



Act 85 and the Opportunity Scholarship Tax Credit Program

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In June 2012 Governor Corbett signed Act 85 which amends the Tax Reform Code of 1971 to establish the Opportunity Scholarship Tax Credit Program. The Opportunity Scholarship Tax Credit Program gives corporations significant tax credits for contributing to an “opportunity scholarship” program that provides grants to students who reside within the attendance boundaries of a “low achieving school.”¹ The “opportunity scholarship” can be used to pay for a student from a low achieving school to attend a participating nonpublic school or a participating public school outside of the student’s home district.

In order to determine which students are eligible to receive opportunity scholarships, the Department must create a list of low achieving schools each year. When a school is labeled low achieving, the district must notify all parents of school-age students living within the school’s attendance boundary that they may qualify for an “opportunity scholarship.” Students who live within the school’s attendance boundaries are eligible for an “opportunity scholarship” if they:

- Currently attend the low-achieving school; or
- Are currently enrolled in a non-public school; or
- Were previously home schooled; or
- Previously attended a charter or cyber charter school.

Certain income restrictions also apply. In order to be eligible, students must have a household income that does not exceed \$60,000, plus \$12,000 for each dependent member of the household through June 30, 2013, or does not exceed \$75,000 plus \$15,000 for each dependent member of the household after June 30, 2013. For students with disabilities, additional adjustments apply.²

“Opportunity scholarships” are awarded to students by non-profit scholarship organizations that are established to receive corporate contributions and administer the scholarships. The scholarship organization accepts student applications, reviews each student’s eligibility for the program, confirms the participation of the school the child will attend, and approves issuance of an “opportunity scholarship.” If demand exceeds supply, scholarship organizations must use priority criteria established in the law to distribute funds to students. Scholarship organizations also decide on the size of each individual scholarship, although the maximum annual amount of each scholarship cannot exceed \$8,500 per student (or \$15,000 if a student has a diagnosed

¹ A “low-achieving school” is a Pennsylvania public school (excluding charter schools, cyber charter schools, and area vocational-technical schools) that ranks in the bottom 15 percent of elementary or secondary schools on combined math and reading scores on the most recent PSSA or Keystone results. PDE will issue an annual list of “low achieving schools;” for 2012-13, PDE has produced a list of 430 “low achieving schools, 160 of which are in the School District of Philadelphia.

² These amounts are inflation adjusted after 2013-14.

disability). In no case can the amount of the “opportunity scholarship” exceed the tuition rate and school-related fees of the receiving school.

In order to accept students on “opportunity scholarships,” a school must be a public or nonpublic school in the Commonwealth that: 1) is not designated as “low achieving;” and 2) declares its intent to PDE to enroll students on “opportunity scholarships” in the forthcoming school year. In addition, a participating public school cannot enroll resident students (from its other district schools) using “opportunity scholarships.”

Participating **public** schools must enroll eligible scholarship students on a lottery basis (existing recipients and siblings of current students shall be given priority). Participating **private** schools may not discriminate in ways that are prohibited in federal and state laws pertaining to nonpublic schools, but they may limit participation in prescribed ways, for example, to specific grade levels, areas of concentration, or ability levels; or single-sex applicants.

An individual business can obtain tax credits of up to \$400,000 in 2012-13 for contributions made to “opportunity scholarships” and up to \$750,000 for each fiscal year following 2012-13. State tax credits may be granted for up to 90 percent of the total amount that a business contributes to the “opportunity scholarship” program. Corporations may also qualify for federal tax deductions for “charitable contributions” to the “opportunity scholarship” program. Overall, Act 85 allows up to \$50 million in state tax credits to be granted to corporations through the “opportunity scholarship” program in a single fiscal year.

The Opportunity Scholarship Tax Credit Program joins the Commonwealth’s existing Educational Improvement Tax Credit (EITC) program, a program that gives tax breaks to corporations that donate to a scholarship organization, educational improvement organization, and/or pre-Kindergarten scholarship program. The EITC program was first authorized in 2001, and since its inception corporate tax credits granted through the EITC program total almost \$600 million. The Opportunity Scholarship Program and EITC program combined will provide \$150 million in corporate tax breaks in fiscal year 2012-13.

For more information on the Opportunity Scholarship Tax Credit program, contact Dr. Carla Claycomb, cclaycomb@psea.org, in PSEA’s Education Services Division.