

This is a new rule.

6A-6.0960 Corporate Tax Credit Scholarship Program. The Corporate Tax Credit Scholarship Program will be implemented as required by Section 220.187, Florida Statutes, 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) A nonprofit charitable organization may apply to be an eligible scholarship-funding organization by having its principal officer or legal representative submit documentation to the Department of Education as specified in Form IEPC SFO-1, Nonprofit Scholarship-Funding Organization Participation Renewal for State Scholarship Programs, or Form IEPC SFO-2, Nonprofit Scholarship-Funding Organization Participation Application for State Scholarship Programs, which are hereby incorporated by reference to become a part of this rule to become effective upon the effective date of this rule. The appropriate Nonprofit Scholarship-Funding Organization Form must be signed by the owner or operator, submitted annually, and be postmarked no later than February 1.

(b) By December 1 of each year, beginning in 2006, the Department of Education shall make available the forms for organizations to use pursuant to paragraph (1)(a) of this rule.

(c) Each application to be listed shall be reviewed by the Department to determine compliance with Section 220.187, Florida Statutes, and requirements in this rule.

(d) By March 1, the Department shall send to each nonprofit scholarship-funding organization applicant, at the address listed on the Nonprofit Scholarship-Funding Organization Form, a notice of its eligibility to participate in the program for the next school year.

(e) No later than March 15 of each year, the Department shall submit to the Florida Department of Revenue a list of organizations that it has determined to be eligible to be listed as a nonprofit scholarship-funding organization for participation in the Corporate Tax Credit Scholarship Program.

(f) 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.

(g) Nonprofit scholarship-funding organizations suspended or removed pursuant to paragraph (1)(f) 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, Florida Statutes. All resulting proceedings shall be conducted in accordance with Chapter 120, Florida Statutes.

(h) Upon removal of an approved nonprofit scholarship-funding organization, the Department shall notify the Department of Revenue that the organization is no longer approved to participate in the program.

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

(a) Beginning with the 2007-2008 school year, upon each first-time scholarship student's entry to the scholarship program,

obtain a written statement that the parent has informed the student's school district that the child will be attending an eligible private school. The written statement shall be maintained on file by each nonprofit scholarship-funding organization for no less than three (3) years or until such time as the student graduates or otherwise exits the program. This requirement shall not apply to a kindergarten or first grade student who was not enrolled in a Florida public school prior to entering the scholarship program.

(b) Four (4) times a year, no later than August 15, October 15, January 15, and March 15 of each 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:

1. Demographic information for each student, including name, date of birth, social security number, grade level, gender, race, parent's name, and address;

2. Information on the student's school of attendance, including tuition, fees, and transportation amounts; and

3. The amount of each student's scholarship.

(c) No later than thirty (30) days after the last payment date of the school year, provide a summary to the Department detailing the amount paid for each scholarship student during the

school year and the school attended. If a student attended more than one school during the year, the summary shall detail the amount of the scholarship payments that the student generated by each school.

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

(4) Qualified students. Applications for a Corporate 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 Section 220.187, Florida Statutes. 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 Corporate Tax Credit Scholarship Program, a school must meet the definition of an "eligible private school" as defined in Section 220.187(2)(d), Florida Statutes, 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), Florida Statutes, 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), Florida Statutes.

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

(d) Continue to adhere to all statutory and rule requirements after determined eligible to participate in the program.

(6) Measurement of student achievement. Private schools participating in the program are responsible for ensuring that all students who if in the public school system would otherwise be assessed under Section 1008.22(3)(c), Florida Statutes, and who are receiving scholarships are assessed annually and the results reported as required by Section 220.187(8)(c)2., Florida Statutes. Achievement data for scholarship students shall not be used to rate publicly the performance of private schools that participate in the program.

(a) Pursuant to Section 220.187(9)(i), Florida Statutes, relating to the identification and selection of nationally norm-referenced tests for the measurement of student achievement, participating private schools must annually administer one of the

following approved assessments in grades K-12 to students receiving Corporate Income Tax Credit Scholarships:

1. Basic Achievement Skills Inventory (BASI™)–Comprehensive Version.

2. Florida Comprehensive Assessment Test (FCAT)–NRT Reading and Mathematics.

3. Iowa Tests of Basic Skills® (ITBS®) Forms A and B–Core Battery.

4. Metropolitan Achievement Tests®, Eighth Edition (METROPOLITAN8)–Short Form.

5. Stanford Achievement Test, Tenth Edition (Stanford 10)–Basic Battery.

6. TerraNova (CTBS/5)–Basic Battery.

7. TerraNova, Second Edition (CAT/6)–Basic Battery.

(b) The Department of Education may approve the use of another assessment if it meets the following criteria:

1. Internal consistency reliability coefficients of at least 0.8;

2. High validity evidenced by the alignment of the test with nationally recognized content standards, as well as specific evidence of content, concurrent, or criterion validity;

3. Norming studies within the last five (5) to ten (10) years, with norming within five (5) years being preferable; and

4. Serves as a measure of K-12 student achievement in core academic areas.

(7) Commissioner's duties. The Commissioner may deny, suspend, or revoke a private school's participation in the scholarship program pursuant to Section 220.187(10), Florida Statutes.

(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 220.187, Florida Statutes, 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 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 220.187(10), Florida Statutes, and this rule.

3. A school district, then a formal notice will be sent from the Commissioner to the district's Superintendent stating that failure to respond within five (5) working days shall be deemed to be an admission of the stated violation or allegation.

(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 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 220.187(10), Florida Statutes, 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 refer an inquiry to

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 220.187(10), Florida Statutes, to immediately suspend payments to a private school if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of students or suspected fraudulent activity on the part of the private school.

Specific Authority 220.187(9)(i), 220.187(12)(c), FS. Law Implemented 220.187, FS. History - New -