

NOTICE OF INTENT  
BOARD OF ELEMENTARY AND SECONDARY EDUCATION

Education Savings Account

(LAC 28: CLIII. 1501, 1503, 1505, 1507, 1509, 1511, 1513, 1515, 1517, 1519, 1521, 1523, 1525, 1527, 1529, 1531, 1533, and 1535)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) *et seq.*, the Board of Elementary and Secondary Education proposes to amend LAC 28:CLIII in *Bulletin 133 – Scholarship Programs*. Act 1 of the Louisiana 2024 Regular Legislative Session established the Louisiana Giving All True Opportunity to Rise (LA GATOR) Program and required promulgation of rules for implementation and administration of the program.

**Title 28**

**EDUCATION**

**Part CLIII. Bulletin 133–Scholarship Programs**

**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:

**§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 student* – an eligible student for whom an ESA has been awarded and established.

*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.

*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:

### **§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:

### **§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:

#### **§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:

#### **§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;
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:

### §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 (1) 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;
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:

### §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 5 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 (3) 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 (30) 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:

#### §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 (3) 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:

#### §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 forty-five 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:

#### §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:

#### §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:

### §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 (1) 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:

### §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:

**§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:

**§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:

**§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 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:

#### **§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:

### **COMPARISON DOCUMENT**

#### **TITLE 28**

#### **EDUCATION**

#### **Part CLIII. Bulletin 133--Scholarship Programs**

#### **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:

#### **§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 student – an eligible student for whom an ESA has been awarded and established.

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.

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:

## **§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:

#### **§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:

#### **§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:

#### **§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;
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:

**§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 (1) 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;
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:

**§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 5 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 (3) 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 (30) 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:

#### **§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 (3) 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:

#### §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 forty-five 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:

#### §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:



### §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:

### §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 (1) 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:

### **§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:

### **§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:

**§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:

**§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 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:

**§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:


**BOARD OF ELEMENTARY AND SECONDARY EDUCATION  
FAMILY IMPACT STATEMENT  
(LA R.S. 49:953 and 972)**

**Person Preparing Statement:** Ashley Townsend  
**Phone:** 225.342.3446  
**Division:** Governmental, Administrative, and Public Affairs  
Part CLIII. *Bulletin 133— Scholarship Programs* (LAC 28:CLIII. 1501, 1503, 1505, 1507, 1509, 1511, 1513, 1515, 1517, 1519, 1521, 1523, 1525, 1527, 1529, 1531, 1533, and 1535)  
**Rule Title:** \_\_\_\_\_

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

PLEASE RESPOND (YES, NO, OR LACKS SUFFICIENT INFORMATION TO DETERMINE) TO THE FOLLOWING:

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? Yes
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? Yes
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or local government able to perform the function as contained in the proposed Rule? Yes

Signature of Contact Person:   
Date Submitted: 6/21/2024


**POVERTY IMPACT STATEMENT  
(LA R.S. 49:973)**

**Person Preparing Statement:** Ashley Townsend  
**Phone:** 225.342.3446  
**Division:** Governmental, Administrative, and Public Affairs  
Part CLIII. *Bulletin 133— Scholarship Programs* (LAC 28:CLIII. 1501, 1503, 1505, 1507, 1509, 1511, 1513, 1515, 1517, 1519, 1521, 1523, 1525, 1527, 1529, 1531, 1533, and 1535)  
**Rule Title:** \_\_\_\_\_

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

PLEASE RESPOND (YES, NO, OR LACKS SUFFICIENT INFORMATION TO DETERMINE) TO THE FOLLOWING:

1. Will the proposed Rule affect the household income, assets, and financial authority? No
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No
3. Will the proposed Rule affect employment and workforce development? No
4. Will the proposed Rule affect taxes and tax credits? No
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No

Signature of Contact Person:   
Date Submitted: 6/21/2024

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, October 10, 2024, to Tavares Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares Walker, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

<b>Person Preparing Statement:</b> <u>Ashley Townsend</u>	<b>Department:</b> <u>Louisiana Department of Education, Board of Elementary and Secondary Education</u>	
<b>Phone:</b> <u>225.342.3446</u>	<b>Office:</b> <u>Governmental, Administrative, and Public Affairs</u>	
<b>Return Address:</b> <u>P.O. Box 94064 Baton Rouge, LA 70804</u>	<b>Rule Title:</b> <u>Part CLIII. <i>Bulletin 133—Scholarship Programs</i> (LAC 28:CLIII. 1501, 1503, 1505, 1507, 1509, 1511, 1513, 1515, 1517, 1519, 1521, 1523, 1525, 1527, 1529, 1531, 1533, and 1535)</u>	
	<b>Date Rule Takes Effect:</b> <u>Upon final adoption by BESE</u>	

**SUMMARY**

(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change, providing the developmental and operational framework for the Louisiana Giving All True Opportunity to Rise (LA GATOR) scholarship program, will result in increased implementation costs to the Louisiana Department of Education (LDOE). LDOE requires one (1) Education Program Consultant (EPC) 4 position and one (1) Budget Analyst 4 position to support program operations. The EPC 4 will develop programmatic guidance and policy, manage the program administrator, and coordinate public outreach. FY 25 costs associated with this employee are estimated at \$138,587 (\$84,989 salary, \$37,098 related benefits, and \$16,500 operating expenses). The Budget Analyst 4 will manage the fiscal part of the program and, in collaboration with other LDOE finance staff and the program administrator, ensure that the program has appropriate fiduciary accountability. FY 25 costs associated with this employee are estimated at \$123,139 (\$74,235 salary, \$32,404 related benefits, and \$16,500 operating expenses). These costs are expected to increase incrementally each year.

Act 1 of the 2024 RS permits LDOE to enter into a contract with a program manager (also referenced as program administrator). Based on contract negotiations with the selected vendor, Primary Class Inc., (Odyssey) the one-time initial start-up cost for the program is estimated at \$350,000. This includes costs to design an electronic process that aligns with policy adopted by BESE, including application acceptance and approval, account management, review and approval of account expenditures, a payment process, and development of program and fiscal reports. The vendor will charge an account management fee of \$143.50 per student.

Additionally, there will be costs incurred to hire an external auditor for the LA GATOR program. Currently, costs for external audits of scholarship programs total approximately \$850,000 annually; however, the scope of the audit for the program, as required by the proposed rules will be more extensive, making the audit cost of the new program indeterminable at this time.

The program will result in indeterminable costs to fund accounts for participating students. At this time, the number of students that will apply to participate is unknown. In addition to this, award amounts are dependent on a specific participant's characteristics as outlined in the proposed rule and detailed below. Regardless of the number of applicants, the number that will be able to participate is dependent on legislative appropriation of funding for accounts.

For the 2025-2026 school year, if only the estimated 6,000 students currently participating in Student Scholarships for Education Excellence Program (SSEEP) participate in LA GATOR and receive the same FY 25 average award amount of \$7,023, the estimated cost to fund scholarship accounts will total \$42 M and management fees for these accounts will total \$858,000. The FY 25 budgeted amount in SSEEP is \$44,565,189. It is unknown whether all of these students will choose to participate in the program.

Additional students who choose to participate, are eligible, and are funded through legislative appropriation will receive account deposits as follows: (1) students with disabilities will receive an award up to \$15,253, as calculated according to a tiered methodology which will be established by LDOE; (2) students without disabilities whose families report a total income that does not exceed 250% of the federal poverty guidelines will receive an award equal to \$7,626; and (3) all other students will receive an award equal to \$5,243. These awards are based off of a percentage of the 2024-2025 average MFP state and local per pupil amount. Should the MFP average increase in subsequent years, the award amounts will also be adjusted. The number of families that will choose to apply, the number of eligible students, the award category into which they will fall, and the legislative appropriation determining whether they participate are all unknown at this time.

For informational purposes, in the event the legislature was to fund accounts for the estimated 150,000 current non-public students, the total cost of the LA GATOR program, using the minimum award amount of \$5,243, in addition to a per participant administrative cost of \$143.50, would approach \$1 B annually.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The fiscal impact on revenue collected by local education agencies (LEAs) will vary based on the extent to which students currently funded through the Minimum Foundation Program (MFP) participate in the LA GATOR program and on the extent to which local systems enroll as service providers to provide additional courses or services through the program. While students who leave the public school system will result in a decrease in revenues for LEAs, students who participate in LA GATOR and use account funds to enroll in services provided by participating LEAs will increase anticipated revenue collections.


SGF revenues may shift depending on how education savings accounts impact the annual amount of tax credits claimed for nonpublic school tuition expenses. This tax credit permits parents to annually claim up to \$6,000 of nonpublic school tuition costs.


III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Families of current Student Scholarships for Educational Excellence Program (SSEEP) students should experience little impact, as those students will continue to be funded at the same rate until they graduate or exit the terminal grade of the school in which they are currently enrolled. Families of entering kindergarteners or current public school students who would have chosen to enroll their children in nonpublic school the following year but who choose to participate in the LA GATOR program will benefit from program funding. Families of current nonpublic school students who fall below 250% of the federal poverty guidelines and who participate in the program will benefit by having to fund less of their children's tuition and fees through their personal finances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional competition for student enrollment may result from the program. This will primarily be due to whether or not public schools opt to allow for part-time enrollment for students seeking to participate in specific programs, courses or activities. It is expected these spots, like those in programs targeted towards students with disabilities, will be limited. There is a potential the implementation of LA GATOR will lead to the opening of additional nonpublic education institutions in order to provide services for an increased student population. If this were to occur, increased competition between institutions may result.

  
\_\_\_\_\_  
Signature of Head or Designee  
Beth Scioneaux, Deputy Superintendent for  
Management and Finance  
\_\_\_\_\_  
Typed Name & Title of Agency Head or  
Designee  
9.10.24  
\_\_\_\_\_  
Date of Signature

  
\_\_\_\_\_  
Legislative Fiscal Officer or Designee  
Patricia Thomas, Deputy Fiscal Officer  
9/10/2024  
\_\_\_\_\_  
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule change amends LAC 28:CLIII in *Bulletin 133—Scholarship Programs* to include rules specific to the administration and management of the LA GATOR Educational Scholarship Program.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 1 of the 2024 RS requires that BESE adopt rules for program administration.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes, the proposed rule change provides for the administration and management of the LA GATOR scholarship program and will require an increase in department expenditures. Expenses include those associated with the hiring of a management company to create and oversee programmatic operations, as well as the costs to hire an external auditor. Additionally, the department will require two permanent positions to support the work of the program.

\$1.8 million was appropriated for this purpose in Act 4 of the 2024 RS. For the positions, an estimated \$261,726 in the first year will be required. These costs are expected to increase by 4% annually. For program administration, an initial \$350,000 will be required as well as an additional fee of \$143.50 per account. The number of new accounts to be created is indeterminable and is subject to the appropriation of funds by the legislature. On 8/21/24, the Board of Elementary and Secondary Education (BESE) voted to approve a contract with Primary Class, Inc. (Odyssey) for a term of three (3) years at a total cost of \$11.3 M. While future funding will be dependent on legislative appropriation, Act 1 terminated the existing Student Scholarships for Educational Excellence Program (SSEEP), effective in FY 26. It is assumed any funding currently appropriated to SSEEP will instead be appropriated to LA GATOR in future fiscal years.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a)  YES. If yes, attach documentation.

(b)  NO. If no, provide justification as to why this rule change should be published at this time

Act 4 of the 2024 RS appropriated \$1.8 M SGF for development and initial costs to operate the LA GATOR program. Act 1 of the 2024 RS limits program participation based on future appropriations by the legislature for the funding of account deposits.

Act 1 terminates SSEEP and transfers these students to LA GATOR. If only the estimated 6,000 students currently participating in SSEEP participate in LA GATOR and receive an average award of \$7,023 and a management fee of \$143.50 is incurred by the department for each, the result is a potential \$858,000 in account management fees and \$42,138,000 for account deposits. The FY 25 budget appropriation for these students is \$44,565,189.



**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

<b>COSTS</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>
PERSONAL SERVICES	\$228,726	\$237,875	\$247,390
OPERATING EXPENSES	\$33,000	\$34,650	\$36,383
PROFESSIONAL SERVICES	\$350,000	See Below	See Below
OTHER CHARGES	See Below	See Below	See Below
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
<b>TOTAL</b>	See Below	See Below	See Below
<b>POSITIONS (#)</b>	<b>2</b>	<b>2</b>	<b>2</b>

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule change, providing the developmental and operational framework for the Louisiana Giving All True Opportunity to Rise (LA GATOR) scholarship program, will result in increased implementation costs to the Louisiana Department of Education (LDOE). LDOE requires one (1) Education Program Consultant (EPC) 4 position and one (1) Budget Analyst 4 position to support program operations. The EPC 4 will develop programmatic guidance and policy, manage the program administrator, and coordinate public outreach. FY 25 costs associated with this employee are estimated at \$138,587 (\$84,989 salary, \$37,098 related benefits, and \$16,500 operating expenses). The Budget Analyst 4 will manage the fiscal part of the program and, in collaboration with other LDOE finance staff and the program administrator, ensure that the program has appropriate fiduciary accountability. FY 25 costs associated with this employee are estimated at \$123,139 (\$74,235 salary, \$32,404 related benefits, and \$16,500 operating expenses). These costs are expected to increase incrementally each year.

Act 1 of the 2024 RS permits LDOE to enter into a contract with a program manager (also referenced as program administrator). Based on contract negotiations with the selected vendor, Primary Class Inc., (Odyssey) the one-time initial start-up cost for the program is estimated at \$350,000. This includes costs to design an electronic process that aligns with policy adopted by BESE, including application acceptance and approval, account management, review and approval of account expenditures, a payment process, and development of program and fiscal reports. The vendor will charge an account management fee of \$143.50 per student.

Additionally, there will be costs incurred to hire an external auditor for the LA GATOR program. Currently, costs for external audits of scholarship programs total approximately \$850,000 annually; however, the scope of the audit for the program, as required by the proposed rules will be more extensive, making the audit cost of the new program indeterminable at this time.

The program will result in indeterminable costs to fund accounts for participating students. At this time, the number of students that will apply to participate is unknown. In addition to this, award amounts are dependent on a specific participant's characteristics as outlined in the proposed rule and detailed below. Regardless of the number of applicants, the number that will be able to participate is dependent on legislative appropriation of funding for accounts.

For the 2025-2026 school year, if only the estimated 6,000 students currently participating in Student Scholarships for Education Excellence Program (SSEEP) participate in LA GATOR and receive the same FY 25 average award amount of \$7,023, the estimated cost to fund scholarship accounts will total \$42 M and management fees for these accounts will total \$858,000. The FY 25 budgeted amount for these students in SSEEP is \$44,565,189. It is unknown whether all of these students will choose to participate in the program.

Additional students who choose to participate, are eligible, and are funded through legislative appropriation will receive account deposits as follows: (1) students with disabilities will receive an award up to \$15,253, as calculated according to a tiered methodology which will be established by LDOE; (2) students without disabilities whose families report a total income that does not exceed 250% of the federal poverty guidelines will receive an award equal to \$7,626; and (3) all other students will receive an award equal to \$5,243. These awards are based off of a percentage of the 2024-2025 average MFP state and local per pupil amount. Should the MFP average increase in subsequent years, the award amounts will also be adjusted. The number of families that will choose to apply, the number of eligible students, the award category into which they will fall, and the legislative appropriation determining whether they participate are all unknown at this time.

For informational purposes, in the event the legislature was to fund accounts for the estimated 150,000 current non-public students, the total cost of the LA GATOR program, using the minimum award amount of \$5,243, in addition to a per participant administrative cost of \$143.50, would approach \$1 B annually.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$1,800,000	See Below	See Below
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$1,800,000</b>	<b>See Below</b>	<b>See Below</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

FY 25 is sufficiently funded via legislative appropriation. Future fiscal year appropriations are unknown at this time and, per Act 1, are to annually be determined by the legislature.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

Local schools may experience a reduction in the number of students served dependent on the number of families who opt to participate in the LA GATOR program. Alternatively, schools may experience an increase in demand for programs if they choose to participate as service providers.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Local schools may participate as a service provider and receive scholarship funds for students who participate in courses or services offered by the school without being enrolled in the school.

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	See Below	See Below
AGENCY SELF-GENERATED	\$0	See Below	See Below
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
LOCAL FUNDS	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>See Below</b>	<b>See Below</b>

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The fiscal impact on revenue collected by local education agencies (LEAs) will vary based on the extent to which students currently funded through the Minimum Foundation Program (MFP) participate in the LA GATOR program and on the extent to which local systems enroll as service providers to provide additional courses or services through the program. While students who leave the public school system will result in a decrease in revenues for LEAs, students who participate in LA GATOR and use account funds to enroll in services provided by participating LEAs will increase anticipated revenue collections.

SGF revenues may shift depending on how ESAs impact the annual amount of tax credits claimed for nonpublic school tuition expenses. This tax credit permits parents to annually claim up to \$6,000 of nonpublic school tuition costs.

## WORKSHEET

### III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Families of current Student Scholarships for Educational Excellence Program (SSEEP) students should experience little impact, as those students will continue to be funded at the same rate until they graduate or exit the terminal grade of the school in which they are currently enrolled. Families of entering kindergarteners or current public school students who would have chosen to enroll their children in nonpublic school the following year but who choose to participate in the LA GATOR program will benefit from program funding. Families of current nonpublic school students who fall below 250% of the federal poverty guidelines and who participate in the program will benefit by having to fund less of their children's tuition and fees through their personal finances.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Depending on the amount awarded for a specific student, families could utilize between \$5,243 up to \$15,253 of state funds to provide for their children's education. Benefits to education service providers will depend on the cost structure for the goods or services purchased by parents using account funds.

### IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

Additional competition for student enrollment may result from the program. This will primarily be due to whether or not public schools opt to allow for part-time enrollment for students seeking to participate in specific programs, courses or activities. It is expected these spots, like those in programs targeted towards students with disabilities, will be limited. There is a potential the implementation of LA GATOR will lead to the opening of additional nonpublic education institutions in order to provide services for an increased student population. If this were to occur, increased competition between institutions may result.

