

**Application Process for School Eligibility
Educational Credit for Exceptional Needs Children
Program
School Year 2022-23**



**SC EDUCATION
OVERSIGHT COMMITTEE**

Reporting facts. Measuring change. Promoting progress.

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Application Process

Annually by March 1, the Education Oversight Committee (EOC) is required to publish on its website a list of schools that desire to participate in the Educational Credit for Exceptional Needs Children (ECENC) program and that meet the statutory requirements for participation.

Act 247 of 2018, as amended May 17, 2021, articulates the eligibility and reporting requirements that schools must follow in order to participate in the ECENC program. Act 247 of 2018 is included in the Appendix. Schools that participated in the ECENC program in the prior year as well as schools desiring to participate in the ECENC program for the first time must meet the same **program standards** and comply with the same **reporting requirements**.

Program Standards

The law defines an eligible school as “an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

- (a) offers a general education to primary or secondary school students;
- (b) does not discriminate on the basis of race, color, or national origin;
- (c) is located in this State;
- (d) has an educational curriculum that includes courses set forth in the state’s diploma requirements, graduation certificate requirements for special needs children, and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;
- (e) has school facilities that are subject to applicable federal, state, and local laws;
- (f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, or Palmetto Association of Independent Schools; and
- (g) provides a specially designed program or learning resource center to provide needed accommodations based on the needs of exceptional needs students or provides onsite educational services or supports to meet the needs of exceptional needs students, or is a school specifically existing to meet the needs of only exceptional needs students with documented disabilities.” (*Section 12-6-3790(A)(1)*)

Reporting Requirements

By law, schools that participate in the ECENC must report the following information to the EOC. This information will be posted online at the EOC's website at www.eoc.sc.gov:

(a) the number and total amount of grants received in the preceding school year;

(b) student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by the school receiving or entitled to receive scholarship grants pursuant to this section in the previous school year. ~~The school also shall provide individual student test scores on national achievement or state standardized tests, or both, for any student in grades one through twelve who received a grant from the program during the prior school year. The information must be used to provide program level reports to determine whether students participating in the program have experienced measurable improvement. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement;~~

(c) a copy of a compilation, review, or compliance audit of the organization's financial statements as relating to the grants received, conducted by a certified public accounting firm; and

(d) a certification by the independent school that it meets the definition of an eligible school as that term is defined in subsection (A)(1) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10." *(Section 12-6-3790(E)(1))*

Definitions

The EOC uses the state fiscal year, July 1 through June 30 as the definition of a school year. For example, schools applying to participate in the ECENC program for the 2022-23 school year are schools that will participate in the program between July 1, 2022 and June 30, 2023. In such case, the previous school year is defined as school year 2021-22, which began on July 1, 2021 and concluded June 30, 2022.

Timeline

Following is the timeline by which schools desiring to participate in the ECENC program must submit an application and appropriate reporting requirements. It is the responsibility of the schools to meet the reporting requirements. While the EOC will make every effort to communicate with schools, changes in administration and personnel at the school level occur. **It is the responsibility of schools participating in the ECENC program to notify the EOC either in writing or by email of changes in the names or contact information for persons responsible for submitting all required documentation to the EOC.**

<p>On or before February 1</p>	<p>Applications for participation in the ECENC program for the subsequent school year begin.</p> <p>The EOC will notify by email each school currently participating in the ECENC program that the application process is open. All current school contacts on file at the EOC are notified. The EOC will provide a document that each school must complete and submit to the EOC that guarantees that the school meets the standards and that the school will comply with all reporting requirements.</p> <p>The application must include a statement of services (Document A) at the time of application to be considered for participation in the ECENC program by February 28, 2022.</p> <p>For schools that are operated and governed under one organization, like the Catholic Diocese of Charleston, the EOC will accept one application for all schools as long as the governing body provides a list of the school names, addresses, telephone numbers, and, if available, website address of each school.</p> <p style="text-align: center;"><u>Application to Participate in ECENC Program Document A</u></p>
<p>On or before March 1</p>	<p>The EOC will publish on its website a list of schools meeting the standards and reporting requirements for participation in the ECENC program. The list will include: the school's name, addresses, telephone numbers, and, if available, website address.</p>
<p>On or before June 30</p>	<p>A school approved to participate in the program must submit to the EOC information on grants received from Exceptional SC in the prior school year:</p> <p style="text-align: center;"><u>Document B – Grants Received</u></p> <p>Failure of a school to provide Document B and the corresponding information will result in the school's removal from the program. The EOC will notify the school by email of the removal. Schools wishing to remain in the program will be required to complete a "Request for Review Form" prior to submission of required material. The EOC will also notify Exceptional SC and the South Carolina Department of Revenue of the Reinstatement of a school.</p>

<p>On or before September 1</p>	<p>A school approved to participate in the program must submit directly to the EOC by September 1, school-level assessment results from the prior school year for <u>all grades in the school</u> and for each grade with at least (10) students tested. Results should be provided for English language arts (reading) and mathematics achievement of students in each grade tested in school year 2021-22:</p> <p style="text-align: center;"><u>Document C – School-Level Assessment Data</u></p> <p>Failure of a school to provide Document C and the corresponding information will result in the school’s removal from the program. The EOC will notify the school by email of the removal. Schools wishing to remain in the program will be required to complete a “<u>Request for Review Form</u>” prior to submission of required material. The EOC will also notify Exceptional SC and the Department of Revenue of the Reinstatement of a school.</p>
<p>On or before November 15</p>	<p>A school that is approved to participate in the program in the current school year, that participated in the program in the prior school year, and that received grants from Exceptional SC in the prior school year must submit to <u>the EOC</u> a copy of a compilation, review, or compliance audit of the organization’s financial statements as relating to the grants received, conducted by a certified public accounting firm.</p> <p style="text-align: center;"><u>Audit Clarification Letter</u></p> <p>Failure of a school to provide a copy of a compilation, review, or compliance audit, conducted by a certified public accounting firm will result in the school’s removal from the program The EOC will notify the school by email of the removal. Schools wishing to remain in the program will be required to complete a “<u>Request for Review Form</u>” prior to submission of required material. The EOC will also notify Exceptional SC and the Department of Revenue of the Reinstatement of a school.</p>

NOTE: For schools that are operated and governed under one organization, like the Catholic Diocese of Charleston, the EOC will accept one application for all schools as long as the governing body provides a list of the school names, addresses, telephone numbers, and, if available, website address of each school. In addition, the EOC will accept all information required by Documents A, B and C and the compilation, review or compliance audit for schools that are operated and governed under one organization, like the Catholic Diocese of Charleston, in one document to facilitate reporting.

Documentation of Reporting Requirements

The following is additional information concerning the documents that must be submitted by schools participating in the ECENC program. The information is organized by the actual document.

Failure to provide to comply with the reporting requirements will result in the school being removed from the list of eligible schools. Schools wishing to remain in the program will be required to complete a [“Request for Review Form”](#) prior to submission of required material. The school, Exceptional SC, and the South Carolina Department of Revenue will be notified of the school’s participation in and removal from the program. Exceptional SC is the entity that awards grants for eligible students attending approved schools. The South Carolina Department of Revenue is the entity responsible for administering the Parental Refundable Tax Credit for an eligible exceptional needs child who attends an approved school.

Application to Participate in ECENC Program

The application to participate in the ECENC Program is the initial document that a school choosing to participate in the ECENC program must complete. By March 1, the EOC will publish on its website a list of schools that successfully complete this document. This document requires schools to indicate whether the school meets each program standard and whether the school intends to submit the appropriate documents for reporting requirements. The EOC reserves the right to request additional documentation to show the school is in compliance with state law.

Participation in the ECENC program does not guarantee that eligible students attending eligible schools will receive grants from Exceptional SC. Decisions on grants are made by Exceptional SC and will likely be impacted by the date when a school completes its initial application to participate in the ECENC Program. Schools are highly encouraged to meet all published deadlines.

South Carolina Education Oversight Committee (EOC)

Annual Standards Assurance Form

School Year: 2022-23

Application to Participate in Educational Credit for Exceptional Needs Children (ECENC) Program

Please complete the information requested below concerning your independent school. This information will be listed on the South Carolina Education Oversight Committee’s website, <https://eoc.sc.gov/>.

Independent School Name:	
Independent School Contact Person:	
Independent School Address:	
City, State, Zip Code:	
Independent School Telephone Number:	() -
Independent School Fax Number:	() -
Independent School E-mail Address:	
Independent School Website Address:	

Please review the standards below that are based on Act 247 of 2018. An “eligible school” is defined as “an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met.” Please indicate whether your school has met or intends to meet each standard to ensure the following academic and reporting requirements are met. The South Carolina Education Oversight Committee reserves the right to **request additional documentation** to show the school is in compliance with state law. Failure to meet these standards or reporting requirements will result in your school being denied or removed from participation in the program.

STANDARDS	YES	NO
1. Offers a general education to primary or secondary school students.	<input type="checkbox"/>	<input type="checkbox"/>
2. Does not discriminate on the basis of race, color, or national origin.	<input type="checkbox"/>	<input type="checkbox"/>
3. Is located in this State.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has an educational curriculum that includes courses set forth in the state’s diploma requirements, graduation certificate requirements for special needs children and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress.	<input type="checkbox"/>	<input type="checkbox"/>
5. Has school facilities that are subject to applicable federal, state, and local laws.	<input type="checkbox"/>	<input type="checkbox"/>
6. Is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, or the Palmetto Association of Independent Schools.	<input type="checkbox"/>	<input type="checkbox"/>
7. Provides a specially designed program or learning resource center to provide needed accommodations based on the needs of exceptional needs students or provides onsite educational services or supports to meet the needs of exceptional needs students or is a school specifically existing to meet the needs of only exceptional needs students with documented disabilities.	<input type="checkbox"/>	<input type="checkbox"/>

REPORTING REQUIREMENTS	YES	NO
<p>1. At the time of your application to participate in the program, your school must submit <u>Document A</u> to the EOC and a <u>statement of services</u> that documents your school by February 28, 2022:</p> <p>(a) provides a specially designed program or learning resource to provide needed accommodations based on the needs of exceptional needs students; or</p> <p>(b) provides onsite educational services or supports to meet the needs of exceptional needs students; or</p> <p>(c) exists specifically to meet the needs of only exceptional needs students with documented disabilities.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. Your school will submit <u>Document B</u> to the EOC by June 30, 2022 which documents the number and total dollar amount of grants received in the 2021-22 school year from Exceptional SC.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>3. Your school will submit directly to the EOC by September 1, 2022 the <u>school-level</u> assessment results for <u>all grades in the school</u> and for each grade with at least (10) students tested. Results should be provided for English language arts (reading) and mathematics achievement of students in each grade tested in school year 2021-22 on <u>Document C</u>.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>4. If your school received grants from Exceptional SC in school year 2021-22, the school would submit to the EOC a copy of a compilation, review, or compliance audit of the organization's financial statements relating to the grants received, conducted by a certified public accounting firm by November 15, 2022.</p>	<input type="checkbox"/>	<input type="checkbox"/>

I assure that all documents submitted to the SC Education Oversight Committee for the purpose of applying as an eligible school, as defined by state law, is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10 of the South Carolina Code of Laws. Failure to report to the EOC the required data will result in the school being removed from the list of approved schools.

Signature: _____

Date: _____

Print Name of Signature Above: _____

Title: _____

Email: _____

Return this form to the Education Oversight Committee

- Phone: 803.734.6148 • E-mail: hjones@eoc.sc.gov • Mail: P.O. Box 11867, Columbia, S.C. 29211
- Fax: 803.734.6167
- Physical Location: Edgar A. Brown Building, Suite 502, 1205 Pendleton Street, Columbia, SC 29201

Document A – Statement of Services

Each school must provide a statement of services that documents how the school:

- (a) provides a specially designed program or learning resource to provide needed accommodations based on the needs of exceptional needs students; **or**
- (b) provides onsite educational services or supports to meet the needs of exceptional needs students; **or**
- (c) exists specifically to meet the needs of only exceptional needs students with documented disabilities.

The statement of services must accompany the application to be considered for participation in the ECENC program.

Schools can review applications from prior years on the EOC website (www.eoc.sc.gov) to see examples of what services are provided. The purpose of this document is to substantiate that the school does serve the needs of exceptional needs children/students.

Please do not provide any Individualized Education Programs (IEPs), 504 plans, or any student-level information to the EOC. It is a violation of federal and state laws, and such information will be properly disposed of to maintain the privacy of students.

**Document A
Statement of Services**

**Educational Credit for Exceptional Needs Children (ECENC) Program
2022-23**

Independent School Name: _____

An independent school participating in the Educational Credit for Exceptional Needs Children is required to submit a Statement of Services that documents that the school **at the time of your application to participate in the program:**

- (a) provides a specially designed program or learning resource to provide needed accommodations based on the needs of exceptional needs students; or
- (b) provides onsite educational services or supports to meet the needs of exceptional needs students; or
- (c) exists specifically to meet the needs of only exceptional needs students with documented disabilities.

Please sign below and attach a statement of services.

Signature: _____

Date: _____

Print Name of Signature Above: _____

Title: _____

Email: _____

Document B – Grants Received

The first question asks how many students in kindergarten through grade 12 were enrolled in your school in the prior school year. This information is used to compare the school's enrollment with the number of students who received grants from Exceptional SC. The EOC needs this information to determine which schools have at least 51 percent of the total enrolled students participating in the ECENC program. *(Section 12-6-3790(E)(6))*

Each school must also report the number and total dollar amount of grants received by the school in the prior school year from Exceptional SC. The total number of grants is defined as the number of individual children/students who received a grant from Exceptional SC in the prior school year even if the school received more than one grant or check for a specific child/student.

If no grants for any student were received by the school in the prior year from Exceptional SC, please indicate "0" grants received and "\$0" in total amount of grants received. All schools, including schools that did not participate in the program in the prior school year, must complete this document.

Neither the EOC or its staff can answer any questions about the number and amount of grants received or questions about the status of grant applications. All questions regarding the grant process should be directed to Exceptional SC.

Please do not send any information to the EOC that lists the names of students who received grants. Submission of such personally identifiable information violates state and federal privacy laws.

**Document B
Grants Received**

**Educational Credit for Exceptional Needs Children (ECENC) Program
2022-23**

Independent School Name: _____

An independent school participating in the ECENC Program is required to submit the following information by **June 30**:

How many students in kindergarten through grade 12 were enrolled in your school in the prior school year? _____

What is the total number of grants and total amount of grants received in the prior school year from Exceptional SC? Please complete the following chart and sign below.

If no grants for any qualifying student were received from Exceptional SC in the prior school year, please indicate with "0" grants received and "\$0" in total amount of grants received from Exceptional SC.

Total Number of Grants Received	Total Amount of Grants Received
#	\$

Total number of grants is the number of individual children/students who received a grant even if the school received more than one grant for a specific child/student.

Signature: _____

Date: _____

Print Name of Signature Above: _____

Title: _____

Email: _____

If your school has failed to make the Educational Credits for Exceptional Children (ECENC) Program Standards as stated or Reporting Requirements by stated deadlines and has been removed or terminated from participation, please fill out this form and include corrections, attachments and/or letters to become eligible for reinstatement.

Request for Review

To be completed by a school administrator or program manager. Use black ink if completing by hand.

General Information		
1. Person making request:	2. School name:	
3. School address:	4. School phone number:	
Change reason		
<input type="checkbox"/> School clerical error or delay*	<input type="checkbox"/> Other <i>See attached letter of justification/explanations</i>	
Change requested:	Requested effective date:	
<p>If School error, explain in detail:</p>		
Certification		
<p>*Clerical errors made by the school administrator or program manager and delays in making stated deadlines of such documents shall not invalidate the statutory responsibility of the Education Oversight Committee (EOC) to remove or terminate the school from the ECENC Program. Upon notification of any such error or delay, the school has 10 working days to make the adjustment and/or submit required documents. Terminations or removals are processed immediately, and all related entities will be notified.</p> <p>If this request is denied, the school administrator or project manager must notify the EOC by copy of the form of your right to ask for a review by writing to the EOC within 30 days of notice of this decision.</p>		
Signature of person completing form:	Position & Email:	Date:
<input type="checkbox"/> Completed Document attached	<input type="checkbox"/> Supporting documentation attached	
For EOC use only		
<input type="checkbox"/> Approved	Effective date:	
<input type="checkbox"/> Denied	Reason for denial:	

Mail completed form to: SC Education Oversight Committee | ATTN: ECENC Program | Edgar A. Brown Building, Suite 502 | 1205 Pendleton Street | Columbia, SC 29201 | Fax: 803.734.6167 | Email: hjones@eoc.sc.gov | Questions: 803.734.2714

Document C – Assessment Data

All schools must provide **school-level assessment data by September 1** that will be reported and documented online.

Schools are asked to report which national assessments are administered at each grade level in English language arts (ELA)/reading and mathematics. If a school chooses to add other content areas, they may. At a minimum, the EOC needs to know which ELA/reading and mathematics assessments are administered.

To maintain student privacy, the EOC is requesting schools report overall student results for all grades tested in the school and for each grade with **at least 10 students tested.** If each grade tested in the school had less than 10 students in the 2021-22 school year, a statement of that fact should be put on school letterhead and signed by a program/school administrator.

Information should be provided for English language arts (reading) and mathematics achievement of students in the grade. Examples of national achievement tests include: *TerraNova, Stanford 10, Iowa Test of Basic Skills, etc.* For grades 9-12, the school may provide average PSAT, SAT, ACT, or other scores as appropriate. For schools that specifically exist to meet the needs of only exceptional needs students with documented disabilities, the EOC will work with the schools to provide information (including formative assessments, portfolios, etc.) that document the students' academic and social development.

Document C also asks for the **name of at least one individual or employee of the school** who will provide the **School-Level Assessment Results** administered on national achievement tests during the prior school year.

Document C
Assessment Data

Educational Credit for Exceptional Needs Children (ECENC) Program

2022-23

Independent School Name: _____

A school applying for participation in the ECENC Program must provide directly to the EOC by **September 1** the following:

School-level Assessment Results

In the chart below, please list the NAME of each national achievement test that was administered and the grade in which the test is administered for the prior school year. Examples include: *TerraNova, Stanford 10, Iowa Test of Basic Skills, MAP, PSAT, SAT, ACT, etc.*

For schools that specifically exist to meet the needs of only exceptional needs students with documented disabilities, please document how the school documents students' academic and social development.

Grade	English language arts (Reading)	Mathematics	Other

For each national assessment listed above and for each grade with at least 10 students tested, please attach the results from the prior school year. The manual provides a template for schools to use in reporting the achievement level in mean scale scores, national percentile rankings, stanines, etc.

The individual submitting school-level assessment information must sign below.

Signature: _____

Date: _____

Print Name of Signature Above: _____

Title: _____

Email: _____

Audit Clarification Letter

State law requires that an independent school's application to the Educational Credit for Exceptional Needs Children (ECENC) program include "a copy of a compilation, review, or compliance audit of the organization's financial statements as relating to the grants received, conducted by a certified public accounting firm." The term compliance audit refers to a determination of whether the school in the prior fiscal year complied with the requirements of the Educational Credit for Exceptional Needs Children Program.

Annually, the EOC produces an audit clarification letter that a certified public accounting firm can use to determine a school's compliance with the ECENC program by **November 15, 2022.**

Completion of the Application Process for SY2022-23

In an agreement with the SC Department of Revenue (DOR), the EOC will supply the names of schools in good standing with the ECENC Program to identify parents/taxpayers qualified for the Parental Refundable Tax Credit for Tax Year 2022. No school will be added/reinstated for the 2022-23 school year after the EOC's submission to DOR. This completion of the Application Process allows the EOC to compile the annual report that is required by Act 247 to be issued to the General Assembly. The ECENC Program Application Process for SY2023-24 will begin in January 2023.

January 10, 2022:


To Whom It May Concern:

State law requires that an independent school's application to the Educational Credit for Exceptional Needs Children (ECENC) program include "a copy of a compilation, review, or compliance audit of the organization's financial statements as relating to the grants received, conducted by a certified public accounting firm."

The term compliance audit refers to a determination of whether the school in the prior fiscal year complied with the requirements of the Educational Credit for Exceptional Needs Children Program. The certified public accounting firm confirms in writing by **November 15, 2022** that:

- the independent school can document and verify that all grants received under the Educational Credit for Exceptional Needs Children Program in 2021-22 were for eligible children enrolled in the school;
- the independent school can document the total amount of each grant per child from Exceptional SC;
- the independent school can document that no grant exceeded \$11,000 during school year 2021-22;
- the independent school returned a prorated amount of the grant to Exceptional SC if any student withdrew during the school year; and
- the total amount of each grant was used for tuition which is defined as "the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school and school-related transportation."

Sincerely,



C. Matthew Ferguson, Esq.
Executive Director

Appendix

Act 247 of 2018 as Amended May 17, 2021

Educational Credit for Exceptional Needs Children's Fund

SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12-6-3790. (A) As used in this section:

(1) "Eligible school" means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state's diploma requirements, graduation certificate requirements for special needs children, and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;

(e) has school facilities that are subject to applicable federal, state, and local laws;

(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, or Palmetto Association of Independent Schools; and

(g) provides a specially designed program or learning resource center to provide needed accommodations based on the needs of exceptional needs students or provides onsite educational services or supports to meet the needs of exceptional needs students, or is a school specifically existing to meet the needs of only exceptional needs students with documented disabilities.

(2) "Exceptional needs child" means a child:

(a) who has been evaluated in accordance with this state's evaluation criteria, as set forth in S.C. Code Ann. Regs. 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the federal Individuals with Disabilities Education Act; or

(b) who has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs.

(3) "Independent school" means a school, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.

(4) "Parent" means the natural or adoptive parent or legal guardian of a child.

(5) "Qualifying student" means a student who is an exceptional needs child, a South Carolina resident, and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the applicable school year.

(6) "Resident public school district" means the public school district in which a student resides, or in the case of dependents of active military personnel, the public school district which the student may attend.

(7) "Transportation" means transportation to and from school only.

(8) "Tuition" means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school, textbook fees, and school-related transportation.

(B)(1) There is created the "Educational Credit for Exceptional Needs Children's Fund" that is separate and distinct from the state general fund. The fund must be organized as a public charity as defined by the Internal Revenue Code under Section 509(a)(1) through (4) and consist only of contributions made to the fund. The fund may not receive an appropriation of public funds. The fund must receive and hold all contributions intended for it as well as all earnings until disbursed as provided in this section. Monies received in the fund must be used to provide scholarships to exceptional needs children attending eligible schools.

(2) The amounts on deposit in the fund do not constitute public funds and are not the property of the State. Amounts on deposit in the fund may not be commingled with public funds, and the State does not have a claim to or interest in the amounts on deposit. Agreements or contracts entered into by or on behalf of the fund do not constitute a debt or obligation of the State.

(3) The public charity disbursing contributions made to the fund is governed by five directors, two appointed by the Chairman of the House Ways and Means Committee, two appointed by the Chairman of the Senate Finance Committee, and one appointed by the Governor. The directors of the public charity shall designate an executive director of the public charity.

(4) The public charity directors shall administer the public charity including, but not limited to, the keeping of records, the management of accounts, and disbursement of the grants awarded pursuant to this section. The public charity may expend up to five percent of the fund for administration and related costs. The public charity may not expend public funds to administer the program. Information contained in or produced from a tax return, document, or magnetically or electronically stored data utilized by the Department of Revenue or the public charity in the exercise of its duties as provided in this section must remain confidential and is exempt from disclosure pursuant to the Freedom of Information Act. Personally identifiable information, as described in the Family Educational Rights and Privacy Act and individual health records, or the medical or wellness needs of children applying for or receiving grants must remain confidential and is not subject to disclosure pursuant to the Freedom of Information Act.

(5) By January fifteenth of each year, the public charity shall report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor:

(a) the number and total amount of grants issued to eligible schools in each year;

(b) the identity of the school and the amount of the grant for each grant issued to an eligible school in each year;

(c) an itemized and detailed explanation of fees or other revenues obtained from or on behalf of an eligible school;

(d) a copy of a compilation, review, or audit of the fund's financial statements, conducted by a certified public accounting firm; and

(e) the criteria and eligibility requirements for scholarship awards.

(C)(1) Grants may be awarded in an amount not exceeding eleven thousand dollars or the total annual cost of tuition, whichever is less, to a qualifying student at an eligible school. A qualifying student receiving a grant may not be charged tuition by an eligible school in an amount greater than the student would be charged if the student was not a qualifying student.

(2) Before awarding a grant, the public charity shall receive written documentation from the qualifying student's parent or guardian documenting that the qualifying student is an exceptional needs child. Upon approving the application, the public charity shall issue a check to the eligible school in the name of the qualifying student within either thirty days upon approval of the application or thirty days of the start of the school's semester.

(3) If a qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school shall return a prorated amount of the grant to the public charity based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(4) The public charity may not award grants only for the benefit of one school.

(5) The department or the public charity may not release personally identifiable information pertaining to students or donors or use information collected about donors, students, or schools for financial gain.

(6) The public charity shall develop a process to prioritize the awarding of grants to eligible incumbent grant recipients at eligible schools.

(D)(1)(a) Tax credits authorized by subsection (H)(1) and subsection (I) annually may not exceed cumulatively a total of twelve million dollars for contributions to the Educational Credit for Exceptional Needs Children's Fund, unless an increased limit is authorized in the annual general appropriations act. However, the fund may carry forward up to five million dollars of donations into the next year to provide credits in the next year. This carryforward amount does not in any way increase the cumulative tax credit amount set forth in this item for any one year.

(b) Tax credits authorized pursuant to subsection (H)(2) annually may not exceed cumulatively a total of two million dollars for tuition payments made on behalf of qualifying students, unless an

increased limit is authorized in the annual general appropriations act. However, if less than the maximum cumulative total of tax credits allowed pursuant to subitem (a) are authorized, then, the maximum cumulative total of tax credits allowed pursuant to this subitem may be increased by up to three million dollars, but the cumulative total of all tax credits authorized pursuant to this section may not be increased as a result.

(c) If the department determines that the total of the credits claimed by all taxpayers exceeds either limit amount as contained in subitems (a) or (b), it shall allow credits only up to those amounts on a first come, first-served basis.

(2)(a) The department shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department determines priority for the credit. The credit must be claimed on the return for the tax year that the contribution is made.

(b) A taxpayer may not claim more than seventy-five percent of his total tax liability for the year in contribution toward the tax credit authorized by subsection (H)(1) or subsection (I). This credit is nonrefundable. Any unused credit may be carried forward three tax years after the tax year in which the qualified contribution is first eligible to be claimed.

(c) If a taxpayer deducts the amount of the contribution on his federal return and claims the credit allowed by subsection (H)(1) or subsection (I), then he must add back the amount of the deduction for purposes of South Carolina income taxes.

(d) The department shall prescribe the form and manner of proof required to obtain the credit authorized by subsection (H)(1) or subsection (I). The department also shall develop a method of informing taxpayers if the credit limit is met any time during the tax year.

(e) A taxpayer only may claim a credit pursuant to subsection (H)(1) and subsection (I) for contributions made during the tax year.

(3) A corporation or entity entitled to a credit under subsection (H)(1) and subsection (I) may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(E)(1) By March first of each year, an independent school who participated in the program in the previous year and who desires to participate in the program in the current year shall reapply to the Education Oversight Committee. The independent school shall certify to the Education Oversight Committee that it continues to meet all program requirements and shall provide to the committee student test score data from the previous school year by June thirtieth. If student test score data is not submitted by June thirtieth, then the Education Oversight Committee shall remove the school from the program. An independent school desiring to participate in the program for the first time also shall apply by March first of each year. The Education Oversight Committee shall consult with the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, the Palmetto Association of Independent Schools, or the Diocese of Charleston to verify that the school is still a member in good standing and that the school continues to serve exceptional needs children. An independent school who did not participate in the program in the previous year but desires to participate in the program in the current year shall apply to the Education Oversight Committee. The Education Oversight Committee shall develop an application to be completed by the independent schools which must contain at least:

- (a) the number and total amount of grants received in the preceding school year;
 - (b) student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by the school receiving or entitled to receive scholarship grants pursuant to this section in the previous school year;
 - (c) a copy of a compilation, review, or compliance audit of the organization's financial statements as relating to the grants received, conducted by a certified public accounting firm; and
 - (d) a certification by the independent school that it meets the definition of an eligible school as that term is defined in subsection (A)(1) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10.
- (2)(a) The Education Oversight Committee may waive the March first deadline contained in subsection (E) upon good cause shown by an independent school.
- (b) The Education Oversight Committee may waive some or all of the curriculum requirements contained in subsection (A)(1)(d) following consultation with the advisory committee.
- (3)(a) By March first of each year the Education Oversight Committee shall publish on its website a comprehensive list of independent schools certified as eligible institutions. The list must include for each eligible institution:
- (i) the institution's name, addresses, telephone numbers, and, if available, website addresses; and
 - (ii) the score reports and compliance audits received by the committee pursuant to subsection (E)(1)(b) and (c).
- (b) The Education Oversight Committee shall summarize or redact the score reports identified in subitem (a)(ii) if necessary to prevent the disclosure of personally identifiable information.
- (4) An independent school that does not apply for certification pursuant to this subsection may not be included on the list of eligible schools and contributions to that school may not be allowed for purposes of the tax credits permitted by this section.
- (5) An independent school that is denied certification pursuant to this section may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.
- (6) Annually, the Education Oversight Committee shall issue a report to the General Assembly documenting the impact of the Educational Credit for Exceptional Needs Children Program on student achievement. In addition, the report must include information on individual schools if at least fifty-one percent of the total enrolled students in the private school participated in the Educational Credit for Exceptional Needs Children Program in the prior school year. The report must be according to each participating private school, and for participating students, in which there are at least thirty participating students who have scores for tests administered. If the Education Oversight Committee determines that the thirty participating-student cell size may be reduced without disclosing personally identifiable information of a participating student, the Education Oversight Committee may reduce the participating-student cell size, but the cell size may not be reduced to less than ten participating students.

(F)(1) The Education Oversight Committee shall establish an advisory committee made up of not more than nine members, including parents, and representatives of independent schools and independent school associations.

(2) The advisory committee shall:

(a) consult with the Education Oversight Committee concerning requests for exemptions from curriculum requirements; and

(b) provide recommendations on other matters requested by the Education Oversight Committee.

(G) Except as otherwise provided, the Department of Education, the Education Oversight Committee, and the Department of Revenue, or any other state agency may not regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this section.

(H)(1) A taxpayer is entitled to a tax credit against income taxes imposed pursuant to this chapter for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to the Educational Credit for Exceptional Needs Children's Fund up to the limits contained in subsection (D)(1)(a) if:

(a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(2)(a) A taxpayer is entitled to a refundable tax credit against income taxes imposed pursuant to this chapter for the amount of cash and the monetary value of any publicly traded securities, not exceeding eleven thousand dollars for each child, for tuition payments to an eligible school for an exceptional needs child within his custody or care who would be eligible for a grant pursuant to this section up to the limits contained in subsection (D)(1)(b).

(b) If a child within the care and custody of a taxpayer claiming a tax credit pursuant to this item also receives a grant from the Educational Credit for Exceptional Needs Children's Fund, then the taxpayer only may claim a credit equal to the difference of eleven thousand dollars or the cost of tuition, whichever is lower, and the amount of the grant.

(c) A child within the care and custody of a taxpayer claiming a tax credit pursuant to this item may not be charged tuition by an eligible school in an amount greater than the student would be charged if the student was not a qualifying student.

(I) A taxpayer is entitled to a tax credit against income taxes imposed pursuant to Chapter 11, Title 12 for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to the Educational Credit for Exceptional Needs Children's Fund up to the limits contained in subsection (D)(1)(a) if:

(1) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(2) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(J)(1) The department shall conduct a comprehensive study of the Exceptional Needs Tax Credit program. The study must examine the following:

(a) the allocation of scholarship funds and tax credits among students, including the effect of funding limitations on the addition of new participants; the demographic and socio-economic data of the participants and their families, including the distribution of scholarship funds by income ranges, to be determined by the department, of scholarship recipients, and their legal guardians, as applicable; and the geographical distribution of the participants. In reporting the information required by this subitem, the department shall protect and may not display any personally identifiable information of scholarship recipients, their families or legal guardians, or taxpayers;

(b) the distribution of scholarship funds among all eligible schools; and

(c) any other aspect of the program that the department determines would be relevant and useful in making future policy decisions in regard to the program and its continued existence or expansion.

(2) The department shall submit a report of its study to the General Assembly no later than January fifteenth of each year.

HISTORY: 2018 Act No. 247 (H.4077), Section 1, eff May 18, 2018; 2021 Act No. 79 (H.3899), Sections 1 to 4, eff May 17, 2021.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments to (D)(1) made by 2021 Act No. 79, Sections 2.A and 4, were read together.

Editor's Note

2018 Act No. 247, Section 2, provides as follows:

"SECTION 2. This act takes effect upon approval of the Governor and applies to income tax years beginning after 2017. All tax credits earned as a result of a contribution made to the Educational Credit for the Exceptional Needs Children's Fund in 2018 apply to the cumulative total of twelve million dollars regardless of when in 2018 the contribution is made. All tax credits earned as a result of a tuition payment made by a taxpayer to an eligible school for an exceptional needs child within his custody or care in 2018 apply to the cumulative total of two million dollars regardless of when in 2018 the payment is made. All necessary reports and forms must be submitted as soon as practicable upon the enactment of this act."

Effect of Amendment

2021 Act No. 79, Section 1, in (B), in (3), in the second sentence, deleted ", along with the director of the department," following "public charity", in (4), in the first sentence, substituted "The public charity directors shall administer" for "In concert with the public charity directors, the department shall administer", in the second sentence, substituted "five percent" for "two percent", and in the third sentence, substituted "The public charity" for "The department and the public charity", and in (5), substituted "public charity" for "department".

2021 Act No. 79, Section 2.A, in (D)(1)(a), added the second and third sentences.

2021 Act No. 79, Section 2.B, in (D)(2)(b), in the first sentence, substituted "seventy-five percent" for "sixty percent", and added the third sentence.

2021 Act No. 79, Section 3, in (E)(1)(b), deleted the second, third, and fourth sentences, which related to schools providing individual student test scores on national achievement or state standardized tests.

2021 Act No. 79, Section 4, in (D)(1)(b), added the second sentence.

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

Contact Information

For questions about the application process by which schools apply to participate in the ECENC program, please contact the Education Oversight Committee.

Phone: 803.734.6148

Mail: P.O. Box 11867
Columbia, S.C. 29211

Fax: 803.734.6167

Physical Location:
Edgar A. Brown Building, Suite 502
1205 Pendleton Street
Columbia, SC 29201

Website: <https://eoc.sc.gov/>

For questions about grants awarded to schools on behalf of eligible students attending eligible schools, please contact Exceptional SC.