

Utah Code Ann. § 53F-6-405

Current through May 1, 2024 of the 2024 General Session.

Utah Code Annotated > Title 53F Public Education System — Funding (Chs. 1 — 10) > Chapter 6 State Funding — Programs Administered by Other Agencies (Pts. 1 — 4) > Part 4 Utah Fits All Scholarship Program (§§ 53F-6-401 — 53F-6-415)

53F-6-405. Program manager duties — Audit — Prohibitions.

- (1) The program manager shall administer the program, including:
 - (a) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;
 - (b) reviewing applications from and determining if a person is:
 - (i) an eligible school under Section 53F-6-408; or
 - (ii) an eligible service provider under Section 53F-6-409;
 - (c) establishing an application process, including application dates opening before March 1, 2024, in accordance with Section 53F-6-402;
 - (d) reviewing and granting or denying applications for a scholarship account;
 - (e) providing an online portal for the parent of a scholarship student to access the scholarship student's account to facilitate payments to a qualifying provider from the online portal;
 - (f) ensuring that scholarship funds in a scholarship account are readily available to a scholarship student;
 - (g) requiring a parent to notify the program manager if the parent's scholarship student is no longer enrolled in or engaging a service:
 - (i) for which the scholarship student receives scholarship funds; and
 - (ii) that is provided to the scholarship student for an entire school year;
 - (h) obtaining reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer enrolled or with which the scholarship student is no longer engaged;
 - (i) expending all revenue from interest on scholarship funds or investments on scholarship expenses;
 - (j) each time the program manager makes an administrative decision that is adverse to a scholarship student or the scholarship student's parent, informing the scholarship student and the scholarship student's parent of the opportunity and process to appeal an administrative

decision of the program manager in accordance with the process described in Section 53F-6-404;

(k) maintaining a protected internal waitlist of all eligible students who have applied to the program and are not yet scholarship students, including any student who removed the student's application from the waitlist; and

(l) providing aggregate data regarding the number of scholarship students and the number of eligible students on the waitlist described in Subsection (1)(k).

(2) The program manager shall:

(a) contract with one or more private entities to develop and implement a commercially viable, cost-effective, and parent-friendly system to:

(i) establish scholarship accounts;

(ii) maximize payment flexibility by allowing:

(A) for payment of services to qualifying providers using scholarship funds by electronic or online funds transfer from the online portal; and

(B) pre-approval of a reimbursement to a parent for a good that is a scholarship expense; and

(iii) allow scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers;

(b) except for a reimbursement authorized under this part, ensuring the use of scholarship funds from the online portal directly to a qualifying provider to pay for scholarship expenses without the availability of withdrawal or other direct access to scholarship funds by an individual; and

(c) ensure that the system complies with industry standards for data privacy and cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) In advance of the program manager accepting applications in accordance with Section 53F-6-402 and as regularly as information develops, the program manager shall provide information regarding the program by publishing a program handbook online for scholarship applicants, scholarship students, parents, service providers seeking to become qualifying providers, and qualifying providers, that includes information regarding:

(a) the policies and processes of the program;

(b) approved scholarship expenses and qualifying providers;

(c) the responsibilities of parents regarding the program and scholarship funds;

(d) the duties of the program manager;

(e) the opportunity and process to appeal an administrative decision of the program manager in accordance with the process described in Section 53F-6-404; and

(f) the role of any private financial management firms or other private organizations with which the program manager may contract to administer any aspect of the program.

- (4)** To ensure the fiscal security and compliance of the program, the program manager shall:
- (a)** prohibit a program manager employee or program manager officer from handling, managing, or processing scholarship funds, if, based on a criminal background check that the state board conducts in accordance with Section 53F-6-407, the state board identifies the program manager employee or program manager officer as posing a risk to the appropriate use of scholarship funds;
 - (b)** establish procedures to ensure a fair process to:
 - (i)** suspend scholarship student's eligibility for the program in the event of the scholarship student's or scholarship student's parent's:
 - (A)** intentional or substantial misuse of scholarship funds; or
 - (B)** violation of this part or the terms of the program; and
 - (ii)** if the program manager obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or criminal investigation;
 - (iii)** ensure that a scholarship student whose eligibility is suspended or disqualified under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent regains eligibility if the student is placed with a different parent or otherwise no longer resides with the parent related to the suspension or disqualification;
 - (c)** notify the state board, scholarship student, and scholarship student's parent in writing:
 - (i)** of the suspension described in Subsection (4)(b)(i);
 - (ii)** that no further transactions, disbursements, or reimbursements are allowed;
 - (iii)** that the scholarship student or scholarship student's parent may take corrective action within 10 business days of the day on which the program manager provides the notification; and
 - (iv)** that without taking the corrective action within the time period described in Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.
- (5)**
- (a)** A program manager may not:
 - (i)** disburse scholarship funds to a qualifying provider or allow a qualifying provider to use scholarship funds if:
 - (A)** the program manager determines that the qualifying provider intentionally or substantially misrepresented information on overpayment;
 - (B)** the qualifying provider fails to refund an overpayment in a timely manner; or
 - (C)** the qualifying provider routinely fails to provide scholarship students with promised educational services; or
 - (ii)** reimburse with scholarship funds an individual for the purchase of a good or service if the program manager determines that:

- (A) the scholarship student or the scholarship student's parent requesting reimbursement intentionally or substantially misrepresented the cost or educational purpose of the good or service; or
 - (B) the relevant scholarship student was not the exclusive user of the good or service.
- (b) A program manager shall notify a scholarship student if the program manager:
 - (i) stops disbursement of the scholarship student's scholarship funds to a qualifying provider under Subsection (5)(a)(i); or
 - (ii) refuses reimbursement under Subsection (5)(a)(ii).
- (6)
 - (a) At any time, a scholarship student may change the qualifying provider to which the scholarship student's scholarship account makes distributions.
 - (b) If, during the school year, a scholarship student changes the student's enrollment in or engagement with a qualifying provider to another qualifying provider, the program manager may prorate scholarship funds between the qualifying providers based on the time the scholarship student received the goods or services or was enrolled.
- (7) A program manager may not subvert the enrollment preferences required under Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of a relative of a program manager officer.
- (8) The program manager shall:
 - (a) contract for annual and random audits on scholarship accounts conducted:
 - (i) by a certified public accountant who is independent from:
 - (A) the program manager;
 - (B) the state board; and
 - (C) the program manager's accounts and records pertaining to scholarship funds; and
 - (ii) in accordance with generally accepted auditing standards;
 - (b) demonstrate the program manager's financial accountability by annually submitting to the state board the following:
 - (i) a financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and
 - (ii) no later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in Subsection (8)(a), including the program manager's financial statements in a format that meets generally accepted accounting principles.
- (9)
 - (a) The state board:
 - (i) shall review a report described in this section; and

(ii) may request that the program manager revise or supplement the report if the report does not fully comply with this section.

(b) The program manager shall provide to the state board a revised report or a supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (9)(a).

History

2023 ch. 1, § 7, effective May 3, 2023; 2024 ch. 26, § 5, effective May 1, 2024.

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