

This is a new rule.

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, Florida Statutes, in an effective and equitable manner that will maintain the integrity of the program.

(1) Scholarship application procedure.

(a) To receive a McKay Scholarship the parent of a public school student must first request a scholarship by filing a notice of intent with the Department by fully completing an online application for a McKay Scholarship using the Department's website.

1. A school district, a private school, or the Department may assist a parent in filing the notice of intent.

2. A notice of intent must be filed before a student withdraws from public school and must include the student's: name, date of birth, current public school district, last attended public school, parent's name, telephone number, mailing address, and email address (if applicable).

3. Upon filing a notice of intent the parent shall receive immediate online filing confirmation including: a confirmation number, a notice of potential eligibility or ineligibility, and, if ineligible, reasons for the ineligibility and instructions on

contacting the public school district to correct any errors in information that may have caused the ineligibility.

(b) After receipt of a notice of intent, the Department shall, in cooperation with the school district, determine the student's eligibility for a scholarship by verifying that the student:

1. Meets the prior school year in attendance definition in Section 1002.39(2)(a), Florida Statutes, or is exempt because he or she is a dependent child of a member of the United States Armed Forces who transferred to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders and such transfer occurred less than one (1) full academic year from the time the notice of intent was filed;

2. Filed a valid notice of intent; and

3. Meets one(1) of the following requirements:

a. Is a current public school student with a disability and has an individual education plan; or

b. Is not a current public school student but filed a notice of intent while a public school student, and was a student with a disability and individual education plan at the time he or she left the public school.

(2) Public school McKay Scholarship option. Pursuant to Section 1002.39(5), Florida Statutes, a student meeting the McKay

eligibility requirements may choose to attend another public school in the student's school district or in an adjacent school district.

(a) The McKay Scholarship public school options available are determined by the school district and may be subject to both capacity limitations and the ability of the public school to provide the required services for the individual student.

(b) Pursuant to Section 1002.39(4), Florida Statutes, the parent of a student receiving a McKay Scholarship to attend a private school may upon giving notice choose to exercise the public school McKay option.

1. Notice shall be no less than thirty (30) days prior to entering the public school, unless agreed to by the school district.

2. Notice shall be given to the Department and the school district through use of the Department's website.

3. Public school options are still determined by the school district and may be subject to both capacity limitations and the ability of the public school to provide the required services for the individual student.

4. After exercising the educational choice described in this paragraph, a student seeking to reenter a private school under the McKay Scholarship must re-establish initial eligibility

requirements including the prior year public school attendance requirement.

(3) Term of McKay Scholarship. Pursuant to Section 1002.39(4)(a), Florida Statutes, a McKay Scholarship remains in effect until one of the following occurs. The student:

(a) Returns to a public school. A return to public school is the enrollment of a McKay Scholarship student in a public school or public school program.

1. For purposes of this paragraph, a public school or public school program is one in which students are reported for funding through the Florida Education Finance Program.

2. Notwithstanding subparagraph (3)(a)1., the following situations are not a return to public school:

a. Admission to a residential hospital for medical reasons.

b. Entry into a Department of Juvenile Justice detention center for a period of less than fifteen (15) days.

c. Entry into a public school for a period of less than thirty (30) days pursuant to placement by or while in the custody of the Department of Children and Families.

d. Completion of virtual school classes if limited to no more than two (2) courses per year.

e. Completion of dual enrollment or adult education courses that are not funded through the Florida Education Finance Program.

(b) Graduates from high school. The student may continue in the program until such time as he or she receives a GED, standard diploma, or the private school's equivalent. Certificates of completion or attendance do not constitute graduation from high school for purposes of this paragraph.

(c) Reaches the age of twenty-two (22). The student may complete the school year in which he or she reaches the age of twenty-two (22).

(4) Matrix of services.

(a) A matrix of services developed for purposes of the McKay Scholarship Program shall be consistent with the services described in the student's individual education plan at the time the student withdraws from the public school. The student's matrix of services may not be changed by the Department and may only be changed by the school district, pursuant to Section 1002.39(5)(b)2.c., Florida Statutes, to correct a technical, typographical, or calculation error.

(b) The process for development of a matrix of services for a student with a disability who is a dependent child of a member of the United States Armed Forces transferring from another state or country pursuant to the parent's permanent change of station orders shall be expedited as follows:

1. Upon receipt of the parent's notice of intent, the

Department shall provide the parent's contact information to the appropriate school district.

2. The school district shall contact the parent and arrange for the student's current individual education plan to be submitted to the school district to develop a matrix of services. The parent will be responsible for providing the school district with a copy of the student's current individual education plan.

3. The school district shall have fifteen (15) days from receipt of the student's individual education plan to develop a matrix of services and communicate that information to the Department.

4. If the district is unable to complete the matrix of services within the fifteen (15) days required by this rule, the calculation shall be made as provided for in Section 1002.39(10)(a)4., Florida Statutes, until such time as the matrix of services is completed.

5. A matrix of services developed pursuant to this paragraph shall be developed by school district personnel responsible for developing a matrix of services required by Section 1011.62(1)(e), Florida Statutes.

(5) Scholarship payments. The following provisions detail information related to scholarship payments including timeframes, eligibility, and Departmental procedures.

(a) Scholarship payments will be made on or before September 1, November 1, February 1, and April 1 of each year. For purposes of statutory deadlines associated with payment dates, the above listed dates shall be considered the official payment dates.

(b) The following payment periods are established for administration of the scholarship payments:

<u>Payment</u>	<u>Payment Period</u>
<u>September 1</u>	<u>July 1 - September 30</u>
<u>November 1</u>	<u>October 1 - December 31</u>
<u>February 1</u>	<u>January 1 - February 28</u>
<u>April 1</u>	<u>March 1 - June 30</u>

(c) The following requirements must be met to qualify for a scholarship payment:

1. The notice of intent, described in subsection (1) of this rule, must be filed sixty (60) days before the first scholarship payment. This is a one-time requirement that applies to scholarship students entering the program for the first time, and no payment can be earned until such time as the notice requirement has been met.

2. A student must have an enrollment date thirty (30) days before the first scholarship payment is made. The submission of the school and student fee schedules are required to establish the enrollment date and are completed using the Department's website.

A student that changes private schools after meeting the enrollment date requirement may still qualify for payment for that payment period.

3. A student must not be enrolled in a public school or violate any of the prohibitions found in Section 1002.39(3), Florida Statutes.

4. The private school must verify each student's continued enrollment and attendance using the Department's website three (3) times per year before the November, February, and April scholarship payments. Failure to verify a student's continued enrollment and attendance will result in a delayed payment until the next payment period. To receive payment at that time, the private school must verify student attendance for the delayed payment's payment period and, if the student is still enrolled in the program, for the current payment period.

(d) Private schools are responsible for the return of all scholarship funds to the Department that were received in error, including: for students that were not in attendance, or for services listed on a student's fee schedule that were not provided. 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 private school believes that return of the funds is being requested in error or wishes to provide additional information related to the requested funds.

1. Private school 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 private school to any funds still due and a timeframe for the return of those funds. The response shall give the private school or parent at least twenty (20) additional days to repay the funds.

3. Failure to return the funds due back to the Department within the time period allotted shall result in the initiation of noncompliance procedures pursuant to the Commissioner's authority described in Section 1002.39(7), Florida Statutes, and this rule.

(e) Where a scholarship student attends multiple private schools or a private school and the public school in the same payment period, the right to retain the scholarship payment shall be given to the first private school the student attends for ten (10) or more school days during that payment period. If the student does not attend a private school for at least ten (10)

days and attends a public school, then the funding generated, if any, shall be retained by the school district and no scholarship payment shall be generated.

(f) To ensure proper administration of scholarship funds, all claims by private schools for missed scholarship payments must be made within one (1) year of the date the payment was originally due.

(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), 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.

(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), 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.

(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.

(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.

(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, Florida Statutes, 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 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 notify the parent that the parent's failure to respond to the letter of inquiry is

deemed to be an acceptance of the allegations made in the formal complaint and may affect 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), 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 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), 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 provision of this rule, the Commissioner may at any point during the inquiry process exercise the authority given under Section 1002.39(7), 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 1002.39(13), FS. Law Implemented 1002.39, FS.

History - New -