SECRETARY OF STATE
Office of Business Services
(Amended After Comments)

30 KAR 1:060. Scholarship Granting Organizations.

RELATES TO: KRS 14A.1-070, 158.030, 325.290, 26 U.S.C. secs. 25F, 501, 530, 26 C.F.R. §§ 1.25F-1T, 1.25F-4T, 1.25F-5T, KRS 14.125 , KRS 14A.2-050, 14A.2-060

STATUTORY AUTHORITY: KRS 14.125(3) , KRS 14A.2-050(3), 14A.2-060(1)(p)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation is in compliance with the requirements of 2025 Ky. Acts ch. 6, Section 8(2). This administrative regulation is being promulgated to meet the January 1 deadline established by 2026 Ky. Acts ch. 4 for submission of the list described in 26 U.S.C. § 25F(g).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 14.125(1)(d) requires the Secretary of State to submit to the Internal Revenue Service the list described in 26 U.S.C. sec. 25F(g). KRS 14.125(3) authorizes the Secretary of State to promulgate administrative regulations to implement KRS 14.125. This administrative regulation establishes an annual declaration, filing fee, supporting documentation for organizations with recognized or pending federal tax-exempt status, financial and programmatic audit requirements after an organization's first year of SGO operations, and procedures for inclusion on the annual list submitted to the Internal Revenue Service.

Section 1. Definitions.

(1) "Eligible expenses" has the same meaning as set forth in 26 U.S.C. sec. 530(b)(3)(A).

(2) "Eligible student" has the same meaning as set forth in 26 U.S.C. sec. 25F(c)(2).

(3) "Entity" is defined by KRS 14A.1-070(7).

(4) "Foreign entity" is defined by KRS 14A.1-070(10).

(5) "Qualified contributions" has the same meaning as set forth in 26 U.S.C. sec. 25F(c)(3).

(6) "Scholarship Granting Organization" or "SGO" has the same meaning as set forth in 26 U.S.C. sec. 25F(c)(5).

(7) "School" means:(a) A common school as defined by KRS 158.030(1); or

(b) A nonpublic school as defined by 704 KAR 3:315, including schools such as a private, parochial, home-based, homeschool, or church school;

(c) A public charter school as defined by KRS 160.1590(14); or

(d) Any other school providing elementary or secondary education, kindergarten through grade twelve, as determined under Kentucky law.

(8) "Student" means a student enrolled in kindergarten through grade twelve (K–12) who is subject to compulsory attendance requirements pursuant to KRS 158.030.

Section 2. Filing Procedures.

(1) An entity or foreign entity seeking inclusion on the list submitted by the Secretary of State to the Internal Revenue Service pursuant to 26 U.S.C. sec. 25F as a Scholarship Granting Organization shall file the ["]Declaration of Scholarship Granting Organization["].

(2) The declaration shall be filed annually with the Secretary of State no later than November 30 preceding each calendar year for which the entity or foreign entity seeks inclusion on the list submitted by the Secretary of State to the Internal Revenue Service

(3) Each initial declaration shall be accompanied by:

(a) A copy of a favorable determination letter issued by the Internal Revenue Service recognizing the entity or foreign entity as an organization described in 26 U.S.C. Section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under 26 U.S.C. Section 501(a) of the Internal Revenue Code; or, if permitted

by applicable federal law or regulation, proof that an application on IRS Form 1023 or other federally accepted application for recognition under Section 501(c)(3) remains pending, together with all information, documentation, representations, and certifications required by 26 C.F.R. 1.25F-5T or successor federal law or regulation for the Secretary of State to report an organization with a pending application; and

(b) The $15 filing fee established by KRS 14A.2-060(1)(p). An entity filing with a pending application shall notify the Secretary of State promptly of the approval, denial, withdrawal, or other disposition of its application and submit any determination letter received.

(4) The Secretary of State shall annually submit to the Internal Revenue Service a list consisting of entities and foreign entities that have satisfied the filing requirements of this administrative regulation, or that are otherwise required to be included pursuant to applicable federal law or regulation. Acceptance of evidence of a pending tax-exempt application shall not constitute federal recognition of tax-exempt status, and an organization with a pending application shall be reported or included only as authorized by applicable federal law or regulation.

(5) Acceptance of a filing by the Secretary of State shall not constitute a determination that the entity or foreign entity satisfies the requirements of 26 U.S.C. sec. 25F.

Section 3. Annual Audit Filing Requirement.

(1) An entity or foreign entity seeking continued inclusion on the annual list shall submit the declaration required by Section 2 by November 30 each year. Beginning with the first annual declaration filed after the completion of its first full taxable year during which it operated as a Scholarship Granting Organization, and with each subsequent annual declaration, the entity or foreign entity shall submit an independent financial and programmatic audit covering the most recently completed taxable year for which an audit is due under applicable federal law or regulation. The audit shall be performed by a certified public accountant licensed pursuant to KRS 325.290, or as otherwise authorized or permitted by applicable federal law or regulation.

(2) The audit shall accompany the annual declaration and shall not require a separate filing fee in addition to the $15 declaration filing fee established by KRS 14A.2-060(1)(p).

(3) The audit shall provide the financial and programmatic verification required by 26 U.S.C. sec. 25F and applicable federal law or regulation for the taxable year covered by the audit, including, to the extent applicable, verification that the Scholarship Granting Organization:

(a) Maintained one or more separate accounts exclusively for qualified contributions;

(b) Awarded scholarships to at least ten (10) eligible students that did not all attend the same school;

(c) Spent not less than 90 percent of the income of the organization on scholarships for eligible students, as required by 26 U.S.C. sec. 25F(d)(1)(B) and applicable federal regulations;

(d) Used scholarship funds only for eligible expenses;

(e) Applied scholarship selection criteria that prevented earmarking or setting aside qualified contributions for the benefit of any particular student while giving priority to students that were awarded a scholarship the previous year and students who have a sibling who was awarded a scholarship from the SGO;

(f) Verified the household income and family size of students that applied for scholarships and that the students that were awarded scholarships did not exceed 300 percent of the area median gross income;

(g) Maintained recognition by the Internal Revenue Service as an organization described in 26 U.S.C. Section 501(c)(3) of the Internal Revenue Code and exempt

from federal income taxation under 26 U.S.C. Section 501(a) of the Internal Revenue Code during the audited period, subject to the treatment of pending applications under applicable federal law or regulation; and

(h) Did not award scholarships to disqualified persons, as determined pursuant to 26 U.S.C. sec. 25F(d)(2).

(4) The audit shall be open to public inspection and copying under the Kentucky Open Records Act, KRS 61.870-61.884; however, no personally identifiable information concerning the identity of students or the income eligibility of any particular student's household shall be included in the audit.

(5) An entity or foreign entity that fails to submit the declaration or an audit required by this administrative regulation shall not be included on the annual list submitted by the Secretary of State to the Internal Revenue Service, except as otherwise required or permitted by applicable federal law or regulation. The Secretary of State shall notify an entity of a deficiency and provide an opportunity to correct the deficiency before exclusion or removal, to the extent consistent with applicable federal reporting deadlines and procedures.

Section 4. Incorporation by Reference.

(1) "Declaration of Scholarship Granting Organization", November 2026, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Secretary of State's office, 1025 Capital Center Drive, Suite 201, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or may be obtained from the Secretary of State's website at http://www.sos.ky.gov.

MICHAEL G. ADAMS, Secretary of State

APPROVED BY AGENCY: November 12, 2026
FILED WITH LRC: November 12, 2026 at 4:10 p.m.