Seven Part Guide to Establishing a Scholarship Granting Organization (SGO) for Public School Students

As described in greater detail below, the process begins with 1) Drafting Articles of Incorporation and Bylaws for a nonprofit entity to award scholarships to K-12 eligible students, 2) Registering this nonprofit entity with the Kentucky Secretary of State, 3) Acquiring an Employee Identification number (EIN) from IRS, 4) file your application with the IRS to create a 501 (c) (3) nonprofit entity, 5) Secure recognition from the KY Office of the Attorney General to solicit charitable donations and the KY Department of Revenue as a tax exempt entity, 6) Other considerations, 7) Prepare to market your SGO to solicit donations beginning with the 2027 tax year.

Part 1 - Draft governing documents (Articles of Incorporation and Bylaws)

Your Articles of Incorporation must include:

- A charitable purpose clause relating to education scholarships
- A dissolution clause that provides for assets go to another 501(c)(3) upon dissolution
- A 'No Conflict of Interest' policy that prohibits scholarships going to the children of board members or donors to the nonprofit entity
- A governance structure for awarding scholarships
- **Access examples for Articles of Inc and Bylaws from this webpage**

The Bylaws of your entity must ensure:

- That it serves eligible K–12 students (income ≤ 300% of area median)
- That funds will be used for qualified education expenses (tuition, books & other learning materials, tutoring, educational therapies, transportation, technology such as laptops, tablets, internet connection, public school fees, and the cost of other educational supports such as those allowed under Coverdale ESAs)
- The entity must spend at least 90% of revenue on scholarships
- Your entity must serve at least 10 students across at least two schools
- You may not accept donations earmarked for specific students
- Children of donors and board members cannot receive scholarships from the entity.
- **Access examples for Articles of Inc and Bylaws from this webpage**

The entity you design in the Articles and Bylaws must be:

- A 501(c)(3) entity, which is a nonprofit public charity, **not a private foundation**

- The primary purpose of the entity must be to award K–12 scholarships to eligible students

PART 2 — Register the nonprofit entity with the Kentucky Secretary of State

Step 1: Choose a name

- Must be unique in Kentucky and include "Inc." in the name, such as Tri County Scholarship Granting Organization Inc.

Step 2: Select/recruit initial board members

- A minimum of 3 board members/directors is required. Recommended to start with a small board and expand later.
- Recommended that the board consists of such individuals as local public-school supporters, alumni, local business owners, etc. Selecting board members who are independent of a school board helps avoid private foundation status.

Step 3: Appoint a registered agent

- Ideally a local law firm or accounting firm that has a Kentucky address

Step 4: File Articles of Incorporation with KY Secretary of State

- https://www.sos.ky.gov/bus/business-filings/OnlineServices/Pages/default.aspx

PART 3 — Get an Employee Identification number from the IRS

- **Employee Identification Number form and links:**
  https://www.irs.gov/pub/irs-pdf/iss4.pdf
  https://www.irs.gov/pub/irs-pdf/fss4.pdf
  Obtaining an EIN is required before applying for 501(c)(3) status

PART 4 — Apply for 501(c)(3) status (IRS approval)

- **501 C 3 instructions and form links:**
  https://www.irs.gov/pub/irs-pdf/p4220.pdf
  https://form1023.org/wp-content/uploads/Form-1023-2020.pdf
  Access the IRS Form 1023 template from this webpage
  Use the full Form 1023, not the Form 1023EZ to apply for 501 C 3 status.

Include in your Form 1023 501 (c) (3) application:

- A narrative of activities to raise and dispense funds. This very important for applications to establish SGOs.
- Include an estimate of the funds you hope to raise and scholarships you hope to award for the first 3 to 5 years.
- Board and governance details from your articles and bylaws
- Design of your policies for awarding scholarships
  - ➢ An objective, nondiscriminatory selection process
  - ➢ An independent selection committee
  - ➢ Clear eligibility criteria
  - ➢ A documentation and monitoring process
- Conflict of interest safeguards that avoid private benefit violations. If structured incorrectly, the IRS can deny your application or revoke it later.

The IRS uses this information to determine if you qualify as a public charity as opposed to a private foundation.

PART 5 — Additional Kentucky registrations

Step 1: Submit a 'Notice of Intent to Solicit' with the Office of Attorney General as a charitable solicitation organization

- Office of Attorney General, Consumer Protection Division - Charity Registration, 1024 Capital Center Drive, Suite 200, Frankfort, KY 40601
- https://www.ag.ky.gov/Resources/Consumer-Resources/charity/Pages/registration.aspx
- You must be recognized as a charitable donation solicitation organization before you begin fund raising.
- Registration as a Charitable Donation Solicitation Organization typically includes:
  - IRS Form 990: https://www.irs.gov/pub/irs-pdf/f990.pdf
  - Unified Registration Statement URS: https://multistatefiling.org
  - IRS determination 501 C 3 determination letter
  - Articles of Incorporation and Bylaws
- There is no fee for this designation.

Step 2: Apply for tax exemption with the KY Department of Revenue

- Use Form 51A125 from the KY Dept. of Revenue website
- https://revenue.ky.gov/Forms/51A125%20-%20PE%20Application.pdf
- You will be required to provide Articles of Incorporation and Bylaws, Employee Identification Number, address and contact person such as board chair or registered agent.
- A description of your SGO's primary function
- There is no fee for this designation

PART 6 — Additional Considerations

Step 1: Your financial compliance system must:

- Segregate SGO donations (no co-mingling funds) from other activities
- Track scholarship expenditures precisely
- Maintain audit-ready records

Step 2: Your Scholarship program infrastructure should have:

- An application portal
- An income verification process
- Selection committee procedures
- Award tracking system

Step 3: Governance safeguards to avoid IRS problems:

- A majority of the board members should be independent of any school district(s)
- No insider scholarships for children of board members or donors
- Have a written conflict of interest policy
- Have a recusal process for board members to excuse themselves from participating in scholarship decisions that may present a conflict of interest

PART 7 — Prepare to begin marketing your SGO and soliciting donations beginning January 1, 2027.

- Individuals can donate up to $1,700 annually to a qualified SGO and receive a 100% tax credit
- It is likely crucial that your marketing ensures potential donors understand that they will receive a 100% tax credit for these donations as opposed to the lesser tax advantage they receive for other charitable donations
- As you can see, there is a lot of paperwork and government filings involved in this process, plus state and federal agencies will be deluged with school districts all across the country seeking to establish SGOs. Getting stated ASAP will increase the likelihood that you are ready to roll out your SGO on January 1, 2027
- **For additional resources and information, contact:**
    - National Association of Educational
      www.educationfoundations.org
    - Association of Education Service Agencies
      www.aesa.us/aesa-foundation
- Bob Rowland, KASA
  Bob@kasa.org