

Title 6. Education

Chapter XXX. Department of Finance and Administration

Subchapter A. Generally

Part 600. Philanthropic Investment in Arkansas Kids Program

Subpart 1. Generally

6 CAR § 600-101. Definitions.

As used in this part:

(1) "Act" means the Philanthropic Investment in Arkansas Kids Program Act codified at Arkansas Code §§ 6-18-2301 – 6-18-2308;

(2) "Actually received" means in possession of cash, check, or notified of the initiation of electronic funds transfer;

(3) "Application" or "tax credit application" means a request from an SGO to provide a tax credit under the Philanthropic Investment in Arkansas Kids Act, Arkansas Code §§ 6-18-2301 – 6-18-2308, to a donor;

(4) "Budget year" means fiscal year of the State of Arkansas;

(5) "Certificate" or "certificate of income tax credit" means the formal award of a tax credit under the Philanthropic Investment in Arkansas Kids Program Act by the Tax Credits and Special Refunds Section of the Department of Finance and Administration;

(6) "Division" means the Division of Elementary and Secondary Education;

(7) "Donor" or "taxpayer" means an individual, corporation, partnership, Subchapter S corporation, or similar pass-through entity, estate, or trust that is required to file a return under the Arkansas Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq.;

(8) "Eligible contribution" means a monetary contribution from a taxpayer to a scholarship-granting organization or an amount prorated to be contributed to the scholarship-granting organization under Arkansas Code § 6-18-2308;

(9) "Office" means the Tax Credits and Special Refunds Section of the Department of Finance and Administration;

(10) "SGO" or "scholarship-granting organization" means an entity that is approved by the Division of Elementary and Secondary Education for participation in the Philanthropic Investment in Arkansas Kids Act, Arkansas Code §§ 6-18-2301 – 6-18-2308; and

(11) "Tax credit" means a nonrefundable credit against the taxes levied by the Arkansas Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-102. Scholarship-granting organization registration.

(a) Prior to accepting donor funds under the Philanthropic Investment in Arkansas Kids Program Act, Arkansas Code §§ 6-18-2301 – 6-18-2308, a scholarship-granting organization shall notify the Division of Elementary and Secondary Education of its intent to provide educational scholarships to qualified students attending private school.

(b) The notification in subsection (a) of this section shall include:

(1) The division's application form on the division's website;

(2) Proof of exemption from federal income tax under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2021; and

(3) If the SGO expects to receive eligible contributions equal to or greater than fifty thousand dollars (\$50,000) during the academic school year, documentation demonstrating financial viability before the start of the academic school year including either:

(A) A surety bond payable to the State of Arkansas in an amount equal to the aggregate amount of eligible contributions the scholarship-granting organization expects to receive during the academic school year (minimum of fifty thousand dollars (\$50,000)); or

(B) Financial information that demonstrates the financial viability of the scholarship-granting organization, including a statement by a certified public accountant confirming that the SGO is insured and has sufficient capital or credit to operate in the upcoming school year.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-103. Tax credit applications.

(a) Applications shall be submitted by an SGO to the Tax Credits and Special Refunds Section of the Department of Finance and Administration or its successor electronically.

(b) The Tax Credits and Special Refunds Section shall publish the application form to its website in substantially the same form as appended here.

(c) The SGO is responsible for completing the application with the information provided by the donor.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-104. Tax credits.

(a)(1) A taxpayer may claim a tax credit for one hundred percent (100%) of eligible contributions actually received by the scholarship-granting organization under the Philanthropic Investment in Arkansas Kids Program Act, Arkansas Code §§ 6-18-2301 – 6-18-2308, for which a certificate is awarded by the Tax Credits and Special Refunds Section of the Department of Finance and Administration.

(2) An eligible contribution to an SGO in exchange for a tax credit under the Philanthropic Investment in Arkansas Kids Program Act shall not be claimed as a charitable deduction to income under Arkansas Code § 26-51-419.

(3) An eligible contribution to an SGO where no tax credit is awarded under the Philanthropic Investment in Arkansas Kids Program Act may be claimed as a charitable deduction to income under Arkansas Code § 26-51-419.

(b) A taxpayer may claim a tax credit up to the amount listed on the certificate of income tax credit against the Arkansas income tax due in the tax year that the certificate is issued but not in excess of the Arkansas income tax liability of the taxpayer.

(c) Any unused tax credit amount may be carried forward to the next-succeeding taxable year and annually thereafter for a total period of three (3) years.

(d) Amounts evidenced on an application that exceed the annual cap on tax credits under Arkansas Code § 6-18-2304(c) may be taken as a charitable contribution deduction under Arkansas Code § 26-51-419 if the donor does not rescind the contribution amount in excess of the credit.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-105. Tax credit awards.

(a)(1) Tax credits are awarded on a first-come, first-served basis according to the date and time of receipt of the application by the Tax Credits and Special Refunds Section of the Department of Finance and Administration.

(2) Applications received prior to January 1 of the year in which the donation to the SGO is made will not be considered for a tax credit.

(3) Applications must be submitted electronically to the Tax Credits and Special Refunds Section, which shall determine the date and time of receipt of the application.

(b)(1) If an application is for an amount that would exceed the amount of remaining tax credit available, the Tax Credits and Special Refunds Section shall credit the donor with the amount of tax credit remaining.

(2) Any amount more than the credit remaining may be taken by the donor as a charitable contribution deduction under Arkansas Code § 26-51-419.

(c)(1) The Tax Credits and Special Refunds Section shall notify a donor of the approval of the application by providing a certificate of income tax credit showing the amount of the tax credit awarded and, if only partial credit was authorized, the amount that may be taken as a charitable contribution deduction.

(2) Subject to approval by the donor, the Tax Credits and Special Refunds Section shall also notify the SGO of the donor and amount of partial credit when partial credit was authorized.

(d) Upon meeting the annual cap of tax credits under Arkansas Code § 6-18-2304(c)(1), the Tax Credits and Special Refunds Section shall notify the Division of Elementary and Secondary Education and the SGOs that the tax credit maximum has been reached and no further tax credits will be awarded in that year.

(e)(1) Any applications remaining to be processed after the annual cap has been met shall be notified in the same manner as subsection (c) of this section, specifying that no tax credit was authorized.

(2) Subject to approval by the donor, the Tax Credits and Special Refunds Section shall also notify the SGO of the donors whose applications were not awarded tax credits under subdivision (e)(1) of this section.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-106. SGO duties.

An SGO shall:

(1) Retain records of all donor contributions for the Philanthropic Investment in Arkansas Kids Program for six (6) years;

(2) Communicate to potential donors when the annual cap has been met;

(3) Provide donors a copy of the application that is submitted to the Tax Credits and Special Refunds Section of the Department of Finance and Administration;

(4) Submit applications to the Tax Credits and Special Refunds Section only for eligible contributions that have been actually received;

(5) Ensure that first-time recipients of educational scholarships are qualified students as defined in Arkansas Code § 6-18-2302(3) and were not continuously enrolled in a private school within the state during the previous school year through the Division of Elementary and Secondary Education or from documentation from the public school provided by the eligible student's parent;

(6) Ensure that participating private schools:

(A) Annually report student assessment scores and other academic progress of qualified students as defined in Arkansas Code § 6-18-2302(3) to the

independent research organization selected by the division, including without limitation the:

(i) Number of scholarship-receiving students under the Philanthropic Investment in Arkansas Kids Program Act, Arkansas Code §§ 6-18-2301 – 6-18-2308, who were dismissed by a private school that is receiving funds through the Philanthropic Investment in Arkansas Kids Program Act;

(ii) Number of scholarship-receiving students under the Philanthropic Investment in Arkansas Kids Program Act who attended a private school with an educational scholarship through the Philanthropic Investment in Arkansas Kids Program Act and voluntarily returned to a traditional public school, if known;

(iii) Name and accreditation status of private schools that received funds through the Philanthropic Investment in Arkansas Kids Program Act;

(iv) Number of students in the program who have:

(a) Taken a nationally recognized norm-referenced test, including an alternate assessment; and

(b) Received the test results;

(v) Number of students in the program who have been exempted from standardized testing requirements under Arkansas Code § 6-18-2306(9)(C)(ii) and had a portfolio developed; and

(vi) Number of students in the program in grades three (3) through ten (10) who are not scoring at grade level as indicated by grade-level equivalency, the percentage of students in the program scoring in each quartile, the lexile score of each student, or other equivalent data for the assessment administered as determined by the division; and

(B) Submit a report to the division annually by June 1 containing the following information based on the previous academic school year:

(i) The name and address of the scholarship-granting organization;

(ii) The total number and total dollar amount of eligible contributions the scholarship-granting organization received during the previous calendar year, as verified by a certified public accountant;

(iii) The total number and total dollar amount of educational scholarships awarded to qualified students through the program during the previous calendar year, as verified by a certified public accountant; and

(iv) The total number of qualified students, according to the qualified students' respective resident public school districts, who received an educational scholarship from the scholarship-granting organization under Arkansas Code § 6-18-2301 et seq., during the previous budget year, as verified by a certified public accountant;

(7)(A) If the division bars an SGO from qualifying as a recipient of donor funds, the SGO shall notify the affected qualified students who have received educational scholarships under the Philanthropic Investment in Arkansas Kids Act and the affected qualified students' parents or guardians as soon as reasonably practicable upon notice of the disqualification.

(B) The SGO shall provide proof of the notification in subdivision (7)(A) of this section to the division at the same time that the subdivision (7)(A) notification is provided; and

(8) Provide the division or the Department of Finance and Administration with all information or records requested as part of any audit or financial review being conducted to ensure compliance with the Philanthropic Investment in Arkansas Kids Act, this part, other Arkansas law, or upon a reasonable belief that an SGO has violated the requirements of the Philanthropic Investment in Arkansas Kids Act or this part.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-107. Donor duties.

A donor shall maintain suitable records to substantiate the donation to the SGO in the event of an audit for six (6) years, including, but not limited to:

- (1) A copy of the application;
- (2) A copy of the certificate of income tax credit; and
- (3) Proof of payment to the SGO.

Authority. Arkansas Code § 6-18-2307.

6 CAR § 600-108. Pledged withholding amounts.

If a donor intends to contribute to an SGO by means of a payroll deduction being withheld from their wages by their employer under Arkansas Code § 6-18-2308, the SGO may require additional records showing the donor's:

- (1) Employer;
- (2) Work history; and
- (3) Any additional information necessary to establish a payroll deposit.

Authority. Arkansas Code § 6-18-2307.