



## The Federal Tax Credit Voucher Program

### What We Know So Far About the Administration’s Approach to Scholarship Granting Organizations: An Explainer and Analysis of Treasury’s Request for Comments

December 9, 2025

On July 4, 2025, President Trump signed the 2025 reconciliation bill, known as the [One Big Beautiful Bill Act \(OBBBA\)](#) into law. Section 70411 of the OBBBA creates a K-12 federal tax credit voucher program and allows states to opt in. Beginning in 2027, individuals can get a dollar-for-dollar federal tax credit – up to \$1,700 per year – for donations made to designated scholarship granting organizations (SGOs). The SGO must distribute 90% of its income to provide vouchers to students attending K–12 schools to support educational costs. The vast majority of the funding is expected to be directed to private school tuition subsidies. See NCPE’s September [memo](#) explaining the statute.

On November 25, the U.S. Department of Treasury and the IRS [requested comments](#) on forthcoming guidance they plan to issue on the program. The guidance will focus on what the Treasury Department and IRS believe are the most urgently needed clarifications as states consider whether to opt into the program, specifically, the annual selection and types of SGOs approved to collect donations and distribute vouchers. Formal regulations will be issued at a later date.

The request for comments offers a preview of how the Treasury Department and IRS view their regulatory authority over the federal voucher program and suggests that **the forthcoming guidance and future regulations will dramatically limit the ability of states to select and regulate SGOs or shape the program based on state educational needs, vision, or goals.**

This is in sharp contrast to the Trump administration’s stated objective of returning education to the states, and the explicit assertion that Congress intended to allow each participating state to “shape the program in ways consistent with that state’s values and needs.”<sup>1</sup>

The request for comments raises a number of considerations and concerns:

#### **(1) Will States Have a Role in Determining the Eligibility of SGOs?**

The statute for the federal voucher provision of the OBBBA is unambiguous that each state must decide whether to opt-in to the program and should have the flexibility to craft the terms of their participation. Yet the Treasury Department and IRS seem to have already determined that every SGO that meets the very minimal criteria set forth in the statute<sup>2</sup> *must* be included on the list of SGOs that

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<sup>1</sup> Welner, K.G. (2025) Federal vouchers, treasury regulations, and state flexibility. Boulder, CO: National Education Policy Center. Retrieved December 9, 2025 from <http://nepc.colorado.edu/publication/vouchers>.

<sup>2</sup> The statutory requirements are negligible. Under § 25F(c)(5), an SGO must:

- (a) be described in § 501(c)(3), be exempt from tax under § 501(a), and not be a private foundation;
- (b) prevent the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions;
- (c) satisfy each of the requirements of § 25F(d); and

states submit to the Department annually. This means that a governor or state legislature would have no opportunity to determine SGO eligibility beyond those statutory criteria. States could not decide how many SGOs to approve or select SGOs to ensure that all students and all regions of the state will be served. States could not pre-screen SGOs for a history of poor fiscal and academic performance. Nor could states approve only those SGOs that will distribute vouchers in line with the state's educational priorities and needs.

## **(2) Will SGOs Have to Be Located, and Connected to Students or Schools in the States Where They Operate?**

The Treasury Department and IRS seem poised to require participating states to include SGOs *based outside their state* on the list submitted to the Department. Although they have requested comments, the Treasury Department and IRS specifically reference "regional" and "multi-state" SGOs that could disburse vouchers in any state where they are "*authorized to operate.*"

Congress was clear: "*a State that voluntarily elects to participate [in the program] shall provide to the Secretary a list of the scholarship granting organizations that meet the requirements described in subsection (c)(5) and are located in the State.*" "Located in the State" straightforwardly means *headquartered* in the state, not simply authorized or registered to accept donations.

Despite this, voucher proponents, including the operators of large SGOs, are advocating for federal regulations to allow SGOs to operate in multiple states. The Treasury Department and IRS apparently plan to accede to this request.

This is a clear effort to advantage large regional, or even national, organizations to dominate this program, rather than elected leaders who may want the program to address their state's particular needs and have a more equitable vision for it. If approved, large organizations based in one state – for example Florida's Step Up for Students – could register to do business in *any* participating state, collect donations, and hand out vouchers in that state, even though the organization is headquartered in Florida and may not have any authentic connection to the schools, students, or educational priorities in those other states.

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(d) be included on the list submitted for the opted-in State.

Under § 25F(d), an SGO:

- (a) must provide scholarships to 10 or more students who do not all attend the same school;
- (b) cannot spend less than 90 percent of its income on scholarships for eligible students;
- (c) cannot provide scholarships for any expenses other than qualified elementary or secondary education expenses;
- (d) must provide scholarships to eligible students with a priority for:
  - (i) students awarded a scholarship the previous school year, and thereafter, and
  - (ii) any eligible students who have a sibling who was awarded a scholarship from such organization;
- (e) cannot earmark or set aside contributions for scholarships on behalf of any particular student;
- (f) must: (i) verify the annual household income and family size of eligible students who apply for scholarships to ensure such students meet the [statutorily defined] area median gross income requirement, and (ii) limit the awarding of scholarships to eligible students who are members of a household for which the income does not exceed the [statutorily defined] amount; and
- (g) cannot award a scholarship to any disqualified person, which is determined pursuant to rules similar to the rules relating to private foundations.

State authorities must have the power to determine which SGOs are operating in their state and to require that such SGOs have a direct connection to the state, its taxpayers, and students.

### **(3) Will States Have the Authority to Regulate SGOs?**

Perhaps the most crucial issue for governors contemplating participation in the program is whether they will be able to regulate the SGOs operating the program. This is a different consideration than those outlined in questions (1) and (2), which focus on whether the rulemaking intends to prohibit states from having any control over *which* SGOs are allowed to collect donations and distribute vouchers within their states.

Instead, this question concerns whether states will have authority over SGO reporting, governance, transparency, access, quality control, nondiscrimination, profiteering, and prioritization of students with greater needs. The Treasury Department and IRS, in the request for comments, do not directly address the question of state regulation. But they arguably seem disinclined to allow states to impose additional requirements on new SGOs beyond those in the federal statute.

Yet, many states with existing state tax credit voucher programs have applied a variety of limited accountability, transparency, and other reporting requirements on the SGOs that accept donations and manage the distribution of vouchers. The Treasury Department and IRS are apparently inclined to allow *those* SGOs participate in the federal program, under the applicable regulations already in force at the state level.

*All states* should be able to determine what regulations and oversight are appropriate for their state and their needs. The federal government should apply the law consistently to ensure states can continue to customize their voucher programs. States with pre-existing tax credit voucher programs should indeed have authority to regulate the SGOs that manage those programs; states without such programs must be empowered to do the same.

### **(4) Will SGOs Be Able to Skirt Statutory Requirements?**

Congress, in establishing the federal tax credit voucher program, set out basic statutory requirements to ensure integrity and consistency in what is expected to be a multi-billion dollar federal tax credit program.

One such requirement is that SGOs be “located in” the state in which they collect donations and distribute vouchers. This issue is addressed in (2) above.

Another is that all SGOs meet a thin set of specific criteria in order to be authorized to operate the federal program (as discussed above). Yet, the request for comments suggests that perhaps existing SGOs – managing state-level voucher programs – that *don't* meet the OBBBA statutory definition of a qualified SGO *could* be deemed eligible to participate in the federal program.

Finally, Congress specifically required that each SGO authorized to manage the federal program provide vouchers to 10 or more students who do not all attend the same school. The request for comments wonders whether multi-state SGOs could meet these requirements in the *aggregate*, across all the states in which they operate. In other words, an SGO could offer a voucher to only one

or two students, or fund vouchers only for a single private school in one state, as long as it is funding more than 10 students at more than one school across *all* of the states in which it operates.

The Treasury Department and IRS have requested comments on whether to ignore each of these statutory requirements. Doing so would set up inconsistencies in applying basic requirements of the law across states for this federal program. It would also put large existing SGOs at a nearly insurmountable advantage over smaller, more limited organizations in terms of soliciting and managing donations and directing the distribution of vouchers.

#### **(5) Who Will Be Considered a “Disqualified Person,” Ineligible to Receive a Voucher Under the Federal Program?**

Based on similar rules that relate to private foundations, the Treasury Department and IRS are tasked with defining “disqualified persons” who would be ineligible to receive a voucher under the program. Yet they are asking “under what circumstances” should otherwise “disqualified persons” be eligible to receive a voucher. They seem to be considering opening a loophole for self-dealing for SGO or private school officials.

Congress barred SGOs from earmarking scholarships for any particular student, but the possibility of self-dealing by SGO officials could undermine this prohibition. Existing state tuition tax credit programs have demonstrated the need for strong guardrails against such self-dealing.

#### **(6) What Reporting and Recordkeeping Requirements Will Adhere to SGOs?**

The Treasury Department and IRS seem inclined to require only minimal reporting by SGOs to the states in which they operate – with those requirements focusing primarily on verifying the eligibility of students to receive vouchers and donors to receive the federal tax credit. But they ask for comments on additional information that could be provided to states.

States need information from SGOs to be able to assess the effectiveness of the program in serving students. Some existing state programs require SGOs to provide substantive and relevant data regarding who is using vouchers and who is benefitting from them. In [Indiana, for example, SGOs must report](#) on the gender, ethnicity, age and geographic area for each voucher recipient, participant retention during and between school years, awards by participating schools, and more. Reporting requirements should also include safeguards designed to prevent the waste, fraud and abuse that has marred existing state-level voucher programs.

If the purpose of the federal tax credit voucher program is to improve educational outcomes and parent choice in schooling, this program must be fully transparent, and sufficient data must be collected to determine whether those goals are being met.

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In conclusion, given the direction of the request for comments, it seems that the Treasury Department and IRS intend to severely limit the ability of states to drive the program and instead intend to give authority to the federal government and SGOs to dictate how the program is run. [States should be wary](#) of the likely limits on their ability to shape the new federal tax credit program to meet their needs, including how SGOs, schools, and vendors deliver services to students and families in their states.