



FOLLOW-UP REVIEW • REPORT NUMBER 23-04 • MAY 2023

Qualified Education Expense Credit and Student Scholarship Program

Actions have been taken to address most audit findings, but more can be done

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Why we did this review

The follow-up review was conducted to determine the extent to which the General Assembly, the Department of Revenue (DOR), and the Georgia Department of Education (GaDOE) addressed recommendations from our January 2021 special examination of the Qualified Education Expense Credit (QEEC) and Student Scholarship Program (Report #20-12). The special examination reviewed how qualified education expense tax credits are disbursed; whether student scholarship organizations (SSOs) retain a reasonable administrative fee; whether SSOs direct contributions according to the intent of the law; and whether any measures can be taken to improve transparency and accountability to improve the integrity of future donations.

About the Student Scholarship program

The QEEC and SSOs were established in 2008 (O.C.G.A. § 48-7-29.16 and Chapter 20-2A). SSOs are nonprofit organizations that collect donations from individuals and corporations and work with private schools to distribute scholarships to eligible (pre-k through grade 12) students. DOR manages aspects of the tax credit program (e.g., donor preapproval, taxpayer eligibility, aggregate tax credit limits, and compliance reporting). GaDOE establishes the annual scholarship maximum and keeps a record of active SSOs.

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What we found

Since our 2021 special examination, the General Assembly, DOR, and GaDOE have taken several steps to address report findings related to the Qualified Education Expense Credit (QEEC). During the 2022 session, the General Assembly passed House Bill 517 to improve accountability and transparency surrounding student scholarship organization (SSO) compliance. These improvements, combined with changes to agency procedures, have substantially or partially addressed all applicable findings in our special examination.

Identifying Excessive Tax Credits

DOR has implemented procedures to identify taxpayers whose approved tax credit amounts exceed their respective tax liabilities. This analysis is conducted annually in the first quarter following the end of the tax year. If excessive credits are found, agency personnel adjust those amounts, as recommended in our original examination. Staff indicated that in tax year 2021, this process flagged 327 individuals claiming income through pass-through entities and \$940,000 in tax credits that warrant review and may potentially be adjusted.

Increasing Transparency

In the original audit, we found insufficient data and lack of access to SSO information prevented decision makers from being able to fully evaluate SSOs' finances, as well as their fund and scholarship management practices. House Bill 517 clarified expectations and expanded the content of compliance audits. For example, House Bill 517 established that audits must be conducted by an independent certified public accountant (CPA) who verifies and signs a declaration that the SSO has complied with all legal and regulatory requirements imposed by state or federal law, not just financial requirements. In addition, House Bill 517 clarified that generally accepted auditing standards must be applied to

SSOs' compliance audits.

However, additional recommendations remain unaddressed. For example, the bill did not establish a standard definition to help assess the “reasonableness” of the administrative fees SSOs collect from donations. The General Assembly also did not include provisions to grant state agencies (such as the Department of Audits and Accounts) access to SSOs' data.

Ensuring SSO Compliance

In the original audit, we found DOR had not established adequate procedures to ensure non-compliant SSOs were identified and notified in a timely manner. As of April 2023, DOR continued to require all SSOs to submit compliance audits by January 12 of each calendar year—approximately six months after most SSOs are legally required to submit compliance audits based on their fiscal year end and statutory timeliness. Because of this inappropriate time standard, non-compliant SSOs can operate for months without being detected. In the original examination we found 8 of 24 SSOs did not complete compliance audits on time. We utilized the most recent audits available to conduct a similar analysis and found 4 of 19 SSOs did not have a compliance audit for their most recent fiscal year completed on time. These audits were delayed by two weeks to nearly three months.

The original report also noted that non-compliant SSOs were not removed from GaDOE's list of participating entities in a timely manner. GaDOE has formalized its internal guidelines to mandate that SSOs be removed from the SSO provider list when GaDOE is notified by DOR in writing. However, no action was taken to require GaDOE to post a list of SSOs removed from active status for compliance violations (which we noted in our discussion of matters for further consideration).

Matters for Further Consideration

In the original audit we noted several matters for further consideration and identified steps that could be taken to improve accountability and transparency, fund management, program design, and SSO operations. No action has been taken with regard to these matters.

For example, with regard to fund management, O.C.G.A. § 20-2A-2 requires that SSOs notified by DOR to cease operations due to noncompliance must transfer all scholarship account funds to an SSO in good standing within 30 days. However, we noted that neither state law nor agency procedures had established a method to track funds that should be transferred out of SSO accounts once they cease operations (voluntarily or involuntarily). Since the original audit, neither the General Assembly nor DOR have established a mechanism to ensure funds for scholarships are transferred from SSOs that cease operations. Since December 2021, six SSOs have ceased operations.

DOR's Response: *DOR generally agreed with the content and current status as stated in the report. See Recommendations 6.1, and 6.2 in the following table for more detailed responses.*

GaDOE's Response: *GaDOE expressed no concerns with the current status as stated in the report.*

The following table summarizes the findings and recommendations in our 2021 report and actions taken to address them. A copy of the 2021 special examination can be found here: [Qualified Education Expense Credit and Student Scholarship Program](#).

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Status: 8 Findings			
Substantially Addressed:	Partially Addressed:	Not Addressed:	No Recommendation:
3	2	0	3

<p>Finding 1: During the last three years, donors have earned \$187 million in tax credits, with individuals making up approximately 99% of all donors and approximately 76% of all donations.</p>	
Original Recommendations	Action Taken
No Recommendations	No Recommendations
<p>Finding 2: DOR does not have adequate controls to ensure that taxpayers’ tax liability is sufficient for the credit amount earned, claimed, and carried forward.</p> <p>Substantially Addressed – DOR developed a query to identify whether approved QEEC tax credit amounts exceed a taxpayers’ tax liability. DOR indicated the query will be run annually and tax credits adjusted as necessary.</p>	
Original Recommendations	Action Taken
<p>2.1 DOR should develop processes to identify approved tax credit amounts that exceed the taxpayers’ tax liability and adjust those amounts.</p>	<p>Fully Implemented – DOR has created a query to identify whether approved QEEC tax credit amounts exceed a taxpayers’ tax liability. Staff indicated that this query is now run annually in the first quarter after a tax year. If identified, DOR staff manually adjust the taxpayer’s tax liability. DOR staff stated that for tax year 2021, this query flagged 327 individuals claiming income through pass-through entities with \$940,000 in tax credits that warrant review and may potentially be adjusted.</p>
<p>2.2 DOR should require that taxpayers identify the pass-through entities from which they are claiming income.</p>	<p>Fully Implemented – DOR has implemented a check box for taxpayers to voluntarily indicate whether they receive income from a pass-through entity. Additionally, the query discussed in Recommendation 2.1 allows DOR to identify taxpayers who have pass-through income above allowable amounts and will be used to identify necessary adjustments.</p>

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<p>Finding 3: Georgia’s administrative fee percentages generally align with those in other states with similar scholarship programs.</p>	
Original Recommendations	Action Taken
No Recommendations	No Recommendations
<p>Finding 4: Due to insufficient data, it is not possible to fully evaluate whether administrative fees retained by SSOs are reasonable compared to their expenses.</p> <p>Partially Addressed – House Bill 517 did not include provisions to help define what the General Assembly considers a “reasonable” administrative fee/expense ratio. However, the bill did require SSOs to submit an audit to DOR with an attestation regarding compliance status. The bill also required DOR to post (or otherwise publicly disclose) these audits on its website, which the agency did in April 2023.</p>	
Original Recommendations	Action Taken
<p>4.1 To ensure a reliable ratio of administrative revenues to administrative expenses can be calculated, the General Assembly should define these terms in statute and require they be reported.</p>	<p>Not Implemented – The General Assembly did not include provisions in House Bill 517 to define what it considers a “reasonable” administrative fee/expense ratio.</p>
<p>4.2 To ensure reported data is independently verified, the General Assembly should require it be attested to as part of the required compliance audits.</p>	<p>Fully Implemented – House Bill 517 required SSOs to submit an audit to DOR with a signed attestation indicating the entity “has complied and is in compliance with all legal and regulatory requirements imposed by state or federal law.”</p>
<p>4.3 If the General Assembly wants to increase transparency of financial and compliance reporting to the general public, it could statutorily permit or require the publication of SSOs’ compliance audit results.</p>	<p>Fully Implemented – House Bill 517 required DOR to post each SSO’s most recent compliance audit. DOR began posting these audits online on April 12, 2023. These audits contain general compliance attestations, but financial details are largely redacted and unavailable to the public due to taxpayer confidentiality concerns.</p>

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Finding 5: Additional statutory oversight and reporting requirements can improve the fund and scholarship management information available to decision makers.

Partially Addressed – House Bill 517 did not grant state agencies access to SSOs’ data or require SSOs to submit supporting data to DOR, but it expanded and clearly identified the requirements SSOs must have verified and reported in compliance audits.

Original Recommendations	Action Taken
5.1 The General Assembly should consider changing state law to more definitively identify the requirements SSOs must have verified and reported in compliance audits.	Fully Implemented – House Bill 517 expanded and clearly identified requirements for compliance audits. For example, the bill clarified that audits be conducted by an independent CPA in accordance with generally accepted auditing standards. In addition, the bill clarified that audits must ensure compliance with requirements related to scholarship fund management, operational fund management, student eligibility, and school qualifications, as well as other financial and scholarship management practices.
5.2 The General Assembly may want to require SSOs to submit to DOR supporting data that would allow the state to verify the accuracy of summary reports.	Not Implemented – The General Assembly did not include provisions in House Bill 517 that require SSOs to submit supporting data to DOR.
5.3 The General Assembly should consider modifying state law if it wants to permit state agencies access to SSO data in order to execute a more complete evaluation of fund management and scholarship distribution practices and compliance.	Not Implemented – The General Assembly did not include provisions in House Bill 517 that permit state agencies access to SSO data.

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Finding 6: DOR and GaDOE can improve processes to better ensure SSO compliance with state law and agency requirements.

Substantially Addressed – GaDOE and DOR have implemented new procedures for communicating the addition and removal of SSOs from GaDOE’s online list. However, DOR has not adjusted reporting procedures to ensure audits are completed according to time requirements in statute.

Original Recommendations	Action Taken
<p>6.1 DOR should review compliance audits to ensure they contain evidence that CPAs verified all O.C.G.A. § 20-2A-2 financial and nonfinancial requirements.</p>	<p>Partially Implemented – DOR indicated that the Office of Tax Policy reviews compliance audits to ensure they contain evidence that CPAs have verified all O.C.G.A. § 20-2A-2 financial and nonfinancial requirements.</p> <p>As of April 2023, DOR had not modified its procedures to ensure SSOs submit compliance audits within statutory time frames (compliance audits must be completed within 120 days of an SSO’s fiscal year end and submitted to DOR within 60 days of completion).</p> <p>DOR requires all SSOs to submit compliance audits by January 12 of each calendar year, regardless of when the SSOs’ fiscal year ends. On average, January 12 occurs approximately six months after most SSOs are legally required to submit compliance audits. As a result, non-compliant SSOs can operate for months without being detected, as we found in the original examination (8 of 24). In April 2023, we conducted the same timeliness analysis using redacted compliance audits DOR posted online. We found 4 of 19 SSOs did not have a compliance audit completed within 120 days after the end of the entity’s fiscal year. Noncompliant SSOs took between 133 days to 202 days to complete their audits.</p> <p><i>DOR response: DOR indicated plans to adjust the submission date in amended regulations. SSOs will be required to provide compliance audits to the agency within the time frame outlined in statute.</i></p>

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<p>6.2 DOR should send noncompliance and final notification letters to SSOs in a more timely manner in accordance with O.C.G.A. §§ 20-2A-2 and 20-2A-7.</p>	<p>Not Implemented – As described above, DOR requires SSOs to submit compliance audits by January 12 of each calendar year. The agency typically sends out notices of noncompliance later in the month. However, due to inherent flaws in the submission deadline (see above), non-compliant SSOs are not always identified (and notified) in a timely manner.</p> <p><i>DOR response: As indicated above, changes in DOR regulations are planned to improve timeliness of noncompliance detection.</i></p>
<p>6.3 DOR and GaDOE should work together to better ensure that SSOs are removed from the active SSO provider list as soon as DOR issues a final notification letter.</p>	<p>Fully Implemented – Following the original audit, GaDOE formalized its internal guidelines to mandate that SSOs be removed from the SSO provider list when GaDOE is notified by DOR in writing. Upon removal from the SSO provider list, GaDOE provides an updated list to the official contact at DOR in writing. DOR staff indicated that they are in contact with GaDOE monthly.</p>
<p>6.4 GaDOE should ensure that SSOs published as active providers are not prohibited from operating in the state according to Secretary of State records.</p>	<p>Fully Implemented – GaDOE updated its Annual Continuing Participation forms to require SSOs to attach their annual registration with the Secretary of State’s office.</p>
<p>Finding 7: Other states have established practices that enhance financial, compliance, and program reporting and expand the accountability and transparency of their scholarship programs.</p> <p>Substantially Addressed – House Bill 517 expanded accountability and transparency by establishing requirements for financial audits, publication of compliance audits, fund handling, and student eligibility determinations. However, additional issues, such as employee background checks and scholarship fund distribution timelines were not addressed.</p>	
Original Recommendations	Action Taken
<p>7.1 If the General Assembly would like to adopt the financial accounts oversight and reporting practices in other states, the law should be changed to explicitly require financial audits.</p>	<p>Fully Implemented – House Bill 517 clarified that SSO audits should be conducted according to generally accepted auditing standards, which are applied when auditing financial statements.</p>

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<p>7.2 If the General Assembly wants to increase transparency of financial and compliance reporting to the general public, state law should be changed to reclassify compliance audits and establish mechanisms to make them publicly available.</p>	<p>Fully Implemented – House Bill 517 mandated DOR to publish SSO compliance audits online (without disclosing confidential taxpayer information). Redacted compliance audit reports were made available online for the first time on April 12, 2023. They are available at: https://dor.georgia.gov/student-scholarship-organization-audit-reports.</p>
<p>7.3 If the General Assembly would like additional financial, governance, and staffing information about SSOs, state law should be changed to require SSOs to submit Form 990s to DOR.</p>	<p>Fully Implemented – House Bill 517 required SSOs to annually submit Form 990s to DOR.</p>
<p>7.4 If the General Assembly wants to have detailed information about schools that enroll students participating in the scholarship program, state law should be changed to require the reporting of this information to the state.</p>	<p>Not Implemented - The General Assembly did not include provisions in House Bill 517 to require reporting about schools with students receiving scholarships.</p>
<p>7.5 If the General Assembly intends for interest earned on donations to be dedicated to scholarships, the law should be changed to require it.</p>	<p>Fully Implemented – House Bill 517 required interest earned on donations to go toward scholarships.</p>
<p>7.6 If the General Assembly intends for funds to be distributed/transferred to students by the end of the year following the year in which donations were received (instead of only obligating and designating funds), state law should be clarified.</p>	<p>Not Implemented – The General Assembly did not include provisions in House Bill 517 to clarify when funds should be distributed.</p>
<p>7.7 If the General Assembly intends for SSOs to be solely/ultimately responsible for determining student eligibility, state law should be clarified.</p>	<p>Fully Implemented – House Bill 517 gave SSOs sole responsibility in determining student eligibility.</p>
<p>7.8 The General Assembly should consider requiring SSOs to conduct background checks on employees.</p>	<p>Not Implemented – The General Assembly did not include provisions in House Bill 517 to require SSOs to conduct background checks on employees.</p>

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Finding 8: We identified several additional matters relevant to the tax credit and student scholarship program that the General Assembly and state agencies should consider.

Original Recommendations	Action Taken
<p>In the original audit we noted matters for further consideration and identified several steps that could be taken by the General Assembly and/or agencies to improve management, oversight, and transparency.</p>	<p>No action was taken with regard to the matters for consideration noted. In particular, neither the General Assembly nor DOR have established a mechanism to ensure funds for scholarships are transferred from SSOs that cease operations (six SSOs have ceased operations since the original audit). Additionally, no action was taken to monitor the supply and demand of the tax credit, clarify SSOs' responsibility for assessing student financial need, or prohibit SSOs from sending schools donor lists.</p>

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