

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-60-01

Rule Title: Eligibility for Parent Tax Credit for Students Enrolled in or Assigned to Attend a Failing School

New;  Amend;  Repeal;  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

\*\*\*\*\*  
Does the proposed rule have any economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

\*\*\*\*\*  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Mark D. [Signature]*

Date 6/20/13

APA-6  
10/96

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-60-.01

Rule Title: Eligibility for Parent Tax Credit for Students Enrolled in or Assigned to Attend a Failing School

New  Amend  Repeal  Adopt by Reference

- NO This rule has no economic impact.  
 YES This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:  
This rule is needed to provide guidance related to the Accountability Act of 2013.
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:  
The rule is implementing provisions of the Accountability Act of 2013 and has no further impact beyond that provided for within the Act.
3. EFFECT OF THIS RULE ON COMPETITION:  
N/A
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:  
N/A
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:  
N/A
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:  
Education Trust Fund, Department of Revenue budget
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL

BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:  
The rule is implementing provisions of the Accountability Act of 2013 and has no further impact beyond that provided for within the Act.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:  
The rule is implementing provisions of the Accountability Act of 2013 and has no further impact beyond that provided for within the Act.
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:  
N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:  
N/A
11. OTHER COMMENTS:  
N/A

APA-2  
11/96

**ALABAMA DEPARTMENT OF REVENUE  
Tax Policy & Research Division**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

- |              |   |
|--------------|---|
| 810-3-60-.01 | Eligibility for Parent Tax Credit for Students Enrolled in or Assigned to Attend a Failing School |
| 810-3-60-.02 | Eligibility for Parent Tax Credit for Students Attending a Nonpublic School                       |
| 810-3-60-.03 | Eligibility for Parent Tax Credit for Students Transferring to a Failing Public School            |

**INTENDED ACTION:** Adopt new rules

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to adopt the above new rules to provide guidance regarding the statutory requirements of the Alabama Accountability Act of 2013.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **1:00 p.m. on Thursday, August 8, 2013, in the Auditorium of the Gordon Persons Building**, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at [www.revenue.alabama.gov/rulehear.html](http://www.revenue.alabama.gov/rulehear.html).

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**  
Thursday, August 8, 2013

**CONTACT PERSON AT AGENCY:**

Patricia Toles  
Alabama Department of Revenue  
4131 Gordon Persons Building  
Montgomery, Alabama 36132  
(334) 242-1380



---

Michael D. Gamble, Secretary  
Alabama Department of Revenue

0900APC.INT

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

(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.

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