or refund for goods or services purchased with account funds shall be credited directly to the account.

J. If account funds are used to make a partial payment to a participating school or service provider to reserve a student's enrollment and the student does not participate, the participating school or service provider must electronically credit such payment back to the student's account within 30 days after receiving notice that the student will not participate or after the services have commenced, whichever occurs first.

K. No later than the beginning of the 2026-2027 school year, funds may be used to pay for more than one school or provider.

L. Funds will be directed by account holders to purchase services from participating schools and/or service providers for approved expenses as provided in §1511 of this Chapter according to guidelines established by the LDOE.

M. The account holder may transfer the participating student from the participating school to another participating school in accordance with procedures set by the LDOE.

N. If the LDOE determines that ESA funds have been misused, the department shall notify the account holder; and the account holder shall repay the misused amount in the manner and within the timeframe set by the department. Additionally, the LDOE is authorized to freeze or withdraw funding directly from the student's ESA for reasons including, but not limited to, fraud, misuse of funds, account holder failure to comply with state laws, rules, procedures, or the agreement, the participating student's return to the resident school system, or the funds having been deposited into the account in error.

1. The LDOE shall conduct an inquiry into any report of fraud, or make a referral to the appropriate agency for an investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1815 (December 2024).

§1513. Termination of Student Eligibility and Account

A. A participating student shall cease to be eligible to participate in the LA GATOR Program when the participating student meets at least one of the following, whichever occurs first:

1. enrolls full-time in a public school;
2. ceases to be a resident of Louisiana;
3. is found to have any fraudulent representation in the application for the account or in conjunction with payment of funds therefrom;
4. graduates or withdraws from high school; or

5. the account has been inactive for two consecutive years unless inactivity is due to a lack of available funding for accounts.

B. The LDOE may deem any participating student ineligible for the LA GATOR Program if the participating student or account holder has failed to comply with the requirements of this Chapter or has committed financial malfeasance.

C. A participating student may voluntarily withdraw from the LA GATOR Program at any time. The account holder shall complete the procedures for withdrawal from the LA GATOR Program as set by the LDOE.

D. If a participating student becomes ineligible to participate in the LA GATOR Program for any reason or withdraws from the LA GATOR Program, the participating student's ESA shall be closed and any remaining funds shall be returned to the LDOE.

E. If an account holder does not renew for two consecutive school years, the LDOE will send a notice that the account will be terminated. If no response is received within 60 days of this notice, the account will be closed, and all remaining funds from the account will be returned to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1816 (December 2024).

§1515. Nonpublic Schools Eligibility and Application

A. A nonpublic school applying to participate in the ESA program must meet one of the following:

1. be approved by BESE as an accredited approved school, Louisiana Montessori accredited approved school, or Louisiana Montessori provisionally accredited approved school;

2. provide evidence that it is working toward accreditation and has met all other criteria for approval as a nonpublic school; or

3. be approved as a non-accredited school and receive a successful evaluation of academic and safety criteria according to a process developed by LDOE.

B. To be considered for participation in the ESA program, a nonpublic school must complete and submit an online application by the LDOE's annual deadline.

1. Nonpublic schools must agree and attest at a minimum to the following as a condition of the application, and annually if approved as a participating school:

a. accept account funds for providing only services covered as approved expenses as detailed in §1511 of this Chapter;

b. notify the LDOE within five days if a participating student withdraws or accumulates five or more unexcused absences within one semester;

c. remain in compliance with the criteria set forth in *Brumfield, et al. v. Dodd, et al. 425 F. Supp.528*;

d. ensure that all personnel with supervisory or disciplinary authority over participating students have cleared a criminal background check and fingerprinting process pursuant to R.S. 15:587.1 and 15:587.3 and that the school meets deadlines for completion of the background check and fingerprinting by deadlines determined by the LDOE;

e. annually report its full-time tuition and fees to the LDOE;

f. hold valid occupancy of buildings as required by the relevant municipality in which the nonpublic school is located;

g. operate according to its published disciplinary procedures that, at a minimum, outline the terms and conditions regarding the expulsion of a student and conform to the requirements of R.S. 17:416.1 regarding corporal punishment;

h. administer student assessments in accordance with §1525 of this Chapter.

2. If a nonpublic school is expected to receive more than \$100,000 of account funds in a school year, the nonpublic school must meet at least one of the following additional criteria annually to participate in the program:

a. provide evidence that supports the nonpublic school has been in operation for at least three school years; or,

b. provide a statement by a certified public accountant confirming that the school is insured and has sufficient capital or credit to operate in the upcoming school year;

c. files with the LDOE a surety bond or letter of credit for the amount equal to the account funds needed by the nonpublic school for any school year.

C. A nonpublic school may be deemed ineligible to participate in the LA GATOR Program if any of the following conditions occur:

1. failure to comply with the terms of this Section; or

2. failure to adhere to the tenets of its published disciplinary procedures before expelling a participating student; or

3. failure to comply with all applicable state laws and rules governing nonpublic schools and with all applicable health and safety laws and rules; or

4. previous determination of ineligibility for participation in the Louisiana Scholarship Program.

D. A participating nonpublic school shall notify the LDOE within thirty days of taking any action rendering the school ineligible to participate in the LA GATOR Program.

E. Any nonpublic school participating in the Louisiana Scholarship Program during the 2024-2025 school year, provided that it has not subsequently been found to be ineligible to participate in the Louisiana Scholarship Program,

may participate in the LA GATOR Program during the 2025-2026 school year without undergoing a separate application or approval process. Such a nonpublic school opting to participate in the LA GATOR Program will be required to register and attest to program requirements according to the process outlined by the department.

1. For each school year thereafter, such schools shall comply with the LA GATOR Program requirements with respect to the application process.

F. Participating nonpublic schools shall not charge an ESA account holder additional tuition or fees that are not also charged to non-participating students.

G. An ineligibility determination is subject to appeal pursuant to §1519 of this Chapter.

H. A participating school shall not be required to alter its creed, practices, admissions policy, or curriculum to accept payments from an ESA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1816 (December 2024).

§1517. Service Providers Eligibility and Application

A. A service provider must complete and submit an online application by the deadline set by the LDOE to be considered for participation in the ESA program.

B. Each public school governing authority may adopt a policy allowing it to become a service provider and accept account funds for providing services enumerated in §1511 of this Chapter to a participating student who may receive services in a school under its jurisdiction or who may take individual courses provided by such a school without being enrolled in the school.

C. A charter school not approved for charter renewal by the authorizer will not be eligible to participate in the LA GATOR Program as a service provider beginning with the following school year.

D. Service providers must attest, at a minimum, to accept account funds for providing only services covered as approved expenses as detailed in §1511 of this Chapter and must reaffirm such attestation annually if approved as a participating service provider.

E. Service providers may also be required to attest in writing to additional provisions as applicable, including:

1. ensure that all personnel with supervisory or disciplinary authority over participating students have cleared a criminal background check and fingerprinting process pursuant to R.S. 15:587.1 and 15:587.3;

2. notify the LDOE within 5 days if a participating student withdraws or accumulates five or more unexcused absences;

3. annually report its pricing structure and fees for each service or product provided to the LDOE;

4. hold valid occupancy of buildings to be occupied by students as required by the relevant municipality in which the service provider is located;

5. operate according to its published disciplinary procedures that, at a minimum, outline the terms and conditions regarding the discontinuation of recurring services for a participating student;

6. administer student assessments in accordance with §1525 of this Chapter.

F. If a service provider is budgeted to receive more than \$100,000 of account funds in a fiscal year, the service provider must meet at least one of the following criteria annually to participate in the program:

1. provide evidence that supports the service provider has been in operation for at least three school years; or,

2. provide a statement by a certified public accountant confirming that the service provider is insured and has sufficient capital or credit to operate in the upcoming school year; or

3. files with the LDOE a surety bond or letter of credit for the amount equal to the account funds needed by the service provider for any school year.

G. Service providers approved as student-facing providers of instructional services will be required to provide additional information regarding the education and qualifications of tutors or instructors. Such information will be provided to account holders to use in the selection of a service provider.

H. A participating service provider shall not be required to alter its creed, practices, admissions policy, or curriculum to accept payments from an ESA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1817 (December 2024).

§1519. Appeals Process

A. The following decisions of the program administrator may be appealed:

1. denial of a school or service provider application to participate;

2. suspension or termination of a participating school or service provider from the LA GATOR Program;

3. restriction of the ability of a participating school or service provider to serve additional students;

4. denial of an account holder's application to participate in the LA GATOR Program;

5. determinations regarding the use of funds by account holders; or

6. suspension, termination, or removal of a participating student from the LA GATOR Program.

B. All appeals shall be filed pursuant to the following process:

1. The appeal shall be submitted to the LDOE on the form provided by the LDOE within ten business days of notice of the decision being appealed. Date of submission shall be determined as three days from the date of postmark for a mailed submission or as the business day on which an electronic submission is received.

2. Notice of receipt of the appeal shall be provided electronically and via first-class USPS mail and shall be deemed to be received three business days after the date of postmark.

3. The appeal shall be reviewed by the LDOE, and a decision shall be issued within 45 calendar days of receipt of the appeal.

4. The appellant shall be notified of the LDOE decision electronically and via first-class USPS mail. Such notice shall be deemed received three business days after the date of postmark.

C. If the deadline to submit an appeal falls on a weekend or state holiday, the appeal shall be considered submitted in a timely manner if it is received by the next business day after the weekend or state holiday. An appeal not submitted in a timely manner shall be denied.

D. A nonpublic school or service provider may apply for reinstatement if it returns to compliance with §1515 or 1517 of this Chapter, as applicable.

1. The LDOE shall determine whether the nonpublic school or service provider is not in compliance with these rules and issue a formal notice of its determination to the nonpublic school or service provider.

2. A nonpublic school or service provider applying for reinstatement under this Section shall provide documentation to the LDOE of the nonpublic school's efforts to come back into compliance with these rules. Upon receipt of the evidence, the LDOE shall issue a decision regarding the nonpublic school's reinstatement in writing to the nonpublic school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; and R.S. 17:4037.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1817 (December 2024).

§1521. Special Education Services

A. Prior to the enrollment process, the LDOE shall provide information to parents regarding the services available to students with disabilities.

B. A parent may make a parental placement to receive special education and related services from a participating school that has demonstrated the capacity to offer such services in accordance with LAC 28:XLIII.

C. A participating school may adhere to its own admissions policy in considering the admission of students participating in the LA GATOR Program but shall not

discriminate against a student with disabilities during the LA GATOR Program admissions process.

D. If a participating student enrolled in a participating school would have been entitled to receive special education services in the resident school system, the parent shall acknowledge in writing, as part of the LA GATOR Program enrollment process, that the parent agrees to accept only such services as are available to all students enrolled in the participating school.

E. A participating school is required to offer only the services that it already provides or such services as necessary to assist students with disabilities that it can provide with minor adjustments.

F. A city or parish public school system or a public charter school may apply to become a service provider of special education services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1818 (December 2024).

§1523. LA GATOR Program Funding

A. Funding of student accounts is subject to annual legislative appropriation of state funds available for the program. Neither BESE nor the LDOE is obligated to provide funding in any year in which funding is not appropriated or is insufficient to provide account deposits to all eligible students.

B. If allocated funds are insufficient to fund all students eligible for LA GATOR Program participation, an award process shall be established by the LDOE as follows:

1. Students shall be prioritized for participation in the following order:

a. students currently participating in the Louisiana Scholarship Program or the LA GATOR Program;

b. students from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines and students identified as having a disability under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401;

c. siblings of students currently participating in the LA GATOR Program;

d. other eligible students.

2. Eligible students for whom funding is not available will be placed on a waiting list according to the prioritization criteria in this Section.

3. Students placed on a waiting list will be notified of their status and initial position on the waiting list.

C. The maximum annual award amount to which participating students are entitled under the LA GATOR Program shall be calculated based on the prior year Minimum Foundation Program (MFP) formula average state and local

per pupil amount times a specific percent. The 2024-2025 MFP state and local per pupil amount is \$9,533.

1. For the 2025-2026 school year, the award will be the following:

a. for a student identified as having a disability consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401, an award up to one hundred sixty percent of the amount, or up to \$15,253;

i. Amounts awarded will be calculated according to a tiered methodology established by the LDOE;

b. for a student from a family with a total income that does not exceed two hundred fifty percent of the federal poverty guidelines, an award equal to eighty percent of the amount, or \$7,626;

c. for any other student, an award equal to fifty-five percent of the amount, or \$5,243.

D. The maximum annual award amount to which LA GATOR participating students are entitled shall be adjusted in any school year for which the approved prior year MFP formula average state and local per pupil amount increases.

E. Students having participated in the Louisiana Scholarship Program during the 2024-2025 school year, subject to the allocation of state funds, shall be awarded an amount equal to the award amount received during the 2024-2025 school year and shall continue to receive this award until the student completes the school's terminal grade or until the student leaves the school, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; R.S. 17:4037.6; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1818 (December 2024).

§1525. Assessments

A. The LDOE shall develop a process for the annual administration of the following for participating students:

1. assessment in ELA and mathematics required pursuant to the school and district accountability system at the prescribed grade level; or

2. a nationally norm-referenced test or assessment in ELA and mathematics approved by BESE and provided by the participating school or, as applicable, service provider.

B. Participating students not enrolled in a nonpublic school must encumber funds sufficient to cover the cost of assessment administration.

C. Upon BESE approval, a participating nonpublic school or service provider may select an assessment substantially aligned with its program of study and the student's grade level to be administered to participating students.

D. A student with an exceptionality shall not be required to take any assessment from which the student would be exempt if enrolled in a public school.

E. Each participating school or, as applicable, service provider that enrolls one or more participating students shall provide the following information to the LDOE no later than June 30, 2026, and annually thereafter no later than June 30:

1. a list of participating students who have taken an examination or norm-referenced test pursuant to this Section and the achievement results for each student;

2. For each participating student, the following shall be provided as applicable:

a. highest score earned on ACT, CLT, SAT, WorkKeys, or ASVAB, if taken;

b. an updated transcript in the state's student transcript system for any student in grades 9-12 to include the number of college credits earned through dual enrollment and advanced placement.

F. The LDOE shall develop a process for the collection and aggregate reporting of assessment results and shall ensure that the results of such assessments are provided to parents of participating students and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1819 (December 2024).

§1527. LA GATOR Program Evaluation

A. The LDOE shall annually administer a survey to account holders to assess their satisfaction with the department's administration of the LA GATOR Program and their experience with participating schools and service providers. The survey shall collect no more than one (1) response from each account holder according to timelines established by the department.

B. The LDOE shall provide for a system by which parents of current or formerly participating students can publicly rate, review, and share information about participating schools and service providers limiting the publication of comments strictly for such purposes. LDOE may adopt terms of use for any such system limiting comments to such purpose only and prohibiting the publication of threats, profane language, and sexual content.

C. The LDOE shall annually issue a written report to the Senate Committee on Education, the House Committee on Education, and the Joint Legislative Committee on the Budget regarding the implementation of the LA GATOR Program in accordance with R.S. 17:4037.11.

1. The report shall include, at a minimum:

a. total number of students participating in the program;

b. a list of participating schools and service providers;

c. the total student enrollment of each participating school, the number of participating students enrolled in each school, and the percentage of the total enrollment of each school represented by program participants;

- d. aggregate student performance data provided according to §1525 of this Chapter;
- e. the percentage of funds used for each type of qualified education expense;
- f. an analysis of the financial impact of the program;
- g. the amount withheld for program administration to include the amount retained by LDOE and the amounts paid to the program manager or vendors for program and payment system administration;
- h. the amount of program funds received by each participating school and service provider;
- i. tuition amounts charged by participating schools; and
- j. aggregate results of the parent satisfaction survey administered according to this Section.

D. The LDOE shall establish a dedicated phone line for the exclusive use of the program. The department shall implement customer service performance management policies, procedures, and metrics for the dedicated call center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; R.S. 17:4037.8; and R.S. 17:4037.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1819 (December 2024).

§1529. Monitoring and Compliance

A. The LDOE shall contract with an independent audit firm to conduct a compliance audit to ensure funds are used only for allowable expenses and other provisions in the program as deemed appropriate.

1. The LDOE shall maintain a copy of the audit plan and all associated audit reports in accordance with the records retention schedule approved by the Secretary of State.

B. The LDOE shall establish an online anonymous fraud reporting service. Individuals may notify the LDOE of any alleged violation by an account holder or participating school(s) of state laws, rules, or procedures relating to the LA GATOR Program. The department shall conduct an inquiry into any report of fraud, or make a referral to the appropriate agency for an investigation, including but not limited to the Office of the Attorney General of Louisiana.

C. In accordance with the procedures set by the LDOE, the department may remove any account holder from eligibility for an ESA if the account holder fails to comply with the terms of the agreement or applicable laws, rules, or procedures, or misuses funds.

1. The LDOE shall investigate any report of fraud or refer the matter to the appropriate agency, including but not limited to the Office of the Attorney General of Louisiana, for investigation.

D. If the LDOE determines that a participating nonpublic school or service provider has failed to maintain continuing eligibility criteria or has demonstrated a gross or persistent lack of academic competence or lack of compliance with the

statute and BESE policy, the department shall restrict the school's ability to serve additional students through the LA GATOR Program and may terminate participation in the LA GATOR Program.

1. The state superintendent of education may declare a nonpublic school or service provider ineligible to participate in cases of financial malfeasance or if participation endangers the academic welfare, health, or safety of children.

2. The LDOE shall report termination of the participation of a nonpublic school or service provider to parents of participating students as soon as practicable, and any such action shall be reported to BESE annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; and R.S. 17:4037.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1819 (December 2024).

§1531. Return to the Resident School System

A. A participating student who is otherwise eligible to return to their resident school system may return to the resident school system at any time after enrolling in the LA GATOR Program. Upon enrollment in the resident school system, the student's participation in the LA GATOR Program shall be terminated.

B. If a participating student enrolls in the resident school system, the account holder shall notify the LDOE in accordance with the procedures and timelines set by the department.

C. Upon enrollment in the resident school system, if the account holder requests an evaluation for eligibility pursuant to the Individuals with Disabilities Education Act, the resident school system shall treat the request as a request for an initial evaluation pursuant to LAC 28:XLIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1820 (December 2024).

§1533. Account Termination

A. If an account holder has violated the requirements of this Chapter, the LDOE may terminate the student's account.

1. Following the termination of a student's account, the LDOE shall provide written notice of such closure to the account holder within 48 hours. The notice will detail the reason for the termination and notify the account holder of the process to appeal a decision or action of the department.

B. If a participating school or service provider has violated the requirements of this rule, the LDOE may restrict its ability to serve additional students through the LA GATOR Program and may terminate its participation in the program.

1. As soon as practicable, following the termination of a participating school or service provider, the LDOE shall report any such action to the state board and to the parents of participating students.

C. Upon termination of a student's participation in the LA GATOR Program, the LDOE shall close the participating

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student's ESA and any remaining funds shall be returned to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; R.S. 17:4037.6; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1820 (December 2024).

§1535. Conflict of Interest

A. Use of ESA funds must be for the sole benefit of the participating student for which the ESA is established. ESA funds shall only be used by the account holder for qualifying expenses.

B. It is a conflict of interest and is considered a misuse of ESA funds and a violation of LA GATOR Program rules and procedures for an account holder to provide ESA funds directly to his or her family member(s), or to any company, corporation, or business owned by his or her family member(s). Family member(s) shall include an account holder's spouse, parent, step-parent, parent-in-law, child, step-child, son-in-law, daughter-in-law, brother, sister, or any person who resides in the same household as a participating student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1820 (December 2024).