

Opportunity Scholarship Tax Credit

Opportunity Scholarship Organizations

I. Introduction and Purpose

Under Article XX-B of the Public School Code of 1949, 24 P.S. Section 20-2001-B, et seq., the **Opportunity Scholarship Tax Credit (OSTC)** is to be administered by the Department of Community and Economic Development (the Department). Tax credits may be awarded to business firms that make contributions to Opportunity Scholarship Organizations contained on a list published by the Department. The current organizational list can be found on the OSTC website, which is linked to the Department's website, at www.dced.pa.gov/OSTC.

A business firm may receive a tax credit equal to 75% of its contribution to an approved Opportunity Scholarship Organization that is included on the current list published by the Department, up to a maximum of \$750,000 per taxable year. The tax credit may be increased to 90% of the contribution made, up to a maximum of \$750,000 per taxable year, if the business firm agrees to provide the same amount of contribution to an organization for two consecutive years.

The purpose of these guidelines is to establish the process whereby an Opportunity Scholarship Organization may be included on the list of organizations approved and published by the Department.

II. Opportunity Scholarship Organization

A. Eligibility

An organization that desires to be included on the Department's list of approved Opportunity Scholarship Organizations must meet the following criteria:

1. The organization must be a nonprofit entity.
2. The organization must be exempt from payment of federal income tax under section 501(c)(3) of the Internal Revenue Code.
3. The organization must contribute at least 80% of its annual OSTC receipts to an opportunity scholarship program that meets the requirements of the Act and these guidelines.

For the purpose of the OSTC, the term "annual OSTC receipts" shall be defined as the total amount or value of contributions received by an organization from business firms awarded tax credits during that organization's fiscal year.

B. Opportunity Scholarship Program

An approved Opportunity Scholarship Program shall demonstrate all of the following characteristics:

1. The program shall provide tuition to eligible students who reside within the attendance boundary of a low-achieving school to attend a participating nonpublic school or a participating public school located in a school district outside of the recipient's school district of residence. For the purposes of the OSTC, the term "tuition" shall also include school-related fees charged by a school, including a special education school. School-related fees shall include fees charged by a school to all students for books, instructional materials, technology equipment and services, uniforms and activities.

The Department of Education shall annually publish a list of low-achieving schools located within each school district. A low-achieving school is defined as a public elementary or secondary school ranking in the bottom 15 percent of its designation as an elementary or secondary school based upon combined math and reading PSSA scores. Both nonpublic schools and public schools that elect to participate in the Opportunity Scholarship Program must annually notify the Department of Education of their intent to participate.

A school includes any public or nonpublic kindergarten, elementary school or secondary school at which the compulsory attendance requirements of the commonwealth may be met and which meets the applicable requirements of Title VI of the Civil Rights Act of 1964.

A special education school is a school or program within a school that is designated specifically and exclusively for students with disabilities listed in Title 34 CFR §300.8 and meets one of the following: (1) is licensed under the Private Academic Schools Act; (2) is accredited by an accrediting association approved by the State Board of Education; (3) is a school for the blind or deaf receiving commonwealth appropriations; or (4) is operated by or under the authority of a bona fide religious institution or by the commonwealth or any political subdivision thereof.

2. An eligible student is a school age student residing within the attendance boundary of a low-achieving school, including an eligible student with a disability, who is a resident of Pennsylvania, who is enrolled in a school located in this commonwealth, and who is a member of a household with an annual household income of not more than **\$92,160** with the exception of an additional income allowance of **\$16,222** permitted for the student and for each other dependent (as defined by the IRS) living within the same household. To be considered an eligible student with a disability, a student must meet the following criteria: (1) is either enrolled in a special education school or has otherwise been identified as a “child with a disability” as defined in Title 34 CFR §300.8; (2) needs special education and related services; (3) is enrolled in a school, and (4) is a member of a household that does not exceed the maximum annual household income. “School age” ranges from the earliest admission age for a school's kindergarten program (or if the school has no kindergarten program, the earliest age at which the student may begin school), through the age attained upon graduation from secondary school or 21 years of age, whichever occurs first. With respect to an eligible student with a disability, multiply the sum of \$92,160 plus the allowance(s) of \$16,222 per student and dependent, by the support level factor of 1.50 if the student is not enrolled in a special education school or by the support level factor of 2.993 if the student is enrolled as a student in a special education school.

A household includes an individual living alone or an individual living with the following:

- a. a spouse, parent and their unemancipated minor children;
 - b. other unemancipated minor children who are related by blood or marriage; or
 - c. other adults or unemancipated minor children living in the household who are dependent upon the individual.
3. In calculating household income for the purpose of determining student eligibility, all monies and properties received, whatever the nature and/or source, are to be included, except for the following:
 - a. Periodic payments for sickness and disability other than regular wages received during a period of sickness or disability.
 - b. Disability, retirement or other payments arising under workers' compensation acts, occupational disease acts and similar legislation by any government.

- c. Payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment.
 - d. Payments commonly known as public assistance or unemployment compensation payments by a governmental agency.
 - e. Payments to reimburse actual expenses.
 - f. Payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.
 - g. Compensation received by United States service personnel serving in a combat zone.
4. The maximum amount of a scholarship awarded to an applicant without a disability shall be \$8,500. The maximum amount of a scholarship awarded to an applicant with a disability shall be \$15,000.
 5. In awarding scholarships, an Opportunity Scholarship Organization shall give preference to any of the following:
 - An applicant who received a scholarship for the prior school year.
 - An applicant of a household with a household income that does not exceed 185% of the federal poverty level for the school year preceding the school year for which the application is being made.
 - An applicant of a household with a household income that does not exceed 185% of the federal poverty level for the school year preceding the school year for which the application is being made who resides within any of the following:
 - a. A first class school district;
 - b. A school district with an average daily membership greater than 7,500 and that received an advance of its basic education subsidy at any time; or
 - c. A school district that receives an advance of its basic education subsidy at any time and is either subject to a declaration of financial distress under Section 691 of the Public School Code of 1949 or engaged in litigation against the commonwealth in which the school district seeks financial assistance from the commonwealth to allow the school district to continue to operate.
 6. A student who received a scholarship in the prior school year and resides within the attendance boundary of a school that has been removed from the list of low-achieving schools shall remain eligible for additional scholarship awards up to the lesser of five years or until completion of Grade 12 provided the applicant otherwise remains eligible. A student attending a low-achieving school that has advanced on to a school which has never been on the list of low-achieving schools would no longer be eligible for an opportunity scholarship award.
 7. The amount of a scholarship paid to or on behalf of a student combined with any additional financial assistance provided to the student may not exceed the actual amount of tuition and school-related fees charged by the school in which the student is enrolled, nor exceed the actual amount of tuition and school-related fees charged by the school to non-scholarship students.
 8. The scholarship program must have policies in place concerning:
 - a. rebates or refunds of scholarship monies for students who withdraw from a school prior to the end of the period for which tuition has been paid; and
 - b. the maintenance of confidentiality of information pertaining to student eligibility in an opportunity scholarship program, including income information.

9. Opportunity Scholarship Organizations shall maintain full and accurate records with respect to the receipt of contributions from business firms and expenditure of those contributions. These records shall be maintained a period of not less than three years.
10. For purposes of the OSTC, a “contribution” from a business is defined as a donation of cash, personal property or services the value of which is the net cost of the donation to the donor or the pro rata hourly wage, including benefits, of the individual performing the services. No tax credits shall be approved for contributions which constitute activities that are part of the applicant business’ normal course of business.