



# Senator Simcha Felder

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## Frequently Ask Questions

### **Is this constitutional?**

Yes. This bill is similar to the Arizona statute that was at issue in Arizona Christian School Tuition Organization v. Winn. In that case, the Supreme Court held that contributions made by individuals are not contributions of public funds even though the individuals received a tax credit for the contributions.

### **Are we donating to non-public schools?**

No. Donations are for scholarship organizations. Those scholarship organizations may offer scholarships to non-public or public schools.

### **Scholarship organizations must offer scholarships to at least 3 non-public schools.**

#### **What does that mean?**

Scholarship organizations may offer scholarships to attend specific schools or any school, public or non-public. If a scholarship organization offers a scholarship to specific schools, the organization must offer scholarships to no less than 3 non-public schools. In other words, a scholarship organization cannot offer scholarships to just one or two non-public schools.

### **How is this helping low income families?**

Any child whose family has a Federal adjusted gross income of less than \$500,000 is eligible for a scholarship. When the family has 3 or more school aged children, the amount is increased by \$10,000 per child, with a limit of \$550,000. So, a family with 4 school aged children may have FAGI of \$540,000 and their children would qualify for a scholarship.

### **What is the maximum scholarship amount?**

For scholarships to attend a non-public school, it is the cost of tuition minus any amount that the child receives as a tuition scholarship to attend that school.

For public schools, it is the amount of tuition charged minus any amount that the child receives as a tuition scholarship to attend that school **but only** if the school district where the child resides is not required to pay the child's tuition.

**What if a child receives a grant for uniforms or books to attend a non-public school, does that count against the child when determining the maximum amount for a scholarship?**

No. Only tuition scholarships would reduce the maximum amount that can be awarded as a scholarship.

**What age is school age?**

A person over five and under twenty-one years of age who has not received a high school diploma (Ed Law section 3202(1))

**Can a taxpayer get a tax credit for contributing to a public school and contributing to a scholarship organization?**

Yes.

**If a taxpayer claims a Federal charitable contribution for contributions made to a scholarship organization, isn't this double dipping?**

No. Corporate taxpayers and Individuals who itemize on their Federal return must add the amount of the charitable contribution back to income. The Federal itemized deduction removes the amount contributed from income for purposes of determining tax liability. When that amount is added back to income, the value of the itemized deduction becomes part of the Taxpayer's tax liability. The credit is applied to the Taxpayer's tax liability.

**Why do Individuals who do not itemize at the Federal level have to add the amount back?**

The value of the contribution was not removed from income at the Federal level, so the tax liability for these Individuals will include the amount contributed.