

the student would otherwise be required to attend constitutes an underperforming school. If the public school that the student would otherwise be required to attend does not constitute an underperforming school, then the student shall not be considered eligible for further participation in the program.

(4) A parent may withdraw an eligible student from a participating eligible nonpublic school at any time during the school year and may either (A) enroll the student in a public school, or (B) enroll the student in another participating eligible nonpublic school that has space for the student and has accepted the student for admission.

(d) To be eligible to participate in the Scholarship Opportunity Program and accept eligible students for enrollment in the program, each nonpublic school shall meet all of the following criteria:

(1) The school shall file with the Superintendent of Public Instruction a statement certifying that it satisfies the minimum legal requirements that applied to private schools on January 1, 2004.

(2) The school complies with all applicable state and local health and safety laws and codes.

(3) For schools operating for fewer than three years at the time of filing the certification set forth in paragraph (1), the school shall demonstrate fiscal soundness by providing a statement by a certified public accountant confirming that the school is insured and that the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such statement, the school may post with the department a surety bond or letter of credit for the amount equal to the Scholarship Opportunity Program funds the school anticipates receiving each year.

(4) For at least two years immediately prior to the school's participation in the program, the school shall have administered to the students attending the school a

nationally recognized and developed standardized test or tests and shall provide or make available to each parent of any eligible student who has been accepted by the school for participation in the program, the results of all such tests for the two years immediately prior to the school year in which the eligible student will begin participating in the program at that school.

(5) The school complies with the anti-discrimination provisions of Section 2000d of Title 42 of the United States Code. Nothing precludes the establishment of same gender schools or classrooms.

(6) To the extent permitted by the California Constitution and the Constitution of the United States, the school does not advocate unlawful behavior, and does not advocate or foster hatred of any person or group.

(7) The school agrees not to compel any student attending the school on a scholarship issued pursuant to the Scholarship Opportunity Program to profess a specific ideological belief, to pray, or to worship.

(8) The school does not deliberately provide false or misleading information about the school.

(9) No person convicted of any felony or crime involving moral turpitude, any offense involving lewd or lascivious conduct, or any offense involving molestation or other abuse of a child, shall own, contract with, or be employed by the school.

(10) A high school shall certify either that (A) the school has obtained notice from the University of California, California State University, or any private college or university accredited by a regional accreditation agency or an accrediting agency recognized by the state, that coursework completed by a pupil at the high school in one or more academic subjects designated by the institution issuing notice will fulfill the institution's admission requirements in the designated subject or subjects if a pupil's grades and the duration of study are acceptable, or (B) the school has received either accreditation or provisional accreditation from a regional accreditation agency or an accrediting agency recognized by the state.

(d) Each eligible nonpublic school choosing to participate in the Scholarship Opportunity Program shall comply with the following requirements:

(1) The school shall provide for an open enrollment session in order for eligible students to register for the program. The length of such enrollment session shall be no less than thirty (30) days; and prior to the beginning of the session, the school shall provide proper notification to the public in a timely manner that shall include all necessary information relative to the dates, times, and location of such enrollment session.

(2) If the total number of eligible students seeking admission to the school pursuant to the program exceeds the capacity of the school as determined by the school, the school shall conduct an admissions lottery, to be monitored by the State Department of Education, which shall include all eligible students such that each eligible student has an equal and entirely random chance to be selected for admission.

(3) The school shall prepare a statement of financial condition that lists the revenues, expenses, and debts of the school. These documents shall be provided to parents upon request.

(e) No school shall be required to accept any eligible student if such student has been subjected to any disciplinary action for behavioral problems at any school that the student previously attended as certified by such school.

(f) Upon the acceptance of any eligible student for enrollment in the program, for each year of participation in the program, the school shall require all students attending the school to take, at a minimum, all nationally normed tests that are required to be taken by students in public schools as part of the state's testing program and that provide individual student scores, for the purposes of monitoring academic improvement. The composite results of test scores of the students whose parents accepted scholarships for each grade level tested shall be released to the public. Individual results shall be released only to the students' parents and the school that the student attends.

(g) Expenditures for scholarships issued pursuant to the Scholarship Opportunity Program shall count toward the minimum funding requirements for education established by Section 8 and 8.5 of Article XVI. Students enrolled in eligible nonpublic schools participating in the Scholarship Opportunity Program shall not be counted toward enrollment in public schools for purposes of Sections 8 and 8.5 of Article XVI.

(h) Scholarships issued pursuant to the Scholarship Opportunity Program are grants of aid to children through their parents, and not to the schools in which the children are enrolled. Such scholarships shall not constitute taxable income.

SECTION 4. Effective date. The California Scholarship Opportunity Act and all provisions thereof shall, unless otherwise expressly herein provided, take effect and become operative on the date the Secretary of State certifies the results of the election at which the California Scholarship Opportunity Act was approved.

SECTION 5. Further implementation. The Legislature shall pass all laws necessary to carry out the provisions of the Scholarship Opportunity Act.

SECTION 6. Amendment. The California Scholarship Opportunity Act may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All amendments to the California Scholarship Opportunity Act shall be to further the California Scholarship Opportunity Act and must be consistent with its purposes.

SECTION 7. Liberal construction. The provisions of the California Scholarship Opportunity Act shall be liberally construed to effectuate its purposes of providing parents of students attending underperforming schools with alternatives for their children to obtain a high-quality education.

SECTION 8. Severability. If any provision of the California Scholarship Opportunity Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of the California Scholarship Opportunity Act are severable.