

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-61-06

Rule Title: Notice of Nonpublic School to the Department of its Intention to Participate in the Scholarship Program

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

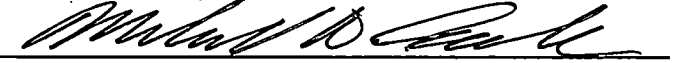
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 7/17/15

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-61-.06

Rule Title: Notice of Nonpublic School to the Department of its Intention to Participate in the Scholarship Program.

 New X Amend Repeal Adopt by Reference

- NO
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

APA-2
11/96

**ALABAMA DEPARTMENT OF REVENUE
Individual & Corporate Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-2-8-.16 Alabama Requirements for Mandatory E-File of Business Privilege
Tax Returns

INTENDED ACTION: Adopt new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to explain the electronic filing mandate requirements for business privilege tax returns prepared by financial institution groups.

RULE NO. & TITLE

810-3-61-.01 Definition of Terms and Phrases used in Connection with the Scholarship
Program
810-3-61-.02 Credits for Contributions to Scholarship Granting Organizations (SGOs)
810-3-61-.03 Application of Scholarship Granting Organizations (SGOs) for
Participation in the Scholarship Program
810-3-61-.04 Receipt, Maintenance and Disbursement of Scholarship Funds by
Scholarship Granting Organizations (SGOs)
810-3-61-.05 Annual Report of Scholarship Granting Organizations (SGOs)
810-3-61-.06 Notice of Nonpublic School to the Department of its Intention to
Participate in the Scholarship Program
810-3-61-.07 Continuing Eligibility of Scholarship Granting Organization (SGO) to
Participate in the Tax Credit Scholarship Program

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules to comply with the provisions of Act 2015-434, concerning Scholarship Granting Organizations (SGOs).

RULE NO. & TITLE

810-3-61-.08 Percentage of Low-Income Eligible Students in a County

INTENDED ACTION: Repeal rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rule to comply with the provisions of Act 2015-434, concerning Scholarship Granting Organizations (SGOs).


TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, September 9, 2015, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm>

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, September 9, 2015

CONTACT PERSON AT AGENCY:

Patricia Thomas
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

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810-3-61-.06 Notice of Nonpublic School to the Department of its Intention to Participate in the Scholarship Program.

(1) Scope. Act 2013-64, as amended by Acts 2013-265 **and 2015-434**, imposes eligibility requirements on nonfailing public schools and nonpublic schools wishing to receive scholarship grants for eligible students. Further it limits eligibility for the parent tax credit pursuant to Section 8 of the Act to nonfailing public schools outside the resident school district and to nonpublic schools notifying the Department of their intention to participate in the scholarship program. This rule prescribes the procedure for a nonpublic school to apply for participation in the scholarship program.

(2) The Department will create a web-based portal where nonpublic schools wishing to participate in the scholarship program may register their intent with the department. Registration is not required of nonfailing public schools desiring to participate in the program. The Department presumes that any school that registers to participate in the scholarship program is exhibiting "good faith" intent to accept scholarship students. **Any misrepresentation, omission of facts, or fraud in securing scholarship funding will suspend the school from receiving any further scholarship funds.**

(3) A nonpublic school registering with the department must indicate that it is willing to abide by all statutory and regulatory requirements of the program, and that it is willing to file and furnish all forms and information required by the SGO and the Department including financial and academic information, as well as all other required information. Academic information reporting requirements pertaining to the statutory requirements referenced above are limited to those students attending the nonpublic school who are receiving educational scholarships under the Alabama Accountability Act. **Failing to administer required tests, provide required tests results or other intentional and substantial failure to comply with the requirements of the program will bar the qualifying school from participation in the program. Any qualifying school barred from participating in the Tax Credit Scholarship Program for non-compliance may be reinstated upon correcting any reporting deficiencies or required certifications and providing a statement as to how the problems occurred and have been resolved. Once received the Department will make a determination as to reinstating any school which has been disqualified from the program.**

(4) A nonpublic school registering with the department must furnish the name of the regional accrediting agency by which it is accredited.

(5) If the nonpublic school is not accredited by one of the allowed six regional accrediting agencies, then it must provide the following:

(a) The address of the school's web site that describes the school and its instructional programs.

~~(b)~~ **(a)** Years in existence (which must be at least three years).

(b) The address of the school's web site that describes the school, **and its instructional programs, and the mandatory tuition and fees charged by the school. This information is required to be updated prior to the beginning of each semester.**

(c) Average daily attendance for each of the last two years.

(d) Number of days in the school year (which must be at least 180 days or the hourly equivalent of 180 days).

(e) Length of the school day (minimum of six and one-half hours).

(f) The number of **Carnegie** credits required of students in grades 9-12 before graduation **(minimum of 24)**.

(g) The number of such **Carnegie** credits required in core subjects **(minimum of 16)**.

~~(h) A statement as to whether the school has in place a requirement for the completion of courses in Health & Physical Education, Fine Arts, Computer Studies and Foreign Language for students in grades 9-12 before graduation.~~

~~(i)~~ **(h)** A statement as to whether the school requires the Stanford Achievement Test, or its equivalent of all students.

~~(j)~~ **(i)** A statement as to whether the school requires all candidates for graduation to take the American College Test.

~~(k)~~ **(j)** A statement as to whether the school allows special education students to follow an individual plan of instruction that is different from regular education students.

(6) If the nonpublic school is not accredited by one of the allowed accrediting agencies and has not been in existence for at least three years, the school shall still qualify to participate in the scholarship program if all the requirements of paragraphs (b) through (j) above are satisfied in addition to the nonpublic school operating under the governance of the board of directors of an equivalent accredited nonpublic school. Governance shall include at a minimum curriculum, personnel, facility management, and financial oversight.

(7) If at the end of the three year governance period the nonpublic school has still not obtained accreditation status, the nonpublic school shall no longer be considered a qualifying school and shall not be eligible to receive any scholarship funds from any SGO until such a time as the nonpublic school obtains proper accreditation as required by this Act.

(6) (8) The Department will create a web-based listing of the participating nonpublic schools, and the SGO must ensure that a nonpublic school is listed before a scholarship award is paid to the nonpublic school for an eligible student.

(7) (9) The Department will create a web-based listing of the accredited nonpublic schools registered for participation in the scholarship program. Parents of public school students transferring the students to these schools may be eligible for the parent tax credit pursuant to Section 8 of the Act.

Author: Curtis Stewart and Neal Hearn
Authority: Sections 40-2A-7(a)(5) and 16-6D-1, Code of Alabama 1975
History: New rule: Filed August 23, 2013, effective September 27, 2013.