

STATE BOARD OF EDUCATION
Action Item
September 29, 2014

SUBJECT: Approval of New Rule 6A-6.0961, Florida Personal Learning Scholarship Accounts Program

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1002.385, Florida Statutes

EXECUTIVE SUMMARY

The proposed rule creates processes for the Department of Education to distribute funds to eligible non-profit scholarship funding organizations for the purpose of providing scholarships to eligible students with specific disabilities. The rule also creates the processes to be used by the Department to deny, suspend or revoke participation in the program.

Supporting Documentation Included: Proposed Rule 6A-6.0961, Florida Personal Learning Scholarship Accounts Program and Section 1002.385, Florida Statutes

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

6A-6.0961 Florida Personal Learning Scholarship Accounts Program.

The Florida Personal Learning Scholarship Accounts Program will be implemented as required by Section 1002.385, F.S., to allow nonprofit scholarship-funding organizations to provide the option for a parent to better meet the individual educational needs of his or her eligible child by establishing an account for the funding of eligible expenditures.

(1) Eligibility of nonprofit scholarship-funding organizations.

(a) An eligible nonprofit scholarship-funding organization that participates in the Florida Tax Credit Scholarship Program under Section 1002.395, F.S., may establish personal learning scholarship accounts for eligible students.

(b) If, at any point during the school year, a nonprofit scholarship-funding organization no longer meets the eligibility requirements for nonprofit scholarship-funding organizations, the Commissioner shall:

1. Issue a notice of noncompliance that gives the nonprofit scholarship-funding organization a reasonable time to meet the requirements; or,

2. Issue a notice of proposed action to suspend the nonprofit scholarship-funding organization or to remove the nonprofit scholarship-funding organization from the list of eligible nonprofit scholarship-funding organizations where the health, safety, or welfare of students is involved or the nonprofit scholarship-funding organization has failed to meet requirements specified in a notice of noncompliance pursuant to this paragraph.

(c) Nonprofit scholarship-funding organizations suspended or removed pursuant to subsection (9) of this rule shall have fifteen (15) days from receipt of the notice of proposed action to file with the Department's agency clerk a request for a proceeding pursuant to Sections 120.569 and 120.57, F.S. All resulting proceedings shall be conducted in accordance with Chapter 120, F.S.

(2) Nonprofit scholarship-funding organization requirements. Eligible nonprofit scholarship-funding organizations shall:

(a) Receive applications and determine eligibility of students in accordance with the requirements of Section 1002.385(3)(a), F.S.:

(b) By March 1 before the school year in which students will participate, submit in a format to be specified by the Department an electronic list of all scholarship students that have applied to receive scholarship funds. The list shall include the following information:

1. Information for each student, including name, date of birth, grade level, and address, including county of residence;

2. Eligible disability;

3. Matrix funding level for the student;

4. Status of eligibility determination; and

5. Whether student is current participant in program.

(3) Nothing in this rule shall limit the Department's authority to request any other information related to the scholarship program.

(4) Eligible students. Applications for a Florida Personal Learning Scholarship Account shall be made by

parents directly through an eligible nonprofit scholarship-funding organization. The nonprofit scholarship-funding organization shall verify the eligibility of students pursuant to the criteria established in Section 1002.385, F.S., and award scholarships consistent with the requirements of Section 1002.385, F.S. The process used to identify eligible students and award scholarships is subject to the annual financial and operational audit required by section 1002.395, F.S.

(5) Scholarship payments. The following provisions relate to the distribution of funds from the Department of Education to an eligible nonprofit scholarship-funding organization.

(a) An eligible scholarship funding organization may request a payment from the Department of Education for an eligible student only after it has confirmed that the student has met the eligibility criteria in Section 1002.385(3)(a), F.S. Using the Department's web-based system (https://www.floridaschoolchoice.org/login/login_sfo.asp), the nonprofit scholarship-funding organization must:

1. Confirm the eligibility of each scholarship student;
2. Attest to the accuracy of each student's information submitted by the nonprofit scholarship-funding organization, which must include the following:
 - a. Student name, date of birth, social security number, gender, race, grade level, and address including county of residence;
 - b. Category under which student is eligible, pursuant to Section 1002.385(2)(d), F.S.;
 - c. Matrix level of funding; and,
 - d. Date and time the nonprofit scholarship-funding organization confirmed eligibility.
3. Submit a request for payment to include the amount requested for each individual student as well as the total amount requested.

(b) The Department shall verify, prior to payment, that each eligible student for which the nonprofit scholarship funding organization is requesting payment is not enrolled in public school or receiving a scholarship under another program pursuant to Chapter 1002, Florida Statutes, and has not had participation suspended or revoked pursuant to Section 1002.385(10), F.S. Upon verification, the Department shall distribute funds to the nonprofit scholarship-funding organization. The Department shall distribute funds on a first-come first-served basis, based upon the date and time the scholarship-funding organization confirmed eligibility pursuant to subparagraph (5)(a)1. of this rule.

(c) Requests for payments by a nonprofit scholarship-funding organization must be submitted no later than May 1 for the fiscal year in which the student is eligible to receive a scholarship.

(d) The Commissioner may suspend a student's participation in the program and withhold a scholarship payment pursuant to Section 1002.385(10), F.S.

(e) Eligible nonprofit scholarship-funding organizations are responsible for the return of all scholarship funds to the Department that were received in error. If the Department identifies scholarship funds that should be returned, it shall send a letter via both regular and certified mail requesting the return of the funds. The letter shall state the reason the funds are being requested, the student or students involved, instructions on returning the funds, and the procedure to be followed if the eligible nonprofit scholarship-funding organization believes that return of the funds is being requested in error or wishes to provide additional information related to the requested funds. The

Department's letter may also require the eligible nonprofit scholarship-funding organization to provide an explanation for how the funds were erroneously obtained.

1. Eligible nonprofit scholarship-funding organizations shall respond to such letter within thirty (30) days by either returning the funds or detailing in writing why its retention of the funds is proper.

2. If the Department receives a letter detailing why the funds were properly retained, it shall determine whether the explanation is sufficient and thereafter alert the eligible nonprofit scholarship-funding organization of any funds still due and a timeframe for the return of those funds. The response shall give the eligible nonprofit scholarship-funding organization at least twenty (20) additional days to repay the funds.

3. Failure to return the funds due to the Department, or failure to provide a sufficient explanation for how the eligible nonprofit scholarship-funding organization claimed funds that were erroneously obtained, within the time period allotted in subparagraphs (5)(e)1. and 2. of this rule, shall result in the initiation of noncompliance procedures pursuant to the Commissioner's authority described in Section 1002.385(10), F.S., and this rule.

(f) All claims by eligible nonprofit scholarship-funding organizations for missed scholarship payments must be made by May 1 of the fiscal year in which the scholarship payment was originally due.

(6) Quarterly Reports: Four (4) times a year, no later than October 30, January 30, April 30, and June 30 of each year, an eligible nonprofit scholarship-funding organization shall submit in a format to be specified by the Department an electronic list of all participating scholarship students, providers of services, and participating private schools. 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, and address;

(b) Information on all providers of services, including name, licensure information, and fee amounts received for services;

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

(d) The cumulative amount of scholarship funds received for each student; and,

(e) The amount of scholarship funds remaining in each student's account.

(7) Complaint process. The following process is established to allow individuals to notify the Department of any violation by parents, providers, private schools, eligible nonprofit scholarship-funding organizations, 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 (1-800-447-1636), established pursuant to Section 1002.395, F.S., or through the Department's website at www.floridaschoolchoice.org.

(b) An initial complaint shall include 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 may 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 (8) 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.

(8) 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) If there is a failure to respond to a letter of inquiry within fifteen (15) days 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 may use that information to reconsider its determination of student eligibility. The Commissioner may take action as prescribed under subsection (9) of this rule.

2. A private school, then the Commissioner shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.385(10), F.S., and this rule.

3. A nonprofit scholarship-funding organization, then the Commissioner shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.385(10), F.S., and this rule.

4. A school district, then the Commissioner shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation 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 eligible student, approved provider, nonprofit scholarship-funding organization, 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, eligible student, approved provider, nonprofit scholarship-funding organization, private school, or school district.

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 findings and shall initiate the process prescribed under subsection (9) of this rule.

b. A private school, then the Commissioner shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.385(10), F.S., and this rule.

c. A nonprofit scholarship-funding organization, then the Commissioner shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.385(10), F.S., and this rule.

d. A school district, then the Commissioner shall take any actions allowable under law to compel school district

compliance with program requirements and to ameliorate the effect of the violation 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 1002.385(10), F.S., and this rule.

(9) Commissioner's duties. The Commissioner may deny, suspend, or revoke participation in the scholarship program pursuant to Section 1002.385(10), F.S.

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

1. Eligible students, nonprofit scholarship-funding organizations, and private schools shall be given no fewer than five (5) days 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 eligible student, nonprofit scholarship-funding organization, or private school's participation status shall be unaffected by the above notice of noncompliance process; and,

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

(b) Upon issuance of a notice of noncompliance the Commissioner may suspend payments to the non-profit scholarship funding organization until the non-profit scholarship funding organization has demonstrated compliance.

(c) If the Commissioner issues a notice of proposed action denying, suspending, or revoking an eligible student, nonprofit scholarship-funding organization, or private school's participation:

1. The notice shall state the reasons for the action and specify the eligible student, approved provider, nonprofit scholarship-funding organization, or private school's right to appeal;

2. The eligible student, approved provider, nonprofit scholarship-funding organization, or private school's participation status shall be unaffected until the proposed action becomes final and all relevant appeals have expired; and,

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

(d) If the Commissioner denies, suspends, or revokes an authorized use of program funds:

1. The Commissioner shall issue a notice of agency action to the eligible student, nonprofit scholarship-funding organization, or private school;

2. The notice shall state the reasons for the action and the rights the eligible student, nonprofit scholarship-funding organization, or private school has to appeal;

3. The eligible student, nonprofit scholarship-funding organization, or private school participation status will be adjusted so that it will be unable to participate in the program; and

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

Rulemaking Authority 1002.385(18), FS. Law Implemented 1002.385 FS. History--New

1002.385 Florida personal learning scholarship accounts.—

(1) ESTABLISHMENT OF PROGRAM.—The Florida Personal Learning Scholarship Accounts Program is established to provide the option for a parent to better meet the individual educational needs of his or her eligible child.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Approved provider” means a provider approved by the Agency for Persons with Disabilities, a health care practitioner as defined in s. 456.001(4), or a provider approved by the department pursuant to s. 1002.66.

(b) “Curriculum” means a complete course of study for a particular content area or grade level, including any required supplemental materials.

(c) “Department” means the Department of Education.

(d) “Disability” means, for a student in kindergarten to grade 12, autism, as defined in s. 393.063(3); cerebral palsy, as defined in s. 393.063(4); Down syndrome, as defined in s. 393.063(13); an intellectual disability, as defined in s. 393.063(21); Prader-Willi syndrome, as defined in s. 393.063(25); or spina bifida, as defined in s. 393.063(36); for a student in kindergarten, being a high-risk child, as defined in s. 393.063(20)(a); and Williams syndrome.

(e) “Eligible nonprofit scholarship-funding organization” or “organization” has the same meaning as in s. 1002.395.

(f) “Eligible postsecondary educational institution” means a Florida College System institution, a state university, a school district technical center, a school district adult general education center, or an accredited nonpublic postsecondary educational institution, as defined in s. 1005.02, which is licensed to operate in the state pursuant to requirements specified in part III of chapter 1005.

(g) “Eligible private school” means a private school, as defined in s. 1002.01, which is located in this state, which offers an education to students in any grade from kindergarten to grade 12, and which meets requirements of:

1. Sections 1002.42 and 1002.421; and

2. A scholarship program under s. 1002.39 or s. 1002.395, as applicable, if the private school participates in a scholarship program under s. 1002.39 or s. 1002.395.

(h) “IEP” means individual education plan.

(i) “Parent” means a resident of this state who is a parent, as defined in s. 1000.21.

(j) “Program” means the Florida Personal Learning Scholarship Accounts Program established in this section.

(3) PROGRAM ELIGIBILITY.—A parent of a student with a disability may request and receive from the state a Florida personal learning scholarship account for the purposes specified in subsection (5) if:

(a) The student:

1. Is a resident of this state;

2. Is eligible to enroll in kindergarten through grade 12 in a public school in this state;

3. Has a disability as defined in paragraph (2)(d); and

4. Is the subject of an IEP written in accordance with rules of the State Board of Education or has received a diagnosis of a disability as defined in subsection (2) from a physician who is licensed under chapter 458 or chapter 459 or a psychologist who is licensed in this state.

(b) Beginning January 2015, the parent has applied to an eligible nonprofit scholarship-funding organization to participate in the program by February 1 before the school year in which the student will participate or an alternative date as set by the organization for any vacant, funded slots. The request must be communicated directly to the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request. The organization shall notify the district and the department of the parent’s intent upon receipt of the parent’s request.

(4) PROGRAM PROHIBITIONS.—

(a) A student is not eligible for the program while he or she is:

1. Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind; the Florida Virtual School; the College-Preparatory Boarding Academy; a developmental research school authorized under s. 1002.32; a charter school authorized under s. 1002.33, s. 1002.331, or s. 1002.332; or a virtual education program authorized under s. 1002.45;

2. Enrolled in a school operating for the purpose of providing educational services to youth in the Department of Juvenile Justice commitment programs;

3. Receiving a scholarship pursuant to the Florida Tax Credit Scholarship Program under s. 1002.395 or the John M. McKay Scholarships for Students with Disabilities Program under s. 1002.39; or

4. Receiving any other educational scholarship pursuant to this chapter.

(b) A student is not eligible for the program if:

1. The student or student’s parent has accepted any payment, refund, or rebate, in any manner, from a provider of any services received pursuant to subsection (5);

2. The student’s participation in the program has been denied or revoked by the Commissioner of Education pursuant to subsection (10); or

3. The student’s parent has forfeited participation in the program for failure to comply with requirements pursuant to subsection (11).

(5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds may be spent for the following purposes:

(a) Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content.

(b) Curriculum as defined in paragraph (2)(b).

(c) Specialized services by approved providers that are selected by the parent. These specialized services may include, but are not limited to:

1. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.
2. Services provided by speech-language pathologists as defined in s. 468.1125.
3. Occupational therapy services as defined in s. 468.203.
4. Services provided by physical therapists as defined in s. 486.021.
5. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an implant or assistive hearing device.

(d) Enrollment in, or tuition or fees associated with enrollment in, an eligible private school, an eligible postsecondary educational institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

(e) Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

(f) Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98, for the benefit of the eligible student.

(g) Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (4).

A specialized service provider, eligible private school, eligible postsecondary educational institution, private tutoring program provider, online or virtual program provider, public school, school district, or other entity receiving payments pursuant to this subsection may not share, refund, or rebate any moneys from the Florida Personal learning scholarship account with the parent or participating student in any manner.

(6) **TERM OF THE PROGRAM.**—For purposes of continuity of educational choice, the program payments made under this section shall remain in force until a student participating in the program participates in any of the prohibited activities specified in subsection (4), has funds revoked by the Commissioner of Education pursuant to subsection (10), returns to a public school, graduates from high school, or attains 22 years of age, whichever occurs first. A participating student who enrolls in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the program's term.

(7) **SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.**—

(a)1. For a student with a disability who does not have a matrix of services under s. 1011.62(1)(e) and for whom the parent requests a matrix of services, the school district must complete a matrix that assigns the student to one of the levels of service as they existed before the 2000-2001 school year.

2.a. Within 10 school days after a school district receives notification of a parent's request for completion of a matrix of services, the school district must notify the student's parent if the matrix of services has not been completed and inform the parent that the district is required to complete the matrix within 30 days after receiving notice of the parent's request for the matrix of services. This notice must include the required completion date for the matrix.

b. The school district shall complete the matrix of services for a student whose parent has made a request. The school district must provide the student's parent with the student's matrix level within 10 school days after its completion.

c. The department shall notify the parent and the eligible nonprofit scholarship-funding organization of the amount of the funds awarded within 10 days after receiving the school district's notification of the student's matrix level.

d. A school district may change a matrix of services only if the change is to correct a technical, typographical, or calculation error.

(b) For each student participating in the program who chooses to participate in statewide, standardized assessments under s. 1008.22 or the Florida Alternate Assessment, the school district in which the student resides must notify the student and his or her parent about the locations and times to take all statewide, standardized assessments.

(c) For each student participating in the program, a school district shall notify the parent about the availability of a reevaluation at least every 3 years.

(8) **PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.**—An eligible private school may be sectarian or nonsectarian and shall:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the eligible nonprofit scholarship-funding organization, upon request, all documentation required for the student's participation, including the private school's and student's fee schedules.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Annually administering or making provision for students participating in the program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the Department of Education or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school shall report a student's scores to the parent.

3. Cooperating with the scholarship student whose parent chooses to have the student participate in the statewide assessments pursuant to s. 1008.22 or, if a private school chooses to offer the statewide assessments, administering the assessments at the school.

a. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10.

b. A participating private school shall submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

(d) Employ or contract with teachers who have regular and direct contact with each student receiving a scholarship under this section at the school's physical location.

(e) Annually contract with an independent certified public accountant to perform the agreed-upon procedures developed under s. 1002.395(6)(n) and produce a report of the results if the private school receives more than \$250,000 in funds from scholarships awarded under this section in the 2014-2015 state fiscal year or a state fiscal year thereafter. A private school subject to this paragraph must submit the report by September 15, 2015, and annually thereafter to the scholarship-funding organization that awarded the majority of the school's scholarship funds. The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

The inability of a private school to meet the requirements of this subsection constitutes a basis for the ineligibility of the private school to participate in the program as determined by the department.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Maintain a list of approved providers.

(b) Require each eligible nonprofit scholarship-funding organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to paragraphs (5)(a) and (b). Review of expenditures made for services in paragraphs (5)(c)-(g) may be completed after the payment has been made.

(c) Investigate any written complaint of a violation of this section in accordance with the process established by s. 1002.395(9)(f).

(d) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the program, the providers of services to students, and other information deemed necessary by the department.

(e) Compare the list of students participating in the program with the public school enrollment lists before each program payment to avoid duplicate payments.

(10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

(a) The Commissioner of Education:

1. Shall deny, suspend, or revoke a student's participation in the program if the health, safety, or welfare of the student is threatened or fraud is suspected.

2. Shall deny, suspend, or revoke an authorized use of program funds if the health, safety, or welfare of the student is threatened or fraud is suspected.

3. May deny, suspend, or revoke an authorized use of program funds for material failure to comply with this section and applicable department rules if the noncompliance is correctable within a reasonable period of time. Otherwise, the commissioner shall deny, suspend, or revoke an authorized use for failure to materially comply with the law and rules adopted under this section.

4. Shall require compliance by the appropriate party by a date certain for all nonmaterial failures to comply with this section and applicable department rules. The commissioner may deny, suspend, or revoke program participation under this section thereafter.

(b) In determining whether to deny, suspend, or revoke in accordance with this subsection, the commissioner may consider factors that include, but are not limited to, acts or omissions by a participating entity which led to a previous denial or revocation of participation in an education scholarship program; failure to reimburse the eligible nonprofit scholarship-funding organization for program funds improperly received or retained by the entity; imposition of a prior criminal sanction related to the entity or its officers or employees; imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an entity's management or operation; or other types of criminal proceedings in which the entity or its officers or employees were found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

(11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for program participation under this section is exercising his or her parental option to determine the appropriate placement or the services that best meet the needs of his or her child. The scholarship award for a student is based on a matrix that assigns the student to support Level III services. If a parent chooses to request and receive an IEP and a matrix of services from the school district, the amount of the payment shall be adjusted as needed, when the school district completes the matrix.

(a) To enroll an eligible student in the program, the parent must sign an agreement with the eligible nonprofit scholarship-funding organization and annually submit a notarized, sworn compliance statement to the organization to:

1. Affirm that the student is enrolled in a program that meets regular school attendance requirements as provided in s. 1003.01(13)(b)-(d).

2. Use the program funds only for authorized purposes, as described in subsection (5).

3. Affirm that the student takes all appropriate standardized assessments as specified in this section.

a. If the parent enrolls the child in an eligible private school, the student must take an assessment selected by the private school pursuant to s. 1002.395(7)(e).

b. If the parent enrolls the child in a home education program, the parent may choose to participate in an assessment as part of the annual evaluation provided for in s. 1002.41(1)(c).

4. Notify the school district that the student is participating in the Personal Learning Scholarship Accounts if the parent chooses to enroll in a home education program as provided in s. 1002.41.
5. Request participation in the program by the date established by the eligible nonprofit scholarship-funding organization.
6. Affirm that the student remains in good standing with the provider or school if those options are selected by the parent.
7. Apply for admission of his or her child if the private school option is selected by the parent.
8. Annually renew participation in the program. Notwithstanding any changes to the student's IEP, a student who was previously eligible for participation in the program shall remain eligible to apply for renewal as provided in subsection (6).
9. Affirm that the parent will not transfer any college savings funds to another beneficiary.
10. Affirm that the parent will not take possession of any funding provided by the state for the Florida Personal Learning Scholarship Accounts.
11. Maintain a portfolio of records and materials which must be preserved by the parent for 2 years and be made available for inspection by the district school superintendent or the superintendent's designee upon 15 days' written notice. This paragraph does not require the superintendent to inspect the portfolio. The portfolio of records and materials must consist of:
 - a. A log of educational instruction and services which is made contemporaneously with delivery of the instruction and services and which designates by title any reading materials used; and
 - b. Samples of any writings, worksheets, workbooks, or creative materials used or developed by the student.
 - (b) The parent is responsible for procuring the services necessary to educate the student. When the student receives a personal learning scholarship account, the district school board is not obligated to provide the student with a free appropriate public education. For purposes of s. 1003.57 and the Individuals with Disabilities in Education Act, a participating student has only those rights that apply to all other unilaterally parentally placed students, except that, when requested by the parent, school district personnel must develop an individual education plan or matrix level of services.
 - (c) The parent is responsible for the payment of all eligible expenses in excess of the amount of the personal learning scholarship account in accordance with the terms agreed to between the parent and the providers.

A parent who fails to comply with this subsection forfeits the personal learning scholarship account.

(12) ADMINISTRATION OF PERSONAL LEARNING SCHOLARSHIP ACCOUNTS.—An eligible nonprofit scholarship-funding organization participating in the Florida Tax Credit Scholarship Program established under s. 1002.395 may establish personal learning scholarship accounts for eligible students by:

- (a) Receiving applications and determining student eligibility in accordance with the requirements of this section. The organization shall notify the department of the applicants for the program by March 1 before the school year in which the student intends to participate. When an application is received, the scholarship funding organization must provide the department with information on the student to enable the department to report the student for funding in accordance with subsection (13).
- (b) Notifying parents of their receipt of a scholarship on a first-come, first-served basis based upon the funds provided for this program in the General Appropriations Act.
- (c) Establishing a date by which a parent must confirm initial or continuing participation in the program and confirm the establishment or continuance of a personal learning scholarship account.
- (d) Establishing a date and process by which students on the wait list or late-filing applicants may be allowed to participate in the program during the school year, within the amount of funds provided for this program in the General Appropriations Act.
- (e) Establishing and maintaining separate accounts for each eligible student.
- (f) Verifying qualifying expenditures pursuant to the requirements of paragraph (8)(b).
- (g) Returning any unused funds to the department when the student is no longer eligible for a personal scholarship learning account.

(13) FUNDING AND PAYMENT.—

- (a)1. The maximum funding amount granted for an eligible student with a disability, pursuant to subsection (3), shall be equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program which would have been provided for the student in the district school to which he or she would have been assigned, multiplied by the district cost differential.
2. In addition, an amount equivalent to a share of the guaranteed allocation for exceptional students in the Florida Education Finance Program shall be determined and added to the amount in subparagraph 1. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraph 3., the calculation shall be based on the student's grade, the matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. The calculated amount must also include an amount equivalent to the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided in the General Appropriations Act.
3. Except as otherwise provided, the calculation for all students participating in the program shall be based on the matrix that assigns the student to support Level III of services. If a parent chooses to request and receive a matrix of services from the school district, when the school district completes the matrix, the amount of the payment shall be adjusted as needed.
 - (b) The amount of the awarded funds shall be 90 percent of the calculated amount.

(c) Upon an eligible student's graduation from an eligible postsecondary educational institution or after any period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary educational institution, the student's personal learning scholarship account shall be closed, and any remaining funds shall revert to the state.

(d) The eligible nonprofit scholarship-funding organization shall develop a system for payment of benefits by electronic funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of electronic payment that the department deems to be commercially viable or cost-effective. Commodities or services related to the development of such a system shall be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

(e) Moneys received pursuant to this section do not constitute taxable income to the parent of the qualified student.

(14) OBLIGATIONS OF THE AUDITOR GENERAL.—

(a) The Auditor General shall conduct an annual financial and operational audit of accounts and records of each eligible scholarship-funding organization that participates in the program. As part of this audit, the Auditor General shall verify, at a minimum, the total amount of students served and eligibility of reimbursements made by each eligible nonprofit scholarship-funding organization and transmit that information to the department.

(b) The Auditor General shall notify the department of any eligible nonprofit scholarship-funding organization that fails to comply with a request for information.

(15) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The Department of Health, the Agency for Persons with Disabilities, and the Department of Education shall work with an eligible nonprofit scholarship-funding organization for easy or automated access to lists of licensed providers of services specified in paragraph (5)(c) to ensure efficient administration of the program.

(16) LIABILITY.—The state is not liable for the award or any use of awarded funds under this section.

(17) SCOPE OF AUTHORITY.—This section does not expand the regulatory authority of this state, its officers, or any school district to impose additional regulation on participating private schools, nonpublic postsecondary educational institutions, and private providers beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(18) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

(19) IMPLEMENTATION SCHEDULE FOR THE 2014-2015 SCHOOL YEAR.—Notwithstanding the provisions of this section related to notification and eligibility timelines, an eligible nonprofit scholarship-funding organization may enroll parents on a rolling schedule on a first-come, first-served basis, within the amount of funds provided in the General Appropriations Act.

History.—s. 16, ch. 2014-184.