

§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving scholarship grants.

(a) A nonpublic school that accepts eligible students receiving scholarship grants shall comply with the following:

- (1) Provide to the Authority documentation for required tuition and fees charged to the student by the nonpublic school.
- (2) Provide to the Authority a criminal background check conducted for the staff member with the highest decision-making authority, as defined by the bylaws, articles of incorporation, or other governing document. Information provided to the Authority in accordance with this subdivision is privileged information and is not a public record but is for the exclusive use of the Authority.
- (3) Provide to the parent or guardian of an eligible student, whose tuition and fees are paid in whole or in part with a scholarship grant, an annual written explanation of the student's progress, including the student's scores on standardized achievement tests.
- (4) Administer, at least once in each school year, tests as provided in this subdivision. Test performance data shall be submitted to the Authority by July 15 of each year. Test performance data reported to the Authority under this subdivision is not a public record under Chapter 132 of the General Statutes. Tests shall be administered to all eligible students enrolled in grades three and higher whose tuition and fees are paid in whole or in part with a scholarship grant as follows:
 - a. The nationally standardized test designated by the Authority in grades three and eight.
 - b. The ACT in grade 11.
 - c. A nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of the nonpublic school in all other grades four and higher. For grades four through seven, the nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling, and mathematics. For grades nine, 10, and 12, the nationally standardized test or other equivalent measurement selected must measure either (i) achievement in the areas of English grammar, reading, spelling, and mathematics or (ii) competencies in the verbal and quantitative areas.
- (5) Provide to the Authority graduation rates of the students receiving scholarship grants in a manner consistent with nationally recognized standards.
- (6) Contract with a certified public accountant to perform a financial review, consistent with generally accepted methods of accounting or any other comprehensive basis of accounting recognized by the American Institute of Certified Public Accountants (AICPA) for each school year in which the school enrolls 70 or more students receiving scholarship grants or scholarship funds awarded by the Authority.
- (7) Maintain a school facility within the State where in-person instruction is provided. This subdivision does not prohibit a school from offering remote-only courses of instruction in addition to in-person instruction.
- (8) Provide the following information annually to the Division:
 - a. Name and address of the school, including physical location address.
A school with more than one physical location shall establish a

separate notice of intent for each physical location and shall provide all information required by this subdivision for each physical location.

- b. The name of the owners and chief administrator.
- c. Number of students in attendance at the school as of October 1.

(b) A nonpublic school that accepts students receiving scholarship grants shall not require any additional fees based on the status of the student as a scholarship grant recipient.

(c) A nonpublic school enrolling more than 25 students in any grade whose tuition and fees are paid in whole or in part with a scholarship grant shall provide and retain information on student test performance in each grade with more than 25 students, as follows:

- (1) Report to the Authority on the aggregate standardized test performance of eligible students in grades three, eight, and 11. Aggregate test performance data reported to the Authority which does not contain personally identifiable student data shall be a public record under Chapter 132 of the General Statutes. Test performance data may be shared with public or private institutions of higher education located in North Carolina and shall be provided to an independent research organization selected by the Authority for research purposes as permitted by the Federal Education Rights and Privacy Act, 20 U.S.C. § 1232g.
- (2) Retain standardized test performance data for eligible students in all other grades and annually certify to the Authority compliance with the requirements of subdivision (4) of subsection (a) of this section.

(c1) A nonpublic school shall not discriminate with respect to the categories listed in 42 U.S.C. § 2000d, as that statute read on January 1, 2014.

(d) If the Authority determines that a nonpublic school is not in compliance with the requirements of this section, the nonpublic school shall be ineligible to receive future scholarship funds. The nonpublic school shall notify the parent or guardian of any enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to receive future scholarship grants. The Authority shall establish by rule a process for a nonpublic school to appeal for reconsideration of eligibility after one year. To ensure compliance, the Board of Directors of the Authority shall review the criminal history provided under subdivision (2) of subsection (a) of this section to ensure that the person has not been convicted of any crime listed in G.S. 115C-332. The Board shall determine through this review whether the nonpublic school is noncompliant with this section. The Board shall make written findings with regard to how the criminal history information was used when making the compliance determination. The Board of Directors may delegate any of the duties in this subsection to the Executive Director of the Authority. As part of its review, the Board shall determine whether the results indicate that the staff member has any of the following disqualifying characteristics:

- (1) Poses a threat to the physical safety of students or personnel.
- (2) Demonstrates that he or she does not have the integrity or honesty to fulfill his or her duties in overseeing State funds and the requirements of the scholarship grant program.
- (3) Has not fully satisfied the criminal sentencing obligations imposed following his or her conviction by a court of competent jurisdiction.

(e) If a nonpublic school terminates operation during the school's regular schedule and fails to (i) report the date of the closure to the Division within 14 days and (ii) return funds owed to the Authority in a timely manner for students who received scholarship grants, any other nonpublic school opened during that school year or subsequent school years by an owner or chief administrator listed in the report submitted to the Division under subdivision (8) of subsection (a) of this section for that closed school shall be ineligible to receive scholarship grants until such time the Authority determines the obligation to return those funds has been satisfied. (2013-360,

s. 8.29(a); 2014-100, s. 8.25(d), (d1); 2021-111, s. 1(c); 2022-74, s. 8A.5(a)-(c); 2023-134, ss. 7.80(c), (d), 8A.6(e), 8A.12(a), 8A.16(b); 2024-1, ss. 2.7, 2.15(b).)