

810-3-60-.01 Eligibility for Parent Tax Credit for Students Enrolled in or Assigned to Attend a Failing School.

(1) Scope. This rule is issued pursuant to Section 16-6D-1, Code of Alabama 1975, to provide guidance to parents with students enrolled in or assigned to attend a failing school who may be eligible for a refundable income tax credit to offset the costs of transferring a student to a non-failing public school or nonpublic school of the parent's choice.

(2) Definitions. The following terms have the meanings ascribed to them for purposes of this rule:

(a) Eligible student. A student who receives written notification from his or her local school system that the student is assigned to attend or enrolled in a failing public school.

(b) Creditable Costs. Tuition and other mandatory fees charged to the parent by the non-failing public school or nonpublic school to which the eligible student transferred.

(3) Eligibility for Credit. A parent is eligible to claim an income tax credit if all of the following criteria are satisfied:

(a) Parent claims the eligible student as a dependent on his or her Alabama income tax return;

(b) Student is enrolled in or assigned to attend a failing school and receives notification from the local school system that he or she is assigned or enrolled in a failing school;

(c) Parent chooses to transfer the student from the failing school to a non-failing public school or nonpublic school; and

(d) Parent incurs creditable costs related to the transfer of the eligible student.

(a) Example: Student A receives notice that he or she is assigned to attend a failing school during the upcoming school year. Student A's parents choose to transfer Student A to a non-failing public school within the same local school system which charges no tuition or mandatory fees for the student's attendance. Student A's parents incurred no creditable costs for transferring Student A from the failing school to the non-failing school. Therefore, since Student A's parents have no creditable costs related to the student's transfer, Student A's parents are not eligible for the parent tax credit.

(b) Example: Student B attends a failing school in School District A. Student B's parents are divorced. His father transfers him to a non-failing school and incurs \$5,000 of creditable costs associated with the student's attendance at the non-failing

school. For income tax purposes, Student B's mother claims him as a dependent on her Alabama income tax return. Neither parent is eligible for the parent tax credit since neither of them can meet all criteria for claiming the credit.

(c) Example: Student B has been enrolled in and has attended a non-public school for the past 2 years. Based upon the student's physical residence, Student B is zoned for a failing school for the upcoming school year. Student B's parents choose to continue sending Student B to the same non-public school he has been attending. The parents of Student B are not eligible for the credit because they have not transferred Student B away from a failing school to a non-failing school.

(4) Calculation of Credit. The maximum credit that may be claimed for each eligible student is the lesser of the following:

(a) An amount equal to 80 percent of the average annual state cost of attendance for a public K-12 student during the tax year as defined within the statute, or

(b) An amount equal to the actual creditable cost, tuition and mandatory fees, incurred to attend the non-failing public school or nonpublic school.

(5) Continuity of Credit. Once approved for this tax credit, the parent may continue to receive the credit for all grade levels offered by the original failing school to which the student was enrolled in or assigned to attend. The parent, however, must continue to incur creditable costs, claim the student as a dependent and file the appropriate form on an annual basis each tax year for which he or she may receive the credit even if approval is obtained in an earlier year.

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Authority: Sections 40-2A-7(a)(5) and 16-6D-1, Code of Alabama 1975

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