

**STATE BOARD OF EDUCATION**

**Consent Item**

July 18, 2018

**SUBJECT:** Amendment to Rule 6A-6.0970, John M. McKay Scholarship for Students with Disabilities Program

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**PROPOSED BOARD ACTION**

For Approval

**AUTHORITY FOR STATE BOARD ACTION**

Section 1002.39, Florida Statutes

**EXECUTIVE SUMMARY**

House Bill 7055, passed during the 2018 legislative session, revised and strengthened the compliance requirements for private schools participating in state K-12 scholarship programs, and incorporated them into section 1002.421, Florida Statutes, which applies to all scholarship programs. The proposed rule removes provisions related to the Commissioner's authority and obligations, as well as the complaint and inquiry process. Those provisions are included in a separate rule that applies to all state scholarship programs authorized under Chapter 1002, Florida Statutes.

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**Supporting Documentation Included:** Proposed Rule 6A-6.0970, F.A.C.

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



**6A-6.0970 John M. McKay Scholarship for Students with Disabilities Program.**

The John M. McKay Scholarship for Students with Disabilities Program will be implemented as required by Section 1002.39, F.S., in an effective and equitable manner that will maintain the integrity of the program.

(1) through (5) No change.

(6) Private school participation. To participate in the John M. McKay Scholarship for Students with Disabilities Program, a school must:

(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.

(c) Annually meet all scholarship compliance requirements for private schools pursuant to Rule 6A-6.03315, F.A.C.

(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.

~~(7) Commissioner's duties. The Commissioner may deny, suspend, or revoke a private school's participation in the scholarship program pursuant to Section 1002.39(7), 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.~~

~~(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.~~

~~(e) 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.~~

~~(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 1002.39, F.S., or through the Department's website.~~

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

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

~~1. A parent, then the Department shall determine the effect on 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 1002.39(7), 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, 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 parent of any violation of laws or rules committed and any effect it will have on 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 1002.39(7), F.S., and this rule.~~

~~e. 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 full investigation.~~

~~(e) Notwithstanding any other provision of this rule, the Commissioner may at any point before or during the inquiry process exercise the authority given under Section 1002.39(7), F.S., and this rule.~~

*Rulemaking Authority 1002.39(13) FS. Law Implemented 1002.39 FS. History--New 1-18-07, Amended 4-21-09, 11-12-09, 2-28-12, 7-28-15.*

