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**Rules of**  
**Department of Elementary and**  
**Secondary Education**  
**Division 10—Commissioner of Education**  
**Chapter 2—Education Scholarships**

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**Title 5—DEPARTMENT OF  
ELEMENTARY AND  
SECONDARY EDUCATION**

**Division 10—Commissioner of Education  
Chapter 2—Education Scholarships**

**5 CSR 10-2.010 Scholarship Granting  
Organizations**

*PURPOSE: This rule sets forth the requirements to qualify as a scholarship granting organization to grant scholarships permitted in section 161.825, RSMo Supp. 2013 and the annual requirements, once approved.*

(1) As used in this regulation, the following terms mean:

(A) Charitable organization. Any organization which is organized and operated for any charitable purpose and no part of the net earning of the organization inures to the benefit of any private shareholder or individual member of the organization and is exempt from the payment of federal income taxes as provided in Section 501(c)(3) of the *Internal Revenue Code*;

(B) Eligible child as defined in section 161.825.2(6), RSMo; and

(C) Eligible student as defined in section 161.825.2(7), RSMo.

(2) To qualify as a scholarship granting organization, an organization must submit to the Commissioner of Education (commissioner), by November 1 of the year prior to the school year for which scholarships will be granted, documentation which demonstrates that they—

(A) Are a charitable organization; and

(B) Are exempt from federal income tax; and

(C) Do not accept contributions from any donor on behalf of any child or student with the obligation to provide support to that child or student; and

(D) Intend to provide educational scholarships to eligible students attending qualified schools as defined in section 161.825.2(11), RSMo; and/or

(E) Intend to provide scholarships to eligible children receiving services from qualified service providers as defined in section 161.825.2(12), RSMo.

(3) Within thirty (30) days of applying to be a scholarship granting organization, and before any new board members are appointed or new employees hired, the scholarship granting organization, in cooperation with the Department of Elementary and Secondary Education (department), shall conduct a criminal background check of all employees

and board of directors' members. No one shall be employed or serve on the board of directors if the background check shows they have been convicted within the previous five (5) years of a crime involving dishonesty, misappropriation of funds, theft, stealing, forgery, or fraud or are currently serving probation for a conviction of a crime involving dishonesty, misappropriation of funds, theft, stealing, forgery, or fraud.

(4) By February 1 of each year, the commissioner shall determine which organizations may be classified as scholarship granting organizations for the school year beginning July 1. The list of scholarship granting organizations shall be posted on the department's website.

(5) By March 1 of each year, scholarship granting organizations shall notify the department of its intent to provide scholarships.

(6) The scholarship granting organization shall provide each donor with a receipt in the format provided by the department for contributions made to the organization.

(A) Receipts issued by a scholarship granting organization before the commissioner has publicly announced that the child or student limit has been reached shall be valid.

(7) A scholarship granting organization may decline contributions from donors.

(8) By February 1 of each year, the scholarship granting organization shall submit to the department a list of each donor making a contribution in the prior calendar year.

(9) Within five (5) calendar days of the decision to award a scholarship to a child or student, the scholarship granting organization shall notify the commissioner of the name of the child or student, the age of the child or student, the street address of the child or student, the email address of the parent, the qualifying disability, and the amount awarded. Personally identifiable information about the child or student shall be treated as an educational record and not released to the public.

(10) Scholarship granting organizations shall distribute the scholarship payments as checks made out to the child's or student's parent and mailed to the qualified school or qualified service provider. The parent must endorse the check before it can be deposited.

(11) Scholarship granting organizations must have sufficient cash on hand on the date the

scholarship is awarded to cover the total amount of scholarship.

(12) By June 1 of each year, the scholarship granting organization shall publicly report the following information to the department:

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

(B) The total number and total dollar amount of contributions during the previous calendar year; and

(C) The total number and total dollar amount of educational scholarships awarded during the previous calendar year to eligible students by qualifying disability; and

(D) The total number and total dollar amount of educational scholarships awarded during the previous calendar year to eligible children by qualifying disability; and

(E) The total number and total dollar amount of educational scholarships awarded during the previous calendar year to students eligible for free and reduced lunch; and

(F) The total number of schools and providers that had to provide documentation for using student, teacher, teaching, or school influences that has not been determined by analysis to rank in the desired zone of effect as evaluated by John Hattie as set forth in his book *Visible Learning* or subsequent published research.

(13) Annually, by August 1 of each year, each scholarship granting organization shall submit to the department an annual assurance statement assuring that—

(A) At least ninety percent (90%) of its revenue from donations are spent on educational scholarships;

(B) All revenues from interest or investment is spent on educational scholarships;

(C) Scholarships provided do not and will not exceed an average of fifty thousand dollars (\$50,000) per eligible student;

(D) Scholarships provided do not and will not exceed an average of twenty thousand dollars (\$20,000) per eligible child;

(E) Scholarships awarded are portable and can be used at any qualified school that accepts the student;

(F) Scholarships awarded are portable and can be used at any qualified service provider;

(G) Parents have been informed that accepting a scholarship releases the department and the local school district from the obligation to provide the student with a free appropriate public education for that school year; and

(H) All schools or service providers accepting scholarship funds from the scholarship granting organization shall—

1. Comply with all health and safety



laws and codes that apply to nonpublic schools or service providers;

2. Hold a valid occupancy permit if required by the municipality where located;

3. Provide academic accountability to parents by reporting at least quarterly to parents on the child's or student's progress;

4. Adhere to the recommendations of the Missouri Autism Guideline Initiative when serving a child or student with a diagnosis of autism spectrum disorder or an Individualized Education Program (IEP) based on autism spectrum disorder;

5. Not use any interventions with a child or student with a diagnosis of autism spectrum disorder or an IEP based on autism spectrum disorder that have been found ineffective by the commission on Medicare as described in the Missouri Autism Guidelines Initiative Guide to Evidence-based Interventions;

6. Provide documentation in the child's or student's record of the rationale for using any intervention that is categorized as unestablished, insufficient evidence, or level three (3) by the Missouri Autism Guidelines Initiative Guide to Evidence-based Interventions;

7. When providing education services or behavior strategies to a scholarship recipient with a diagnosis of Down syndrome, Angelman syndrome, or cerebral palsy, use student, teacher, teaching, and school influences that rank in the zone of desired effects as evaluated by John Hattie or document to the scholarship granting organization why it used a method not in the zone of desired effects;

8. When providing education services or behavior strategies to a scholarship recipient with an individualized family services program based on Down syndrome, Angelman syndrome, or cerebral palsy, use the teaching methods that rank in the zone of desired effects as evaluated by John Hattie or document to the scholarship granting organization why it used a method not in the zone of desired effects.

(14) Annually, by August 1 of each year, each scholarship granting organization shall demonstrate its financial accountability by submitting to the department—

(A) A financial information report prepared by a certified public accountant (CPA) that complies with Generally Accepted Accounting Principles (GAAP); and

(B) Certification from an auditor that the financial information report is free from material misstatements.

(15) By August 1 of each year, any scholarship granting organization willing to receive donations in excess of fifty thousand dollars (\$50,000) per year, shall demonstrate its finan-

cial viability by filing with the department—

(A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(B) Financial information that demonstrates the financial viability of the scholarship granting organizations including financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP).

(16) Annually, by April 1 of each year, the scholarship granting organization shall survey scholarship recipients and their parents. Results of the survey shall be made available to the department on request. The survey should determine—

(A) Children's or students' satisfaction with the program;

(B) Parent's satisfaction with the program;

(C) Whether the students were bullied or harassed in their current placement and in their prior placement because of their autism spectrum disorder, Down syndrome, Angelman syndrome, or cerebral palsy, using the definitions of bullied and harassed found in section 160.775, RSMo;

(D) The class size of the current school; and

(E) Whether the student exhibited behavior problems at their current placement which had been identified in the last IEP, and, if so, how frequently.

(17) The department may hold a hearing seeking to bar a scholarship granting organization from participating in the scholarship program if the department believes the scholarship granting organization has intentionally and substantially failed to comply with statutory and regulatory requirements—

(A) The hearing will be held by the commissioner or the commissioner's designee;

(B) The department has the burden to prove the intentional violation of the statutes or regulations;

(C) A decision shall be issued within thirty (30) days of the conclusion of the hearing;

(D) A scholarship qualifying organization barred from the program can appeal the commissioner's or commissioner's designee's decision to the administrative hearing commission;

(E) If the scholarship granting organization is barred from participating in the program, the department shall notify affected scholarship children or students and their parents of the decision within fifteen (15) days.

*AUTHORITY: sections 161.092 and 161.825.12, RSMo Supp. 2013.\* Original*

*rule filed Oct. 29, 2013, effective May 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003, 2013.*

**5 CSR 10-2.020 Scholarships**

*PURPOSE: This rule sets forth the requirements for scholarships permitted in section 161.825, RSMo Supp. 2013.*

(1) By May 1 of each year, the Commissioner of Education (commissioner) shall determine the maximum number of scholarships available to eligible students with autism spectrum disorder, Down syndrome, Angelman syndrome, and cerebral palsy who have Individualized Education Programs (IEPs).

(2) By May 1 of each year, the commissioner shall determine the maximum number of scholarships available to eligible children age birth to five (B-5) with autism spectrum disorder, Down syndrome, Angelman syndrome, and cerebral palsy.

(3) The commissioner shall publicly announce and post on the Department of Elementary and Secondary Education (department) website the number of scholarship opportunities available each year in each category.

(4) The commissioner shall keep a running tally of the number of scholarships granted in the order in which they were reported. When the annual limit for each category is reached, the commissioner shall notify all participating scholarship granting organizations that they shall not issue any more scholarships in that category. When the annual limit of both categories is reached, the commissioner shall notify all participating scholarship granting organizations that they shall not issue any more receipts for contributions.

(5) Scholarships awarded by a scholarship granting organization shall not exceed an average of fifty thousand dollars (\$50,000) per eligible student.

(6) Scholarships awarded by a scholarship granting organization shall not exceed an average of twenty thousand dollars (\$20,000) per eligible child.

(7) If a child or student who has received a scholarship transfers to a new qualified school or a different qualified service provider, the scholarship can be prorated between the schools or providers.



(8) Scholarships cannot be awarded to a student to attend a school with paid staff or board members who are related to the student within the first degree of consanguinity or affinity.

(9) Scholarships cannot be awarded to a child to receive services from a qualified service provider with paid staff or board members who are related to the child within the first degree of consanguinity or affinity.

(10) Definitions—as used in this regulation, the following terms shall mean:

(A) Category means either eligible child or eligible student as defined in section 161.825, RSMo;

(B) Eligible child as defined in section 161.825.2(6), RSMo; and

(C) Eligible student as defined in section 161.825.2(7), RSMo.

*AUTHORITY: sections 161.092 and 161.825.12, RSMo Supp. 2013.\* Original rule filed Oct. 29, 2013, effective May 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003, 2013.*

### 5 CSR 10-2.030 Eligibility for Scholarships

*PURPOSE: This rule sets forth the requirements to be eligible for scholarships permitted in section 161.825, RSMo Supp. 2013.*

(1) There are two (2) ways for a child to be eligible for the scholarship program in section 161.825, RSMo—

(A) Currently enrolled in the First Steps Program (Individuals with Disabilities Education Act (IDEA) Part C) and—

1. They are birth to age five (B-5); and
2. They live in Missouri; and

3. They have an individualized family services plan (IFSP) as a part of the First Steps Program; and

4. The parent or guardian has completed the complaint procedure under the IDEA Part C and received an unfavorable response as defined herein;

(B) Not participating in the First Steps Program (IDEA Part C) and—

1. They are birth to age five (B-5); and
2. They live in Missouri; and

3. They have been evaluated for, and a qualified health professional has determined they have, autism spectrum disorder, Down syndrome, Angelman syndrome, or cerebral palsy, and they have a developmental delay of less than fifty percent (50%) but greater than twenty-five percent (25%) as measured by

appropriate diagnostic measures and procedures conducted by a qualified health professional.

(2) A student is eligible for the scholarship program in section 161.825, RSMo if—

(A) They have an Individualized Education Program (IEP) based on autism spectrum disorder, Down syndrome, Angelman syndrome, or cerebral palsy; or

(B) They have a medical diagnosis by a qualified health professional of autism spectrum disorder, Down syndrome, Angelman syndrome, or cerebral palsy; and

(C) They attended public school in Missouri the semester preceding the semester they desire to utilize the scholarship; or

(D) They will be attending school in Missouri for the first time; and

(E) They will be attending an elementary or secondary school; and

(F) They are age five to twenty-one (5-21) and have never received a high school diploma.

(3) As used in this regulation, the following terms mean—

(A) Qualified health professional—

1. An individual having a current license in good standing as a physician issued by the Missouri Board of Healing Arts who has examined, assessed, or evaluated the child or student; or

2. An individual having a current license in good standing as a psychologist issued by the Missouri state committee of psychologists who has examined, assessed, or evaluated the child or student; or

3. An individual having a current license in good standing as a clinical social worker issued by the Missouri State Committee for Social Workers who has examined, assessed, or evaluated the child or student;

(B) Unfavorable response. A decision by an independent hearing officer following the filing of a due process complaint that found the child the subject of the complaint was not eligible for services from the First Steps Program or found that the First Steps Program was not required to provide the services requested in the due process complaint.

*AUTHORITY: sections 161.092 and 161.825.12, RSMo Supp. 2013.\* Original rule filed Oct. 29, 2013, effective May 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003, 2013.*