

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) – (4) No change.

(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:

Payment	Payment Period
September 1	July 1 – September 30
November 1	October 1 – December 31
February 1	January 1 – February 28
April 1	March 1 – June 30

(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. Prior to receiving a scholarship payment, all parents of participating students must have on file with the Department Form IEPC—AFF1, Affidavit, signed and notarized affirming the validity of the parent’s signature that the parent understands and agrees to uphold the responsibilities of the parent and the student as outlined in Section 1002.39(9), F.S., including restrictive endorsement of the scholarship warrants. Form IEPC – AFF1 is hereby incorporated by reference in this rule to become effective with the effective date of this rule and may be obtained

from the Department's website at <http://www.floridaschoolchoice.org/>

~~4.3.~~ A student must not be enrolled in a public school or violate any of the prohibitions found in Section 1002.39(3), F.S.

~~5.4.~~ 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. The Department's letter may also require the school to provide an explanation for how the private school claimed funds that were erroneously obtained.

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, or failure to provide a sufficient explanation for how the school claimed funds that were erroneously obtained, within the time period allotted in subparagraphs (5)(d)1. and 2. of this rule, shall result in the initiation of noncompliance procedures pursuant to the Commissioner's authority described in Section 1002.39(7), F.S., and this rule. If the Commissioner has suspended a private school's participation in the program pursuant to Section 1002.39(7), F.S., in order to ensure that scholarship payments are received on the scheduled payment date, any funds requested by the Department must be received at least twenty

(20) days prior to the scheduled quarterly payment date. Otherwise scholarship payments will be delayed until the subsequent scholarship payment date.

(5)(e) – (7) No change.

(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 ~~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), 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 ~~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, 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.

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 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 ~~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.~~

Rulemaking Authority 1002.39(13) FS. Law Implemented 1002.39 FS. History--New 1-18-07, Amended 4-21-09.