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 U.S.C. § 25F,~~] 26 C.F.R. §§ 1.25F-1T, 1.25F-4T, 1.25F-5T, KRS 14.125 [~~2026 Ky. Acts ch. 4~~]**, KRS 14A.2-050, 14A.2-060

STATUTORY AUTHORITY: **KRS 14.125(3) [~~2026 Ky. Acts ch. 4, Section 1(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) [~~House Bill 1 (2026 RS)~~]** requires the Secretary of State to submit to the Internal Revenue Service the list described in **26 U.S.C. sec.[~~26 U.S.C. §~~]** 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[~~the filing procedures,~~]** declaration**[~~form~~]**, filing fee, **supporting documentation for organizations with recognized or pending federal tax-exempt status, financial and programmatic[~~annual~~]** audit **[~~filing~~]** requirement**s after an organization's first year of SGO operations**, and **procedures[~~annual process~~]** for inclusion on the **annual** list submitted **[~~by the Secretary of State~~]** to the Internal Revenue Service.

Section 1. Definitions.

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

(2) "Eligible student" has the same meaning as set forth in **26 U.S.C. sec.[~~26 U.S.C. §~~]** 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.[~~26 U.S.C. §~~]** 25F(c)(3).

(6) "Scholarship Granting Organization" or "SGO" has the same meaning as set forth in **26 U.S.C. sec.[~~26 U.S.C. §~~]** 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[~~but not limited to~~]** a private, parochial, home-based, **homeschool, or** church school**[~~, or charter 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.[~~26 U.S.C. §~~]** 25F as a Scholarship Granting Organization shall file the ["]Declaration of Scholarship Granting Organization["]**[~~, incorporated by reference in this administrative regulation~~]**.

(2) The declaration shall be filed **annually** with the Secretary of State no later than November 30 **preceding each calendar year for ~~[prior to the first year in]~~**which the entity or foreign entity seeks inclusion on the list submitted by the Secretary of State to the Internal Revenue Service**~~[pursuant to this administrative regulation.]~~**

(3) **Each initial declaration shall be accompanied by: ~~[The filing 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)~~[Section 501(c)(3)]~~** of the Internal Revenue Code and exempt from federal income taxation under **26 U.S.C. Section 501(a)~~[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 ~~[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.~~[26 U.S.C. §]~~** 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 ~~[Beginning in the calendar year following inclusion on the list submitted by the Secretary of State to the Internal Revenue Service pursuant to this administrative regulation, each Scholarship Granting Organization shall annually file with the Secretary of State, no later than November 30, an independent audit prepared]~~** 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~~[be accompanied by 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, ~~[include the certified public~~**

~~accountant's verification that the Scholarship Granting Organization satisfied the requirements of 26 U.S.C. § 25F during the prior calendar year, including~~]verification that the Scholarship Granting Organization:

(a) **Maintained** ~~[maintained]~~ one or more separate accounts exclusively for qualified contributions;

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

(c) **Spent** ~~[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** ~~[used]~~ scholarship funds only for eligible expenses;

(e) **Applied** ~~[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** ~~[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; ~~[and]~~

(g) **Maintained recognition** ~~[continued throughout the prior calendar year to be recognized]~~ by the Internal Revenue Service as an organization described in **26 U.S.C. Section 501(c)(3)**~~[Section 501(c)(3)]~~ of the Internal Revenue Code and exempt from federal income taxation under **26 U.S.C. Section 501(a)**~~[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**~~[section]~~ 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.**~~[pursuant to this administrative regulation.]~~

Section 4. Incorporation by Reference.

(1) ~~[The following material is incorporated by reference:]~~ ~~[(a)]~~ "Declaration of Scholarship Granting Organization", **November 2026, is incorporated by reference.** ~~[July 2026.]~~

(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**~~[700 Capital Avenue, State Capitol, Suite 152, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Michael R. Wilson, Director, Office of Business Services, Phone: (502) 782-7422, Email: mwilson@sos.ky.gov

Subject Headings:

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the procedures by which an entity or foreign entity may seek inclusion on the annual list of Scholarship Granting Organizations submitted by the Secretary of State to the Internal Revenue Service pursuant to 26 U.S.C. § 25F(g). The regulation requires an annual declaration, establishes the applicable filing fee, permits documentation of recognized or pending federal tax-exempt status consistent with federal law, and requires an independent financial and programmatic audit following an organization's first year of operations as a Scholarship Granting Organization.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to implement KRS 14.125, enacted by 2026 Ky. Acts ch. 4 (House Bill 1).

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation establishes the filing procedures, annual declaration, supporting documentation, audit requirements, and annual reporting process necessary to implement the duties assigned to the Secretary of State by KRS 14.125 and 26 U.S.C. § 25F.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides a standardized process for receiving, reviewing, maintaining, and transmitting Scholarship Granting Organization filings using the existing business filing infrastructure administered pursuant to KRS Chapter 14A.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

N/A.

(b) The necessity of the amendment to this administrative regulation:

N/A.

(c) How the amendment conforms to the content of the authorizing statutes:

N/A.

(d) How the amendment will assist in the effective administration of the statutes:

N/A.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?Yes. This administrative regulation implements 2026 Ky. Acts ch. 4 (House Bill 1).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The regulation affects nonprofit entities and foreign nonprofit entities seeking inclusion on the annual list submitted by the Secretary of State to the Internal Revenue Service as Scholarship Granting Organizations pursuant to 26 U.S.C. § 25F.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

An entity or foreign entity seeking inclusion on the annual list shall file the Declaration of Scholarship Granting Organization by November 30 preceding each calendar year for which inclusion is sought and pay the statutory $15 filing fee. An initial declaration shall be accompanied by a favorable IRS determination letter or evidence of a pending application for recognition under Section 501(c)(3) of the Internal Revenue Code, as permitted by applicable federal law or regulation. An organization with a pending application shall provide its determination letter upon receipt. Following its first year of operations as a Scholarship Granting Organization, the organization shall submit the required independent financial and programmatic audit with its annual declaration, in accordance with Section 3.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

Each organization shall incur the statutory $15 filing fee for each annual declaration. Organizations required to submit an independent financial and programmatic audit will also incur the cost of obtaining that audit. Audit costs will vary depending upon the organization's size, financial activity, accounting practices, and applicable federal auditing requirements. No separate filing fee is imposed for an audit submitted with the annual declaration.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Compliance enables an eligible entity or foreign entity to seek inclusion on Kentucky's annual list of Scholarship Granting Organizations submitted to the Internal Revenue Service pursuant to 26 U.S.C. § 25F, subject to applicable federal eligibility and reporting requirements. (6) Provide an estimate of how much it will cost to implement this administrative regulation:

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Minimal administrative costs are anticipated.

(b) On a continuing basis:

Minimal continuing administrative costs are anticipated.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Existing resources of the Office of the Secretary of State together with filing fee revenue authorized by statute.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation references the $15 filing fee established by KRS 14A.2-060(1)(p) and does not establish or increase any fees.

(10) TIERING: Is tiering applied?

Tiering is not applied because the administrative regulation establishes uniform filing and eligibility requirements for similarly situated entities and foreign entities seeking inclusion on the annual list. Differences in audit timing are based upon the organization's period of operations as a Scholarship Granting Organization and the applicable federal requirements, rather than discretionary classifications established by the Office.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 14.125; KRS 14A.2-050(3); KRS 14A.2-060(1)(p); 26 U.S.C. § 25F; and applicable federal regulations governing state identification and certification of Scholarship Granting Organizations, including 26 C.F.R. § 1.25F-5T.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

Yes. This administrative regulation is expressly authorized by KRS 14.125, enacted by 2026 Ky. Acts ch. 4 (House Bill 1).

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

Office of the Secretary of State, Office of Business Services.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:Administrative expenditures associated with implementation are expected to be minimal and will be supported by the filing fee authorized by statute.

For subsequent years:Continuing administrative expenditures are expected to be minimal and will be supported by the filing fee authorized by statute.

2. Revenues:

For the first year:Miscellaneous filing fee revenue may be generated pursuant to KRS 14A.2-060(1)(p).

For subsequent years:Continuing miscellaneous filing fee revenue may be generated pursuant to KRS 14A.2-060(1)(p).

3. Cost Savings:

For the first year:None anticipated.

For subsequent years:None anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

None.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:None.

For subsequent years:None.

2. Revenues:

For the first year:None.

For subsequent years:None.

3. Cost Savings:

For the first year:None.

For subsequent years:None.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
Nonprofit entities and foreign nonprofit entities seeking inclusion on the list of Scholarship Granting Organizations submitted by the Kentucky Secretary of State to the Internal Revenue Service pursuant to 26 U.S.C. § 25F. (b) Estimate the following for each regulated entity identified in (5)(a):

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:Each entity or foreign entity seeking inclusion on the annual list will incur the statutory $15 filing fee for submitting the Declaration of Scholarship Granting Organization. An organization may also incur incidental administrative expenses associated with preparing the declaration and obtaining documentation of its federal tax-exempt status.

For subsequent years:Each organization seeking continued inclusion on the annual list will incur the statutory $15 annual declaration filing fee. Following its first year of operations as a Scholarship Granting Organization, the organization will also incur the cost of obtaining the independent financial and programmatic audit required by the regulation. Audit costs will vary based upon the organization's size, operations, and applicable federal requirements. No separate filing fee will be imposed for an audit accompanying an annual declaration.

2. Revenues:

For the first year:None.

For subsequent years:None.

3. Cost Savings:

For the first year:None.

For subsequent years:None.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:
This administrative regulation establishes a uniform annual declaration and reporting process for Scholarship Granting Organizations pursuant to KRS 14.125 and 26 U.S.C. § 25F. The regulation will be administered through the existing business filing infrastructure of the Office of the Secretary of State. Additional administrative responsibilities include reviewing annual declarations, maintaining records of pending federal tax-exempt applications, receiving required audits, and preparing the annual list submitted to the Internal Revenue Service. The Office anticipates that these responsibilities can be performed using existing personnel and resources, supplemented by statutory filing fee revenue. Regulated organizations will incur the $15 annual declaration filing fee and, when applicable, the cost of obtaining the required independent financial and programmatic audit.

(b) Methodology and resources used to reach this conclusion:
The Office considered the duties established by KRS 14.125, applicable federal requirements under 26 U.S.C. § 25F, the statutory filing fees established by KRS

14A.2-060, anticipated filing volumes, and the existing business filing infrastructure and personnel available to administer the program. Audit expenses are expected to vary among organizations based upon their financial activity, organizational complexity, and applicable audit requirements.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

The Office does not anticipate that the administrative regulation will have a major economic impact as defined by KRS 13A.010(14), based on currently available information concerning anticipated filing volumes, statutory filing fees, administrative costs, and the scope of the regulated activity.

(b) The methodology and resources used to reach this conclusion:

This assessment is based upon anticipated participation by nonprofit organizations, the $15 statutory annual filing fee, the use of existing administrative resources, and the Office's assessment of likely compliance costs. The cost of independent audits will vary by organization and will depend in part upon applicable federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

26 U.S.C. § 25F, which establishes the federal qualified elementary and secondary education scholarship tax credit and authorizes states to elect participation by submitting an annual list of eligible scholarship granting organizations to the Internal Revenue Service.

(2) State compliance standards.

KRS 14.125 designates the Secretary of State as the official responsible for administering Kentucky's participation in the federal scholarship tax credit program. This administrative regulation establishes the procedures by which entities and foreign entities may seek inclusion on the annual list submitted to the Internal Revenue Service, including filing a Declaration of Scholarship Granting Organization, payment of the applicable filing fee, and submission of an annual independent audit.

(3) Minimum or uniform standards contained in the federal mandate.

26 U.S.C. § 25F establishes the eligibility requirements for scholarship granting organizations, including recognition under Section 501(c)(3) of the Internal Revenue Code, exemption from federal income taxation, exclusion of private foundations, segregation of qualified contributions, minimum scholarship expenditures, student eligibility requirements, restrictions on earmarking contributions, and the award of scholarships to at least ten students who do not all attend the same school. Section 25F(g) establishes the requirements for states voluntarily participating in the program to submit an annual list of qualifying organizations to the Internal Revenue Service. Applicable federal regulations and guidance establish additional procedures for state participation and administration of the program.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

This administrative regulation does not alter the substantive federal eligibility requirements established by 26 U.S.C. § 25F. However, it establishes additional state administrative procedures for organizations seeking inclusion on Kentucky's annual list, including submission of a Declaration of Scholarship Granting Organization, compliance with an annual filing deadline, payment of the applicable statutory filing fee, and submission of an independent audit.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

The additional administrative requirements are authorized by KRS 14.125 and are necessary to establish a uniform process for identifying, reviewing, and maintaining records of scholarship granting organizations seeking inclusion on Kentucky's annual list. These requirements facilitate the Secretary of State's administration of the federal scholarship tax credit program, verification of organizational eligibility, and timely submission of the annual list to the Internal Revenue Service as required by federal and state law.