

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-61-.04

Rule Title: Receipt, Maintenance and Disbursement of Scholarship Funds by Scholarship Granting Organizations (SGOs)

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?

Yes

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 6/20/13

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-.04

Rule Title: Receipt, Maintenance and Disbursement of Scholarship Fund by Scholarship Granting Organizations (SGOs)

New 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:
This rule is needed to provide guidance related to the Accountability Act of 2013.
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
The rule is implementing provisions of the Accountability Act of 2013 and has no further impact beyond that provided for within the Act.
3. EFFECT OF THIS RULE ON COMPETITION:
N/A
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
N/A
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
N/A
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
Education Trust Fund, Department of Revenue budget
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:
The rule is implementing provisions of the Accountability Act of 2013 and has no further impact beyond that provided for within the Act.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
The rule is implementing provisions of the Accountability Act of 2013 and has no further impact beyond that provided for within the Act.
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
N/A
11. OTHER COMMENTS:
N/A

**ALABAMA DEPARTMENT OF REVENUE
Tax Policy & Research Division**

NOTICE OF INTENDED ACTION

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 DOR of its Intention to Participate in the Scholarship Program

INTENDED ACTION: Adopt new rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rules to provide guidance regarding the statutory requirements of the Alabama Accountability Act of 2013.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **9:00 a.m. on Thursday, August 8, 2013, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

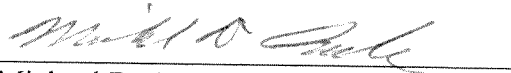
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, August 8, 2013

CONTACT PERSON AT AGENCY:

Patricia Toles
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-.04 Receipt, Maintenance and Disbursement of Scholarship Funds by Scholarship Granting Organizations (SGOs). **(NEW RULE)**

(1) Scope. Act 2013-64, as amended by Act 2013-265, provides for the granting of scholarships by SGOs under certain circumstances. This rule prescribes accountability requirements for making scholarship grants.

(2) The SGO must maintain separate accounts for all scholarship donations, including any interest or other income on the scholarship funds. The scholarship fund must not be comingled with any other funds, and may only be used for making actual scholarship grants and for paying allowable non-scholarship expenditures, as described in paragraph 3, below.

(3) An SGO may accept and separately account for donations which do not entitle the donor to tax credits under the scholarship program, if such donations are not a violation of its by-laws and other applicable laws and regulations. The SGO may use any interest or other investment income derived from non-scholarship funds for non-scholarship purposes.

(4) At least 95% of revenue from scholarship donations and all interest and investment income attributable to scholarship funds must be used for educational scholarships. Therefore, the SGO may use no more than 5% of the amount of its scholarship donations for purposes other than making scholarship grants. The 5% maximum will be calculated for each calendar year, using the amount of scholarship donations received during the year. Regardless of whether an SGO has used less than the allowable amount of scholarship funds for non-scholarship purposes during any prior year, the SGO may not make non-scholarship expenditures exceeding 5% of scholarship donations in any given year.

(5) The SGO must make reasonable efforts to make scholarship grants with scholarship funds. The SGO will be deemed to have made reasonable efforts to make scholarship grants if scholarship grants are made during a given year at least equal to the unexpended scholarship funds on hand as of the beginning of the year.

(6) For all scholarship donations received, the SGO must notify donors to enter the donation into the Department's system for tracking scholarship donations and credits, which must be done pursuant to Rule 810-3-61-.02.

(7) The Department will make available an electronic receipt system for qualified SGO to enter and verify actual scholarship donations received. No tax credits will be allowed to donors, if the SGO receiving the donation fails to enter the donation amounts into the system, and to provide all required donor identifying information by the required date.

(8) The SGO must enter all donations received and all required donor identifying information into the Department's system within 30 days of receipt of the donations, in order to validate the donor's donation and to create the electronic receipt. The donor will receive the electronic receipt form through the Department's system, enabling the donor to use the allowable credit on his/her tax return.

(9) The portion of the \$25 million in available tax credits which has been reserved for a particular donation may be released and made available to other donors if the SGO fails to provide validating information by the required date.

(10) In order to ensure that the percentage of its expenditures on educational scholarships given for low-income eligible students is no less than the percentage of low-income eligible students in the county where the SGO expends the majority of its educational scholarships, the SGO must:

(a) Determine the percentage of low-income eligible students in the county where the SGO expends the majority of its educational scholarships each year.

(b) Receive and maintain, for each scholarship recipient who is reported to the Department as a low-income eligible student, documentation of the amount of the student's family income for the calendar year proceeding the year in which the educational scholarship is granted. Any student for whom the family income documentation is not maintained will not be considered a low-income eligible student for purposes of determining the percentage of scholarship grants awarded to low-income eligible students.

Author: Curtis Stewart

Authority: Sections 40-2A-7(a)(5) and 16-16D-1, Code of Alabama 1975

History: