

**STATE BOARD OF EDUCATION**  
**Consent Item**  
July 18, 2018

**SUBJECT:** Amendment to Rule 6A-6.0960, Florida Tax Credit Scholarship Program

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**PROPOSED BOARD ACTION**

For Approval

**AUTHORITY FOR STATE BOARD ACTION**

Section 1002.395, Florida Statutes

**EXECUTIVE SUMMARY**

The following changes are proposed to streamline and strengthen the administration of the Florida Tax Credit Scholarship Program:

1. Provide the department 30 days from the Scholarship Funding Organization (SFO) application deadline to notify SFOs of deficiencies.
2. In addition to the already established data, SFOs must provide a participating student's parent's mailing address, email address and telephone number as well as the type of scholarship and the student's first date of attendance and withdrawal date from a private school in the quarterly reports submitted by the SFOs to the department.
3. SFO must comply with section 212.099, Florida Statutes, when identifying qualified students and awarding scholarships.
4. Remove language related to private school participation as it is now addressed in section 1002.421, Florida Statutes, and State Board of Education Rule 6A-6.03315, F.A.C.
5. Update statutory references throughout the rule to align with current law.
6. Removal of language related to the Commissioner's authority and complaint and inquiry process as it is now addressed in Rule 6A-6.03315.

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**Supporting Documentation Included:** Proposed Rule 6A-6.0960, F.A.C.

**Facilitator/Presenter:** Adam Miller, Executive Director, Office of Independent Education and Parental Choice



**6A-6.0960 Florida Tax Credit Scholarship Program.**

The Florida Tax Credit Scholarship Program will be implemented as required by section 1002.395, F.S., to allow nonprofit scholarship-funding organizations to provide scholarships from eligible contributions to qualified students attending eligible private schools or public schools outside the school district in which the student resides or in a laboratory school.

(1) Eligibility of nonprofit scholarship-funding organizations.

(a) through (c) No change.

(d) Within thirty (30) days of ~~the receipt of an~~ application deadline, the Department shall send to each nonprofit scholarship-funding organization applicant, at the address listed on the Nonprofit Scholarship-Funding Organization Form, a written notice of any deficiencies in the application.

(e) through (k) No change.

(2) Nonprofit scholarship-funding organization requirements. Eligible nonprofit scholarship-funding organizations shall five (5) times a year, no later than August 10, October 10, January 10, and March 10 and no later than fifteen (15) days after the last payment date of the school year, submit in a format to be specified by the Department an electronic list of all participating scholarship students. The list shall include the following information:

(a) Demographic information for each student, including name, date of birth, social security number, grade level, gender, race, parent's name, mailing and address, email address, and telephone number;

(b) Information on the student's school of attendance, including tuition, fees, and transportation amounts;

(c) The amount and type of each student's scholarship; and,

(d) Year-to-date information on the amount paid for each scholarship student during the school year and the school attended, including the first date of attendance and withdraw date. If a student attended more than one school, the summary shall detail the amount of the scholarship payments that the student generated by each school.

(3) No change.

(4) Qualified students. Applications for a Florida Tax Credit Scholarship shall be made by parents directly through an eligible nonprofit scholarship-funding organization. The nonprofit scholarship-funding organization shall identify qualified students and award all scholarships consistent with the requirements of sections 1002.395 and 212.099, F.S. The process used to identify qualified students and award scholarships is subject to the annual

financial and compliance audit required by law.

(5) Private school participation. To participate in the Florida Tax Credit Scholarship Program, a school must meet the definition of an “eligible private school” as defined in Section 1002.395(2)(g), F.S., and:

~~(a) Register its intent to participate in the scholarship program with the Department using the Department’s website;~~

~~(b) Complete the annual survey of private schools required by section 1002.42(2), F.S., using the Department’s website, and submit it to the Department in both an electronic format and by mail. The survey that is mailed to the Department must include a notarized statement verifying that the private school owner has complied with the background check requirements of section 1002.42(2)(c), F.S.~~

~~(a)(e) Annually meet all scholarship compliance requirements for private schools pursuant to Rule 6A-6.03315, F.A.C.; and,~~

~~(b)(d) Continue to adhere to all statutory and rule requirements after determined eligible to participate in the program pursuant to Rule 6A-6.03315, F.A.C.~~

(6) No change.

~~(7) Commissioner’s duties. The Commissioner may deny, suspend, or revoke a private school’s participation in the scholarship program pursuant to section 1002.395(11), F.S.~~

~~(a) If the Commissioner issues a notice of noncompliance:~~

~~1. Private schools shall be given a reasonable period from the date of the notice, as determined by the Commissioner, to demonstrate compliance.~~

~~2. The notice shall state the reasons for the noncompliance, provide instructions on how to demonstrate compliance, and give a deadline for demonstrating compliance to the Commissioner.~~

~~3. The private school’s participation status shall be unaffected by the above notice of noncompliance process.~~

~~4. A copy of the notice shall be provided to the appropriate nonprofit scholarship funding organization.~~

~~(b) If the Commissioner issues a notice of proposed action denying, suspending, or revoking a private school’s participation:~~

~~1. The notice shall state the reasons for the action and specify the private school’s right to appeal.~~

~~2. The private school’s participation status shall be unaffected until the proposed action becomes final and all relevant appeals have expired.~~

~~3. A copy of the notice shall be provided to the appropriate nonprofit scholarship funding organization.~~

~~(c) If the Commissioner immediately suspends payment of scholarship funds:~~

~~1. The Commissioner shall issue a notice of proposed action suspending payment of scholarship funds to the private school;~~

~~2. The notice shall state the reasons for the suspension and the rights the private school has to appeal; and,~~

~~3. The private school's participation status will be adjusted so that it will be unable to receive payments or utilize the Department's website and its functionalities to participate in the scholarship program in any way; and,~~

~~4. A copy of the notice shall be provided to the appropriate nonprofit scholarship funding organization.~~

~~(8) Complaint process. The following process is established to allow individuals to notify the Department of any violation by parents, private schools, or school districts of laws or rules related to scholarship program participation.~~

~~(a) Persons interested in filing a complaint should contact the Department through the toll-free hotline, established pursuant to section 1002.395, F.S., or through the Department's website.~~

~~(b) An initial complaint shall include, at a minimum, the complainant's name, phone number, address, and details of the situation.~~

~~(c) After receipt of the initial complaint, the Department shall offer to provide a formal complaint form to the complainant.~~

~~(d) To register a formal complaint, the complainant must complete the formal complaint form, sign it, and mail or fax it to the Department within 30 days of making the initial complaint.~~

~~(e) Upon receipt of a formal complaint, the Department shall review the complaint for legal sufficiency. If the complaint is legally sufficient, the Department shall conduct an inquiry, as described in subsection (9) of this rule, or refer the matter to the appropriate agency for investigation. If the complaint is not legally sufficient, the Department may close the complaint.~~

~~(f) The Department shall notify the complainant of the final result of all legally sufficient formal complaints.~~

~~(9) Inquiry Process. If an inquiry is made as to the conduct of an individual or entity participating in the program:~~

~~(a) A letter of inquiry will be delivered using regular and certified mail that alerts the individual or entity to the inquiry and provides the opportunity to respond. The letter of inquiry shall detail any alleged violations of program~~

~~rules or law, the response required, any documentation requested, and the deadline for responding to the department.~~

~~A copy of the letter of inquiry shall be provided to the appropriate nonprofit scholarship funding organization.~~

~~(b) Failure to respond to a letter of inquiry, in a timely manner by:~~

~~1. A parent, then the Department shall notify the appropriate nonprofit scholarship funding organization of the nature of the inquiry and the parent's deemed admission of alleged violation due to a failure to respond to the letter of inquiry. The nonprofit scholarship funding organization can use that information to reconsider its determination of student eligibility.~~

~~2. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to section 1002.395(11), F.S., and this rule.~~

~~3. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, the student, or private school as appropriate.~~

~~(c) The Department shall review the response to the letter of inquiry; and:~~

~~1. If satisfied that no violation of laws or rules related to scholarship program participation occurred, notify the parent, private school, or school district and complainant that the inquiry will be closed.~~

~~2. If more information is needed, request additional information related to the inquiry from the complainant, parent, private school, or school district or conduct a site audit/inspection as appropriate.~~

~~3. If a violation of laws or rules related to scholarship program participation has been committed by:~~

~~a. A parent, then the Department shall notify the appropriate nonprofit scholarship funding organization of the violation which it may use to reconsider its determination of student eligibility.~~

~~b. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to section 1002.395(11), F.S., and this rule.~~

~~c. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, student, or private school as appropriate.~~

~~(d) The Department may at any point in the process set forth in this rule refer an inquiry to the Department's Office of Inspector General or another appropriate agency for investigation.~~

~~(e) Notwithstanding any other provisions of this rule, the Commissioner may at any point during the inquiry~~

~~process exercise the authority given under section 1002.395(11), F.S., and this rule.~~

*Rulemaking Authority 1001.02, 1002.395(9)(i), (13)(d), (16)(h)-(i) FS. Law Implemented 1002.395 FS. History—  
New 2-5-07, Amended 11-26-08, 6-22-10, 10-25-10, 11-4-14, 3-22-17.*

