



KANSAS LEGISLATIVE
DIVISION *of*
POST AUDIT

A Limited-Scope Performance Audit Report Presented to the Legislative Post Audit Committee

Evaluating Disbursements for the Tax Credit for Low Income Students Scholarship Program

April 2022

Report Number: L-22-010

Introduction

Representative Jo Ella Hoyer requested this limited-scope audit, which the Legislative Post Audit Committee authorized at its March 2, 2022 meeting.

Objectives, Scope, & Methodology

Our audit objective was to answer the following question:

1. Have Scholarship Granting Organizations disbursed Tax Credit for Low Income Student Scholarship Program contributions according to state law?

The scope of this audit was limited to contributions to and distributions from the Tax Credit for Low Income Student Scholarship Program. To answer this question, we talked to officials from the Kansas Department of Education (KSDE) and Scholarship Granting Organizations (SGOs). We reviewed and analyzed annual contribution and disbursement information KSDE collected from 2015-2021. Lack of exact contribution and disbursement dates limited our work. Finally, we reviewed SGOs' CPA audits on file with KSDE for the period from 2015-2020 for certain statutory compliance concerns.

More specific details about the scope, method, and limitation are described in the relevant report sections as appropriate.

Important Disclosures

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on those audit objectives.

Audit standards require us to report limitations on the reliability or validity of our evidence. In this audit, we performed limited reliability tests on available KSDE data for the Tax Credit for Low Income Student Scholarship Program because the available SGO program data was reported by school year, while relevant CPA audits generally reported program information by calendar year.

Audit standards require us to report our work on internal controls relevant to our audit objectives. They also require us to report deficiencies we identified through this work. In this audit, we found issues with KSDE's compliance monitoring process. This process is discussed in more detail later in the report.

Our audit reports and podcasts are available on our website (www.kslpa.org).

Most Scholarship Granting Organizations followed state law in disbursing Tax Credit for Low Income Student Scholarship contributions.

The Tax Credit for Low Income Scholarship Program helps eligible students attend private schools of their choice.

- In 2014, the Legislature created the Tax Credit for Low Income Student Scholarships Program (“Tax Credit Program”). This program is designed to provide eligible students the opportunity to attend private schools of their choice.
- Taxpayers (individuals or businesses) may donate up to \$500,000 per tax year to Scholarship Granting Organizations. In return, the taxpayer may claim a 70% income tax credit of the donation amount. Statewide, total tax credits claimed may not exceed \$10 million per tax year.
- Scholarship Granting Organizations (SGOs) use the contributions they receive to provide scholarships to eligible elementary school students to attend private school (and in some cases, secondary school students). SGOs do not need to be Kansas-based, but they must be a non-profit 501(c)(3) organization. Kansas currently has 9 approved SGOs (not all 9 SGOs existed or received contributions in prior years).
- SGOs partner with qualifying private schools to identify parents interested in sending their children to private school. Qualifying private schools must be registered with KSDE and be accredited to participate in the program. Kansas currently has 103 accredited qualifying private schools.
- Currently, eligible students can be from any Kansas public school if the student qualifies for free and reduced lunch. (From 2018-2021, only students from Kansas public schools designated as one of the lowest 100 performing schools with respect to student achievement could qualify for the program.)

Scholarship Granting Organizations received over \$15.5 million in contributions and disbursed just over \$9 million in scholarships from inception through the 2021 school year.

- **Figure 1** summarizes SGO contributions and disbursements by year.

Figure 1. SGOs distributed over \$9 million of the \$15.5 million they received in contributions from 2015-2021.

Scholarship Granting Organization	Location	Total Contributions	Total Distributions
ACE Scholarships	Denver, CO	\$1,254,201	\$701,119
Catholic Diocese of Salina Education Fund	Salina, KS	\$192,969	\$0
Catholic Education Foundation	Kansas City, KS	\$7,286,990	\$4,244,414
Christian Faith Centre	Wichita, KS	\$1,570,861	\$670,000
Community First, Inc.	Not Active	\$0	\$0
Prime Fit Youth Foundation	Wichita, KS	\$100,000	\$60,000
Renewanation	Roanoke, VA	\$177,000	\$75,895
Success for Kansas Students	Not Active	\$51,863	\$51,000
Support for Catholic Schools	Wichita, KS	\$4,805,325	\$3,120,629
The Independent School	Wichita, KS	\$115,000	\$88,000
Topeka Lutheran School Foundation	Topeka, KS	\$0	\$0
Program Total (1)		\$15,554,210	\$9,011,056

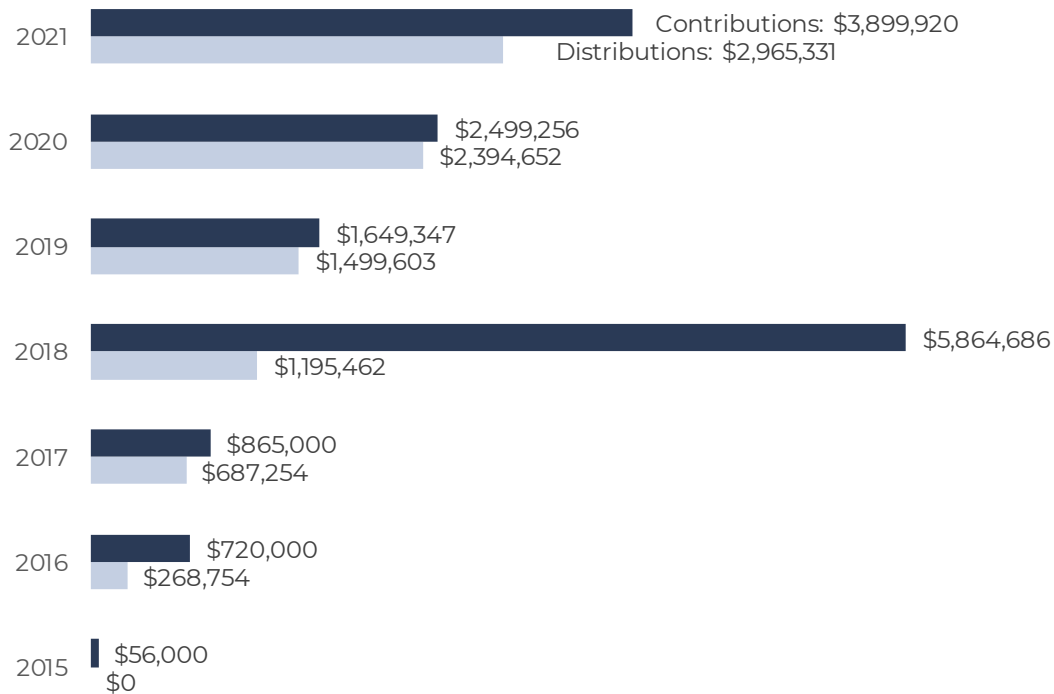
(1) Numbers in the figure will not sum to the total due to rounding.

Source: LPA analysis of KSDE tracking data

Kansas Legislative Division of Post Audit

- In the first year of the program, 5 SGOs participated and 3 received contributions totaling \$56,000. During that year, none of those funds were disbursed.
- In the latest completed school year 2021, 6 SGOs received nearly \$3.9 million in contributions (several SGOs did not receive contributions that year). SGOs disbursed nearly \$3 million.
- **Figure 2** summarizes how the program grew in the past 7 years.

Figure 2. The Tax Credit Program is growing.



Note: One SGO had a spike in donations in 2018 that contributed to the overall program's spike in 2018 contributions.

Source: LPA analysis of KSDE tracking data

Kansas Legislative Division of Post Audit

Kansas law requires 90% of the contributions for the Tax Credit Program to be disbursed within 3 years and establishes additional restrictions and monitoring provisions.

- State law requires SGOs to disburse at least 90% of the contributions they receive for student scholarships within 36 months of receipt. Per state law, SGOs cannot accept further donations until they meet this requirement.
- SGOs must submit a report to KSDE by June 1 of each year that includes individual scholarship recipient information, as well as a summary of total contributions made and total scholarships disbursed during the preceding school year.
- SGOs must undergo financial audits from a qualified CPA each calendar year to ensure compliance with statutory requirements. SGOs must submit those audits to KSDE annually.

- KSDE must summarize all information SGOs submit each school year in an annual report to the legislature.

We estimate that most SGOs met the statutory requirement to disburse at least 90% of contributions they receive within 3 years, for the period we reviewed.

- The law specifies that distributions must be made within 36 months. However, the law only requires KSDE to collect annual contribution and disbursement information from SGOs by school year. Thus, we were only able to calculate contributions and distributions by year (rather than a more detailed analysis based on month of receipt).
- We used a “first in, first out” concept to calculate whether SGOs distributed 90% of each year’s contributions within 3 years. For example, a contribution collected in 2015 needed to be disbursed either in the same base year (2015), year 1 (2016), year 2 (2017), or year 3 (2018). We only analyzed contributions up through school year 2018, and disbursements through 2021. That’s because the 3-year window was still open at the time of this audit for contributions in the 2019 school year and beyond.
- Not having detailed monthly contribution or disbursement data meant that:
 - We could not evaluate whether disbursements were happening within 36 months. That’s because the reported data is only by year, not by month.
 - Further, a year timeframe is blunt and not precise. In theory, this analysis could have resulted in giving SGO’s almost an extra year to distribute contributions. This could overstate our compliance analysis.
- Based on our analysis, 2 of the 8 SGOs in the period we reviewed, did not distribute 90% of contributions in a timely manner. Details about the 2 SGOs that did not meet the 90% rule are summarized in **Figure 3**. As the figure shows:
 - The Catholic Diocese of Salina Education Fund received almost \$113,000 in contributions in the 2018 school year. 90% of that amount, or \$101,672, should have been distributed by the 2021 school year. However, the SGO had not distributed any funds through 2021.
 - The Independent School received a \$5,000 contribution in the 2015 school year. It should have distributed 90% of that amount, or \$4,500, within 3 years. The SGO did not distribute any money until the 2019 school year, 4 years after the contribution was made. Then, in the 2018 school year, the SGO received \$100,000 in contributions. It should have distributed \$90,000 within 3 years. However, the SGO only distributed \$83,500 by 2021 (a shortfall of \$6,500).

Figure 3. 2 SGOs did not distribute 90% of contributions within 3 years.

	Year	School Year Contribution Total	90% to be disbursed by:	School Year Distribution Total	Compliant/Not Compliant
Catholic Diocese of Salina Education Fund	2018	\$112,969	→ 2021	\$0	Not Compliant
	2019	\$77,500		\$0	
	2020	\$2,500		\$0	
	2021	\$0		\$0	
The Independent School	2015	\$5,000	→ 2021	\$0	Not Compliant
	2016	\$0		\$0	
	2017	\$0		\$0	
	2018	\$100,000		\$0	
	2019	\$10,000		\$24,000	
	2020	\$0		\$32,000	
2021	\$0	\$32,000	Not Compliant		

Source: LPA analysis of KSDE tracking data

Kansas Legislative Division of Post Audit

The 2 SGOs that did not comply with the 90% distribution within 3 years requirement told us a lack of eligible students was the reason.

- Officials from The Independent School told us that they were unable to disburse funds within 3 years because no eligible students applied to the school during that time.
- Officials from the Salina Diocese told us that they were unable to disburse funds within 3 years because there were no public schools in their area that met the 100 lowest-performing schools requirement in place at the time.
- Officials from 5 of the 6 SGOs we talked with mentioned similar difficulties in distributing funds.
- Officials from multiple SGOs said that recent changes to broaden the number of students who could be eligible has improved the issues that SGOs have experienced in the past. Many SGO officials mentioned that demand has increased since restrictions were relaxed.

KSDE monitors SGOs' compliance with state law but their processes lack information to track the 90% distribution requirement.

- State law (K.S.A. 72-4356) requires the State Board of Education to certify SGO compliance with the program each year. The board is supposed to base that certification on annual CPA financial audits and the SGO annual reports. In practice, KSDE staff are responsible for implementing the certification process for the board.
- To do this, KSDE staff monitor SGOs' compliance, but it's at a very high level. For example, they check to see that a CPA financial audit is submitted, but they don't review it to see if it includes the required information. They also check the cumulative percentage of contributions SGOs disburse as scholarships based on annual totals, but they don't collect the monthly information needed to determine whether disbursements are made within 36 months. Their cumulative process allowed them to catch obvious mistakes like when an SGO had multiple years of no disbursements. However, it's not detailed enough to catch less obvious errors.
- KSDE officials told us they do not collect monthly information because statute requires SGOs to report total contributions and disbursements by school year, and not by month. However, statute allows the State Board of Education to require additional information from SGOs as needed.
- None of the annual CPA financial audits on file with KSDE for the calendar years 2015-2020 specifically evaluated the 90% disbursement requirement. Kansas law is unclear whether or not CPA financial audits should certify the 90% disbursement requirement (as well as total program receipts and disbursements).
- Further, the CPA financial audits are based on calendar year and SGO annual reports are based on school year. These conflicting timeframes prevent KSDE or anyone from evaluating even the general accuracy of annual reported contribution and disbursement amounts.
- A few SGOs told us they internally monitor the 90% disbursement. However, we did not verify the existence or the quality of these monitoring processes.
- Statute states that SGOs should not accept additional donations until the 90% distribution requirement is met, but there is no further statutory penalty for noncompliance.

Recommendations

1. KSDE staff should request and analyze monthly contributions and disbursement data needed to monitor SGOs' compliance with the 90% distribution requirement in state law.
 - Agency Response: KSDE has no concern with the recommended change in data collection from Scholarship Granting Organizations. A form asking SGOs to break out contributions and disbursements on a monthly basis will be implemented with the next annual reporting cycle.

Potential Issues for Further Consideration

We identified one additional issue that might be worth evaluating in more detail, but because of the limited scope of the audit, we did not have time to fully develop the issue.

- The law caps the tax credit for this program at \$10 million a year, with a carry-forward provision. Tax credits are authorized by the Department of Revenue. It is unclear how the Department of Revenue or the Department of Education can ensure the tax credit cap is not exceeded. Given the recent growth in the program this threshold may be reached soon. Because of timing issues and various players involved, this creates the risk that individual donors will have donated to an SGO but not be able to benefit from the tax credit, or conversely that the tax credits issued will exceed statutory limitations.

Agency Response

On April 5, 2022 we provided the draft audit report to the Kansas Department of Education (KSDE). We modified the finding about KSDE's monitoring process based on the agency's feedback and additional information they provided. KSDE's written response to the audit is below.

We also provided the draft audit report to the two scholarship granting organizations that did not comply with the 90% distribution requirement in state law (The Catholic Diocese of Salina Education Fund and The Independent School). We did not have recommendations for either organization, so their responses were optional. Neither one chose to submit a written response.

KSDE Response

Thank you for the opportunity to review and respond to the Tax Credit for Low Income Students Scholarship Program performance audit. Our response is limited to the sole recommendation in the report.

KSDE has no concern with the recommended change in data collection from Scholarship Granting Organizations. A form asking SGOs to break out contributions and disbursements on a monthly basis will be implemented with the next annual reporting cycle. We appreciate the opportunity to work with the LPA team on this solution.

Sincerely,
S. Craig Neuenswander, Ed.D.
Deputy Commissioner, Fiscal and Administrative Services
Kansas State Department of Education
