July 30, 2026

Kevin Salinger
1500 Pennsylvania Avenue NW
Room 3120
Washington, DC 20220

Sent by email only

Dear Deputy Assistant Secretary Salinger:

The undersigned organizations support education in a variety of ways at the national, state, and local levels. Although we have different areas of focus, we are united in our desire for all students to have access to a high-quality education that meets their needs and supports their ability to thrive.

We write in response to the U.S. Department of the Treasury's (Treasury's) recent preview of the regulations it will propose and guidance it will issue in the coming months to help implement the Federal Scholarship Tax Credit (FSTC) program created by the One Big Beautiful Bill Act (OBBBA). We appreciate Treasury sharing the preview and hope you will consider the five recommendations discussed below. By implementing them in the proposed regulations and guidance, Treasury will be adopting the best reading of OBBBA and congressional intent; supporting participation in the program by states, taxpayers, and families; and, most importantly, maximizing FSTC's positive impact on students' learning and development.

1. Remove barriers so new SGOs can begin operating.

To take advantage of the FSTC to support students, the education sector must develop significant new infrastructure, especially the scholarship-granting organizations (SGOs) that are so fundamental to the program. There is a particular need to create new 501(c)(3) organizations and prepare existing 501(c)(3) organizations to serve as SGOs that will provide scholarships to public school students in all participating states—and especially in states that do not already have similar state-level programs that serve public school students already in place.

Consistent with OBBBA and other federal laws and regulations, Treasury's FSTC regulations should reduce barriers to entry for organizations seeking to serve as SGOs. For several reasons, it is important for SGOs to be ready to begin accepting qualifying donations at the beginning of 2027. But numerous factors are working against this goal, including the variable and unpredictable length of time it can take the Internal Revenue Service (IRS) to process an application for 501(c)(3) status.

With this need in mind, Treasury's regulations should seek ways to reduce barriers and smooth the path for new SGOs to begin operating as soon as taxpayers can begin making donations:

- Treasury should clarify that a state can include a prospective SGO on its list even while the organization's 501(c)(3) application is still pending with the IRS.
    - Perhaps the rules can provide a process through which an organization can document to the state that its 501(c)(3) application is pending, so the state can add the organization to its SGO list with a special designation. When the organization updates the state after being approved by the IRS, the state could then update its SGO list with Treasury to reflect the organization becoming fully certified as an eligible SGO.
- Treasury should clarify how an organization will demonstrate that it qualifies as an SGO with respect to OBBBA's requirements in section 25F(c)(5) and (d).
    - If the organization must point to a prior track record of granting scholarships in accordance with OBBBA's requirements, then Treasury should clarify how a new organization (or an existing organization that has not previously engaged in scholarship-granting activities) can nevertheless qualify as an SGO to participate in the FSTC program, perhaps by making assurances initially to receive preliminary approval subject to establishing an OBBBA-compliant track record over time.
- Over time and depending on Treasury's final regulations (especially regarding the 90% calculation discussed in Recommendation #2 below), some organizations that initially appear on a state's 2027 SGO list via assurances that it will satisfy OBBBA's requirements might instead need to stand up a new 501(c)(3) that will focus entirely on being an SGO. Treasury's proposed regulations should clarify how one SGO could transfer donations to another SGO if it finds it is no longer able to operate as expected.

2. Allow all SGOs to measure "income of the organization" by the amount held in a section 25F segregated account.

Many public schools and school districts have strong existing partnerships with 501(c)(3)s that are well-suited to and interested in serving as SGOs. These organizations direct the donations they receive to educational programming and initiatives, often in coordination with a school's individual needs and/or a school district's strategic priorities. But especially in states that do not already have similar scholarship programs in place (or programs for which public school students are eligible), these organizations mostly do not grant scholarships for individual students. Treasury should interpret OBBBA's 90% spending requirement to allow these organizations to continue supporting students as they have been and also begin supporting them with FSTC scholarships.

If Treasury's regulations will instead, as recently previewed, "generally measure the 90-percent spending requirement against the organization's total receipts, unreduced by expenses," many of these organizations will be unable to qualify as SGOs because they provide too much support to students in ways other than FSTC scholarships. Eligible students in these organizations' communities—especially public school students—will struggle to participate in the FSTC program, particularly students in smaller and rural communities that are less likely to have access to multiple SGO options. In other communities, these existing 501(c)(3) organizations will instead choose to stop providing their longstanding non-scholarship support solely in order to meet the 90% requirement. Although this might support more FSTC participation, it would come at the expense of students in these communities losing access to their existing resources and supports. In other words, the FSTC program—designed by Congress to leverage charitable donations for the benefit of students and families—would instead force charities to stop accepting or spending other donations intended for the same purpose. Treasury should avoid such a zero-sum result.

In its preview, Treasury already identified a better approach, one that would avoid the scenarios described above and increase eligible students' access to SGOs. The "safe harbor" Treasury previewed for organizations whose "activities are largely scholarship-granting activities" opens the door to interpreting OBBBA to allow for measuring the 90% spending requirement against only the funds held in an SGO's segregated account for FSTC contributions. This is the best reading of OBBBA. All organizations appearing on states' SGO lists will be engaged in "scholarship-granting activities" because they, at minimum, will comply with Congress's mandate to award at least 10 scholarships to students attending at least two schools. These organizations' ability to award FSTC scholarships should not depend on their willingness to *not* provide support for families and their children in other ways, using other funds.

Applying the 90% rule to the FSTC segregated account (as Treasury previewed it might allow for some SGOs) is the best reading of the OBBBA statute because it is consistent with the legislative requirement to maintain the funds in a segregated account, which otherwise serves no purpose if 90% of all of an organization's funding must be spent on scholarships. It also ensures that SGOs do not spend more than 10% of taxpayers' donations on overhead, facilitates participation in the FSTC, and avoids limiting other critical support for students and schools.

- Treasury should issue a rule that measures the 90% spending requirement against the FSTC contributions held in the SGO's mandated segregated account.

3. Maximize the many *types* of eligible expenses that parents might choose and that schools provide or require, especially supplementary items and services.

To honor Congressional intent to enable parents to choose from a wide variety of educational settings and supports, SGOs, schools and school districts, taxpayers, and families and their children all need to know what will count as a "qualified elementary or secondary education expense." With respect to timing, we urge Treasury to release any guidance about eligible expenses as soon as possible to support responsible planning on the part of donors, families, SGOs, schools, and service providers. Without this guidance in hand, some states and potential SGOs, donors, schools, and providers will end up delaying participating at all while others may invest in developing an FSTC opportunity that ultimately includes ineligible expenses and becomes unviable.

The guidance or regulations should clarify that the qualified education expenses incorporated by OBBBA from the Coverdell program—particularly "supplementary items and services"—are broad categories that can help ensure FSTC scholarships support the many different types of support that individual children need. These should include, but not be limited to, services such as afterschool, summer school, weekend, enrichment, work-based, dual enrollment, and other programs that supplement the core instructional services provided by schools. An inclusive approach in the guidance will also ensure that students are able to take advantage of the scholarships even if they attend schools that can provide only a small selection of certain supplementary items and services. Given the variance across the nation in both students' needs and schools' contexts and access to resources as well as the broad terms referenced in the FSTC legislation, Treasury's guidance should not unnecessarily narrow what can count as an eligible expense.

Similarly, Treasury should clarify that students can access these supplementary services at any time and in any place—including during school, before and after school, during recess or school vacations, on weekends, and/or over the summer break, and including both in and out of their school building—as long as they are "required or provided by a public, private, or religious school in connection with such enrollment or attendance." Nothing in Coverdell nor the plain meaning of "supplementary items and services" supports a school-day or site-based requirement. Indeed, the one illustrative example of a supplementary service—"extended day programs"—by definition takes place outside the normal school day.

- Treasury should issue guidance on eligible expenses before or at the same time as issuing the proposed regulations.

- Treasury should issue guidance that clarifies that "supplementary items and services" include any supplementary items or services "which are required or provided by a public, private, or religious school in connection with such enrollment or attendance." This statutory language serves as an appropriate limit on this broad category of expenses.

- Treasury should issue guidance that clarifies that the Coverdell parenthetical "(including extended day programs)" is an illustrative example of an eligible supplementary service such that it does not exclude other services. The guidance should also clarify that students can access supplementary services at any time—including during school, before and after school, during recess or school vacations, on weekends, and/or over the summer break—as long as they are "required or provided by a public, private, or religious school in connection with such enrollment or attendance."

4. Acknowledge the many *ways* that schools provide or require supplementary services.

Just as the types of eligible expenses should be interpreted broadly, so should the requirement that expenses listed in Coverdell's section 530(b)(3)(A)(ii), particularly supplemental items and services, are "required or provided" by a student's school. Neither OBBBA nor Coverdell defines these terms. Treasury should interpret them to reflect how supplemental educational services are delivered in practice, namely in a wide array of ways by a wide array of actors in a wide array of settings.

Regarding "provided," Treasury's guidance should acknowledge that supplementary items and services can be delivered by a school's full-time staff and/or by school or district subgrantees, contractors, or partners. Similarly, the guidance should make clear that students can access these items and services in or out of the school building itself. As long as there is some nexus between the school and the provider, the supplementary item or service should be considered as "provided" by the school. This is routine in schools across the nation. Whether memorialized via a contract, memorandum of understanding, or partnership agreement or generated by school or district staff via a list of recommended service providers, the nexus between school and provider is the critical point Treasury should reinforce in its guidance without unnecessary limitations.

Where a supplementary service is "required" by a school it need not also be provided by the school (or connected via a nexus as described above). Because the statutory provision joins the two terms with "or," a student should be able to use a FSTC scholarship on *required* supplementary services from any provider (nexus with the school or not) as a way of fulfilling that school requirement. Treasury's guidance should also acknowledge that schools require things of students in different ways. Some requirements apply to all students, some only to students who have an identified need, and some only to students who opt into the requirement. The guidance should clarify that all of these can count as being "required."

- Treasury should issue guidance that affirms that supplementary items or services *provided* by a school do not necessarily have to be delivered directly by the school and its staff, so long as there is a nexus or connection between the school and the provider.

- Treasury should issue guidance that affirms that supplementary items or services *required* by a school do not have to be provided by the school.

- Treasury should issue guidance that clarifies that schools can require supplementary items or services of all students or of just some students.

- Treasury should issue guidance that clarifies that the Coverdell parenthetical "(including extended day programs)" is an illustrative example of an eligible supplementary service such that it does not exclude other services. The guidance should also clarify that students can access supplementary services at any time—including during school, before and after school, during recess or school vacations, on weekends, and/or over the summer break—as long as they are "required or provided by a public, private, or religious school in connection with such enrollment or attendance."

5. Defer to state definitions of "school" including where that allows students to be served in pre-kindergarten.

Treasury should clarify that the definition of what constitutes a "school" for the FTSC program is committed to the discretion of the states. In its preview, Treasury indicated that "the proposed rules will define 'school' consistent with section 530 to include public, private, and religious schools providing K–12 elementary or secondary education as determined under State law." However, the reference to "K–12" alongside "as determined under State law" could be misread to limit state authority to define school. It could therefore exclude from the FSTC potentially eligible students attending elementary and secondary schools, such as children in some states who enroll in and attend public elementary schools as pre-kindergarteners. Whether or not Treasury incorporates this other Coverdell provision, which is not itself incorporated by OBBBA, Treasury should clarify that “as determined under State law” is the controlling language for any FSTC regulations defining “school.” Deferring to the definition of school in state law best suits the goal of the FSTC program to respect state authority and allow students and parents to use scholarships for a wide variety of educational offerings.

- Treasury should clarify that state law will determine the definition of “school” for purposes of the FSTC program.

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The FSTC provides an important new opportunity for actors around the country to help advance the learning and development of students and meet the needs of families. However, its implementation will be complex and require a large number of national, state, and local entities to mobilize quickly to fulfill its promise. We hope these recommendations are helpful as Treasury develops the FSTC regulations and guidance in ways that maximize the promise of the statute and meet the intent of Congress. We believe that incorporating these will dramatically increase the ability of students—especially public school students—in participating states to benefit from the FSTC program. Please let us know if we can be of any further assistance.

Sincerely,

AASA, The School Superintendents Association
Accelerate-The National Collaborative for Accelerated Learning
Afterschool Alliance
Association of Education Service Agencies (AESA)
Association of School Business Officials International (ASBO)
Campaign for Grade-Level Reading
Children's Funding Project
Civitas Strategies, LLC
Give Forward Foundation
National Association of Education Foundations, Inc.
National Institute of Early Education Leadership
National Rural Education Association
National Summer Learning Association (NSLA)