

**PRIVATE SCHOOL APPLICATION TO ADMINISTER
FLORIDA STATEWIDE ASSESSMENTS IN 2015-16**

**Attachment A: Section 1002.395, Florida Statutes and
1002.385 Florida Statutes**

- Outlines the requirements for participation.
- See question #1 in the application.

The 2014 Florida Statutes

[Title XLVIII](#)

K-20 EDUCATION CODE

[Chapter 1002](#)

STUDENT AND PARENTAL RIGHTS AND EDUCATIONAL CHOICES

[View Entire Chapter](#)

1002.395 Florida Tax Credit Scholarship Program.—

(1) FINDINGS AND PURPOSE.—

(a) The Legislature finds that:

1. It has the inherent power to determine subjects of taxation for general or particular public purposes.
2. Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.
3. Ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.
4. Expanding educational opportunities and the healthy competition they promote are critical to improving the quality of education in the state and to ensuring that all children receive the high-quality education to which they are entitled.

(b) The purpose of this section is to:

1. Enable taxpayers to make private, voluntary contributions to nonprofit scholarship-funding organizations in order to promote the general welfare.
2. Provide taxpayers who wish to help parents with limited resources exercise their basic right to educate their children as they see fit with a means to do so.
3. Promote the general welfare by expanding educational opportunities for children of families that have limited financial resources.
4. Enable children in this state to achieve a greater level of excellence in their education.
5. Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

(c) The purpose of this section is not to prescribe the standards or curriculum for private schools. A private school retains the authority to determine its own standards and curriculum.

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

- (a) “Annual tax credit amount” means, for any state fiscal year, the sum of the amount of tax credits approved under paragraph (5)(b), including tax credits to be taken under s. [220.1875](#) or s. [624.51055](#), which are approved for a taxpayer whose taxable year begins on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.
- (b) “Department” means the Department of Revenue.
- (c) “Direct certification list” means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families.
- (d) “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(e) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution.

(f) "Eligible nonprofit scholarship-funding organization" means a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a charitable organization that:

1. Is exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code;
2. Is a Florida entity formed under chapter 607, chapter 608, or chapter 617 and whose principal office is located in the state; and
3. Complies with subsections (6) and (16).

(g) "Eligible private school" means a private school, as defined in s. [1002.01](#)(2), located in Florida which offers an education to students in any grades K-12 and that meets the requirements in subsection (8).

(h) "Household income" has the same meaning as the term "income" ¹as defined in the Income Eligibility Guidelines for free and reduced price meals under the National School Lunch Program in 7 C.F.R. part 210 as published in the Federal Register by the United States Department of Agriculture.

(i) "Owner or operator" includes:

1. An owner, president, officer, or director of an eligible nonprofit scholarship-funding organization or a person with equivalent decisionmaking authority over an eligible nonprofit scholarship-funding organization.
2. An owner, operator, superintendent, or principal of an eligible private school or a person with equivalent decisionmaking authority over an eligible private school.

(j) "Tax credit cap amount" means the maximum annual tax credit amount that the department may approve in a state fiscal year.

(k) "Unweighted FTE funding amount" means the statewide average total funds per unweighted full-time equivalent funding amount that is incorporated by reference in the General Appropriations Act, or any subsequent special appropriations act, for the applicable state fiscal year.

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

(a) The Florida Tax Credit Scholarship Program is established.

(b) For the 2014-2015 and 2015-2016 school years, contingent upon available funds, a student is eligible for a Florida tax credit scholarship under this section if the student meets one or more of the following criteria:

1. The student qualifies for free or reduced-price school lunches under the National School Lunch Act or is on the direct certification list;
2. The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in s. [39.01](#); or
3. The student continues in the scholarship program as long as the student's household income level does not exceed 230 percent of the federal poverty level.

(c) For the 2016-2017 school year and thereafter, contingent upon available funds, a student is eligible for a Florida tax credit scholarship under this section if the student meets one or more of the following criteria:

1. The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level; or
2. The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in s. [39.01](#).
3. The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

A student who initially receives a scholarship based on eligibility under subparagraph (b)2. or subparagraph (c)2. remains eligible until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level. A sibling of a student who is participating in the scholarship program under this subsection is eligible for a scholarship if the student resides in the same household as the sibling.

(4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a scholarship while he or she is:

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

(b) Receiving a scholarship from another eligible nonprofit scholarship-funding organization under this section;

(c) Receiving an educational scholarship pursuant to chapter 1002;

(d) Participating in a home education program as defined in s. [1002.01](#)(1);

(e) Participating in a private tutoring program pursuant to s. [1002.43](#);

(f) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; or

(g) Enrolled in the Florida School for the Deaf and the Blind.

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

(a)1. The tax credit cap amount is \$229 million in the 2012-2013 state fiscal year.

2. In the 2013-2014 state fiscal year and each state fiscal year thereafter, the tax credit cap amount is the tax credit cap amount in the prior state fiscal year. However, in any state fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount shall increase by 25 percent. The Department of Education and Department of Revenue shall publish on their websites information identifying the tax credit cap amount when it is increased pursuant to this subparagraph.

(b) A taxpayer may submit an application to the department for a tax credit or credits under one or more of s. [211.0251](#), s. [212.1831](#), s. [220.1875](#), s. [561.1211](#), or s. [624.51055](#).

1. The taxpayer shall specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit under s. [220.1875](#) or s. [624.51055](#) or the applicable state fiscal year for a credit under s. [211.0251](#), s. [212.1831](#), or s. [561.1211](#). The department shall approve tax credits on a first-come, first-served basis and must obtain the division's approval before approving a tax credit under s. [561.1211](#).

2. Within 10 days after approving an application, the department shall provide a copy of its approval letter to the eligible nonprofit scholarship-funding organization specified by the taxpayer in the application.

(c) If a tax credit approved under paragraph (b) is not fully used within the specified state fiscal year for credits under s. [211.0251](#), s. [212.1831](#), or s. [561.1211](#) or against taxes due for the specified taxable year for credits under s. [220.1875](#) or s. [624.51055](#) because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years. However, any taxpayer that seeks to carry forward an unused amount of tax credit must submit an application to the department for approval of the carryforward tax credit in the year that the taxpayer intends to use the carryforward. The department must obtain the division's approval prior to approving the carryforward of a tax credit under s. [561.1211](#).

(d) A taxpayer may not convey, assign, or transfer an approved tax credit or a carryforward tax credit to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. However, a tax credit under s. [211.0251](#), s. [212.1831](#), s. [220.1875](#), s. [561.1211](#), or s. [624.51055](#) may be conveyed, transferred, or assigned between members of an affiliated group of corporations if the type

of tax credit under s. [211.0251](#), s. [212.1831](#), s. [220.1875](#), s. [561.1211](#), or s. [624.51055](#) remains the same. A taxpayer shall notify the department of its intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned is available to another member of the affiliated group of corporations upon approval by the department. The department shall obtain the division's approval before approving a conveyance, transfer, or assignment of a tax credit under s. [561.1211](#).

(e) Within any state fiscal year, a taxpayer may rescind all or part of a tax credit approved under paragraph (b). The amount rescinded shall become available for that state fiscal year to another eligible taxpayer as approved by the department if the taxpayer receives notice from the department that the rescindment has been accepted by the department. The department must obtain the division's approval prior to accepting the rescindment of a tax credit under s. [561.1211](#). Any amount rescinded under this paragraph shall become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the department.

(f) For purposes of calculating the underpayment of estimated corporate income taxes pursuant to s. [220.34](#) and tax installment payments for taxes on insurance premiums or assessments under s. [624.5092](#), the final amount due is the amount after credits earned under s. [220.1875](#) or s. [624.51055](#) for contributions to eligible nonprofit scholarship-funding organizations are deducted.

1. For purposes of determining if a penalty or interest shall be imposed for underpayment of estimated corporate income tax pursuant to s. [220.34](#)(2)(d)1., a taxpayer may, after earning a credit under s. [220.1875](#), reduce the following estimated payment in that taxable year by the amount of the credit. This subparagraph applies to contributions made on or after July 1, 2014.

2. For purposes of determining if a penalty under s. [624.5092](#) shall be imposed, an insurer may, after earning a credit under s. [624.51055](#), reduce the following installment payment of 27 percent of the amount of the net tax due as reported on the return for the preceding year under s. [624.5092](#)(2)(b) by the amount of the credit. This subparagraph applies to contributions made on or after July 1, 2014.

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—
An eligible nonprofit scholarship-funding organization:

(a) Must comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(b) Must comply with the following background check requirements:

1. All owners and operators as defined in subparagraph (2)(i)1. are, before employment or engagement to provide services, subject to level 2 background screening as provided under chapter 435. The fingerprints for the background screening must be electronically submitted to the Department of Law Enforcement and can be taken by an authorized law enforcement agency or by an employee of the eligible nonprofit scholarship-funding organization or a private company who is trained to take fingerprints. However, the complete set of fingerprints of an owner or operator may not be taken by the owner or operator. The results of the state and national criminal history check shall be provided to the Department of Education for screening under chapter 435. The cost of the background screening may be borne by the eligible nonprofit scholarship-funding organization or the owner or operator.

2. Every 5 years following employment or engagement to provide services or association with an eligible nonprofit scholarship-funding organization, each owner or operator must meet level 2 screening standards as described in s. [435.04](#), at which time the nonprofit scholarship-funding organization shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for level 2 screening. If the fingerprints of an owner or operator are not retained by the Department of Law Enforcement under subparagraph 3., the owner or operator must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the eligible nonprofit scholarship-funding organization shall

request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under subparagraph 3.

3. Fingerprints submitted to the Department of Law Enforcement as required by this paragraph must be retained by the Department of Law Enforcement in a manner approved by rule and entered in the statewide automated biometric identification system authorized by s. [943.05](#)(2)(b). The fingerprints must thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. [943.051](#).

4. The Department of Law Enforcement shall search all arrest fingerprints received under s. [943.051](#) against the fingerprints retained in the statewide automated biometric identification system under subparagraph 3. Any arrest record that is identified with an owner's or operator's fingerprints must be reported to the Department of Education. The Department of Education shall participate in this search process by paying an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the employment, engagement, or association status of the owners or operators whose fingerprints are retained under subparagraph 3. The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon the Department of Education for performing these services and establishing the procedures for the retention of owner and operator fingerprints and the dissemination of search results. The fee may be borne by the owner or operator of the nonprofit scholarship-funding organization.

5. A nonprofit scholarship-funding organization whose owner or operator fails the level 2 background screening is not eligible to provide scholarships under this section.

6. A nonprofit scholarship-funding organization whose owner or operator in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a corporation of which he or she owned more than 20 percent shall not be eligible to provide scholarships under this section.

7. In addition to the offenses listed in s. [435.04](#), a person required to undergo background screening pursuant to this part or authorizing statutes must not have an arrest awaiting final disposition for, must not have been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, and must not have been adjudicated delinquent, and the record must not have been sealed or expunged for, any of the following offenses or any similar offense of another jurisdiction:

- a. Any authorizing statutes, if the offense was a felony.
- b. This chapter, if the offense was a felony.
- c. Section [409.920](#), relating to Medicaid provider fraud.
- d. Section [409.9201](#), relating to Medicaid fraud.
- e. Section [741.28](#), relating to domestic violence.
- f. Section [817.034](#), relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.
- g. Section [817.234](#), relating to false and fraudulent insurance claims.
- h. Section [817.505](#), relating to patient brokering.
- i. Section [817.568](#), relating to criminal use of personal identification information.
- j. Section [817.60](#), relating to obtaining a credit card through fraudulent means.
- k. Section [817.61](#), relating to fraudulent use of credit cards, if the offense was a felony.
- l. Section [831.01](#), relating to forgery.
- m. Section [831.02](#), relating to uttering forged instruments.
- n. Section [831.07](#), relating to forging bank bills, checks, drafts, or promissory notes.
- o. Section [831.09](#), relating to uttering forged bank bills, checks, drafts, or promissory notes.
- p. Section [831.30](#), relating to fraud in obtaining medicinal drugs.

q. Section [831.31](#), relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.

(c) Must not have an owner or operator who owns or operates an eligible private school that is participating in the scholarship program.

(d) Must provide scholarships, from eligible contributions, to eligible students for the cost of:

1. Tuition and fees for an eligible private school; or
2. Transportation to a Florida public school that is located outside the district in which the student resides or to a lab school as defined in s. [1002.32](#).

(e) Must give first priority to eligible students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year. Beginning in the 2016-2017 school year, an eligible nonprofit scholarship-funding organization shall give priority to new applicants whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.

(f) Must provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority pursuant to paragraph (e).

(g) May not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator.

(h) Must allow a student in foster care or out-of-home care to apply for a scholarship at any time.

(i) Must allow an eligible student to attend any eligible private school and must allow a parent to transfer a scholarship during a school year to any other eligible private school of the parent's choice.

(j)1. May use up to 3 percent of eligible contributions received during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated under this section for at least 3 state fiscal years and did not have any negative financial findings in its most recent audit under paragraph (m). Such administrative expenses must be reasonable and necessary for the organization's management and distribution of eligible contributions under this section. No funds authorized under this subparagraph shall be used for lobbying or political activity or expenses related to lobbying or political activity. Up to one-third of the funds authorized for administrative expenses under this subparagraph may be used for expenses related to the recruitment of contributions from taxpayers. If an eligible nonprofit scholarship-funding organization charges an application fee for a scholarship, the application fee must be immediately refunded to the person that paid the fee if the student is not enrolled in a participating school within 12 months.

2. Must expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. All amounts carried forward, for audit purposes, must be specifically identified for particular students, by student name and the name of the school to which the student is admitted, subject to the requirements of ss. [1002.22](#) and [1002.221](#) and 20 U.S.C. s. 1232g, and the applicable rules and regulations issued pursuant thereto. Any amounts carried forward shall be expended for annual or partial-year scholarships in the following state fiscal year. Net eligible contributions remaining on June 30 of each year that are in excess of the 25 percent that may be carried forward shall be returned to the State Treasury for deposit in the General Revenue Fund.

3. Must, before granting a scholarship for an academic year, document each scholarship student's eligibility for that academic year. A scholarship-funding organization may not grant multiyear scholarships in one approval process.

- (k) Must maintain separate accounts for scholarship funds and operating funds.
- (l) With the prior approval of the Department of Education, may transfer funds to another eligible nonprofit scholarship-funding organization if additional funds are required to meet scholarship demand at the receiving nonprofit scholarship-funding organization. A transfer is limited to the greater of \$500,000 or 20 percent of the total contributions received by the nonprofit scholarship-funding organization making the transfer. All transferred funds must be deposited by the receiving nonprofit scholarship-funding organization into its scholarship accounts. All transferred amounts received by any nonprofit scholarship-funding organization must be separately disclosed in the annual financial and compliance audit required in this section.
- (m) Must provide to the Auditor General and the Department of Education a report on the results of an annual financial audit of its accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. Audit reports must be provided to the Auditor General and the Department of Education within 180 days after completion of the eligible nonprofit scholarship-funding organization's fiscal year. The Auditor General shall review all audit reports submitted pursuant to this paragraph. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the scholarship-funding organization does not comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee.
- (n) Must prepare and submit quarterly reports to the Department of Education pursuant to paragraph (9)(m). In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner any information requested by the Department of Education relating to the scholarship program.
- (o)1.a. Must participate in the joint development of agreed-upon procedures to be performed by an independent certified public accountant as required under paragraph (8)(e) if the scholarship-funding organization provided more than \$250,000 in scholarship funds to an eligible private school under this section during the 2009-2010 state fiscal year. The agreed-upon procedures must uniformly apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under paragraph (9)(c); has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant's performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.
- b. Must participate in a joint review of the agreed-upon procedures and guidelines developed under sub-subparagraph a., by February 2013 and biennially thereafter, if the scholarship-funding organization provided more than \$250,000 in scholarship funds to an eligible private school under this section during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner of Education by March 15, 2013, and biennially thereafter.
- c. Must monitor the compliance of a private school with paragraph (8)(e) if the scholarship-funding organization provided the majority of the scholarship funding to the school. For each private school subject to paragraph (8)(e), the appropriate scholarship-funding organization shall notify the Commissioner of Education by October 30, 2011, and annually thereafter of:
 - (l) A private school's failure to submit a report required under paragraph (8)(e); or

- (II) Any material exceptions set forth in the report required under paragraph (8)(e).
2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools when jointly developing the agreed-upon procedures and guidelines under sub-subparagraph 1.a. and conducting a review of those procedures and guidelines under sub-subparagraph 1.b.
- (p) Must maintain the surety bond or letter of credit required by subsection (16). The amount of the surety bond or letter of credit may be adjusted quarterly to equal the actual amount of undisbursed funds based upon submission by the organization of a statement from a certified public accountant verifying the amount of undisbursed funds. The requirements of this paragraph are waived if the cost of acquiring a surety bond or letter of credit exceeds the average 10-year cost of acquiring a surety bond or letter of credit by 200 percent. The requirements of this paragraph are waived for a state university; or an independent college or university which is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.
- (q) Must provide to the Auditor General any information or documentation requested in connection with an operational audit of a scholarship funding organization conducted pursuant to s. [11.45](#).

Information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. [213.053](#).

(7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—

- (a) The parent must select an eligible private school and apply for the admission of his or her child.
- (b) The parent must inform the child's school district when the parent withdraws his or her child to attend an eligible private school.
- (c) Any student participating in the scholarship program must remain in attendance throughout the school year unless excused by the school for illness or other good cause.
- (d) Each parent and each student has an obligation to the private school to comply with the private school's published policies.
- (e) The parent shall ensure that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to s. [1008.22](#). If the parent requests that the student participating in the scholarship program take statewide assessments pursuant to s. [1008.22](#) and the private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.
- (f) Upon receipt of a scholarship warrant from the eligible nonprofit scholarship-funding organization, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.
- (g) The parent shall authorize the nonprofit scholarship-funding organization to access information needed for income eligibility determination and verification held by other state or federal agencies, including the Department of Revenue, the Department of Children and Families, the Department of Education, the Department of Economic Opportunity, and the Agency for Health Care Administration.
- (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and must:

- (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 scholarship 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 must report a student's scores to the parent. A participating private school must annually report by August 15 the scores of all participating students to the Learning System Institute described in paragraph (9)(j).
 - 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 must 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 paragraph (6)(o) 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 2010-2011 state fiscal year or a state fiscal year thereafter. A private school subject to this paragraph must submit the report by September 15, 2011, 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 shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the Department of Education.

- (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:
- (a) Annually submit to the department and division, by March 15, a list of eligible nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(f).
 - (b) Annually verify the eligibility of nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(f).
 - (c) Annually verify the eligibility of private schools that meet the requirements of subsection (8).
 - (d) Annually verify the eligibility of expenditures as provided in paragraph (6)(d) using the audit required by paragraph (6)(m) and s. [11.45\(2\)\(k\)](#).
 - (e) Establish a toll-free hotline that provides parents and private schools with information on participation in the scholarship program.
 - (f) Establish a process by which individuals may notify the Department of Education of any violation by a parent, private school, or school district of state laws relating to program

participation. The Department of Education shall conduct an inquiry of any written complaint of a violation of this section, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this section or any rule adopted by the State Board of Education has occurred. In order to determine legal sufficiency, the Department of Education may require supporting information or documentation from the complainant. A department inquiry is not subject to the requirements of chapter 120.

(g) Require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall retain such records.

(h) Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.

(i) Maintain a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (8)(c)2. The tests must meet industry standards of quality in accordance with State Board of Education rule.

(j) Issue a project grant award to the Learning System Institute at the Florida State University, to which participating private schools must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The project term is 2 years, and the amount of the project is up to \$500,000 per year. The project grant award must be reissued in 2-year intervals in accordance with this paragraph.

1. The Learning System Institute must annually report to the Department of Education on the student performance of participating students:

a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the Learning System Institute's analysis and evaluation, the Department of Education shall coordinate with the Learning System Institute to provide data to the Learning System Institute in order to conduct analyses of matched students from public school assessment data and calculate control group student performance using an agreed-upon methodology with the Learning System Institute; and

b. On an individual school basis. The annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in the Florida Tax Credit Scholarship Program in the prior school year. The report shall be according to each participating private school, and for participating students, in which there are at least 30 participating students who have scores for tests administered. If the Learning System Institute determines that the 30-participating-student cell size may be reduced without disclosing personally identifiable information, as described in 34 C.F.R. s. 99.12, of a participating student, the Learning System Institute may reduce the participating-student cell size, but the cell size must not be reduced to less than 10 participating students. The department shall provide each private school's prior school year's student enrollment information to the Learning System Institute no later than June 15 of each year, or as requested by the Learning System Institute.

2. The sharing and reporting of student performance data under this paragraph must be in accordance with requirements of ss. [1002.22](#) and [1002.221](#) and 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act, and the applicable rules and regulations issued pursuant thereto, and shall be for the sole purpose of creating the annual report required by subparagraph 1. All parties must preserve the confidentiality of such information as required by law. The annual report must not disaggregate data to a level that will identify individual participating schools, except as required under sub-subparagraph 1.b., or disclose the academic level of individual students.

3. The annual report required by subparagraph 1. shall be published by the Department of Education on its website.

(k) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving educational scholarships pursuant to chapter 1002.

(l) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving tax credit scholarships from other eligible nonprofit scholarship-funding organizations.

(m) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the scholarship program, the private schools at which the students are enrolled, and other information deemed necessary by the Department of Education.

(n)1. Conduct site visits to private schools participating in the Florida Tax Credit Scholarship Program. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results. The Department of Education may not make more than seven site visits each year; however, the department may make additional site visits at any time to any school that has received a notice of noncompliance or a notice of proposed action within the previous 2 years.

2. Annually, by December 15, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the Department of Education's actions with respect to implementing accountability in the scholarship program under this section and s.

[1002.421](#), any substantiated allegations or violations of law or rule by an eligible private school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the Department of Education.

(o) Provide a process to match the direct certification list with the scholarship application data submitted by any nonprofit scholarship-funding organization eligible to receive the 3-percent administrative allowance under paragraph (6)(j).

(p) Upon the request of a participating private school, provide at no cost to the school the statewide assessments administered under s. [1008.22](#) and any related materials for administering the assessments. Students at a private school may be assessed using the statewide assessments if the addition of those students and the school does not cause the state to exceed its contractual caps for the number of students tested and the number of testing sites. The state shall provide the same materials and support to a private school that it provides to a public school. A private school that chooses to administer statewide assessments under s. [1008.22](#) shall follow the requirements set forth in ss. [1008.22](#) and [1008.24](#), rules adopted by the State Board of Education to implement those sections, and district-level testing policies established by the district school board.

(10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

(a) Upon the request of any eligible nonprofit scholarship-funding organization, a school district shall inform all households within the district receiving free or reduced-priced meals under the National School Lunch Act of their eligibility to apply for a tax credit scholarship. The form of such notice shall be provided by the eligible nonprofit scholarship-funding organization, and the district shall include the provided form, if requested by the organization, in any normal correspondence with eligible households. If an eligible nonprofit scholarship-funding organization requests a special communication to be issued to households within the district receiving free or reduced-price meals under the National School Lunch Act, the organization shall reimburse the district for the cost of postage. Such notice is limited to once a year.

(b) Upon the request of the Department of Education, a school district shall coordinate with the department to provide to a participating private school the statewide assessments administered under s. [1008.22](#) and any related materials for administering the

assessments. A school district is responsible for implementing test administrations at a participating private school, including the:

1. Provision of training for private school staff on test security and assessment administration procedures;
2. Distribution of testing materials to a private school;
3. Retrieval of testing materials from a private school;
4. Provision of the required format for a private school to submit information to the district for test administration and enrollment purposes; and
5. Provision of any required assistance, monitoring, or investigation at a private school.

(11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

(a)1. The Commissioner of Education shall deny, suspend, or revoke a private school's participation in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the commissioner may issue a notice of noncompliance that shall provide the private school with a timeframe within which to provide evidence of compliance prior to taking action to suspend or revoke the private school's participation in the scholarship program.

2. The Commissioner of Education may deny, suspend, or revoke a private school's participation in the scholarship program if the commissioner determines that:

- a. An owner or operator of a private school has exhibited a previous pattern of failure to comply with this section or s. [1002.421](#); or
- b. An owner or operator of the private school is operating or has operated an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

In making the determination under this subparagraph, the commissioner may consider factors that include, but are not limited to, acts or omissions by an owner or operator that led to a previous denial or revocation of participation in an education scholarship program; an owner's or operator's failure to reimburse the Department of Education or a nonprofit scholarship-funding organization for scholarship funds improperly received or retained by a school; imposition of a prior criminal sanction, civil fine, administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution; or other types of criminal proceedings in which the owner or operator was 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.

(b) The commissioner's determination is subject to the following:

1. If the commissioner intends to deny, suspend, or revoke a private school's participation in the scholarship program, the Department of Education shall notify the private school of such proposed action in writing by certified mail and regular mail to the private school's address of record with the Department of Education. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this paragraph.
2. The private school that is adversely affected by the proposed action shall have 15 days from receipt of the notice of proposed action to file with the Department of Education's agency clerk a request for a proceeding pursuant to ss. [120.569](#) and [120.57](#). If the private school is entitled to a hearing under s. [120.57](#)(1), the Department of Education shall forward the request to the Division of Administrative Hearings.
3. Upon receipt of a request referred pursuant to this paragraph, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal

written request by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days after the entry of a recommended order. The provisions of this subparagraph may be waived upon stipulation by all parties.

(c) The commissioner may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, and welfare of the students;
2. A previous pattern of failure to comply with this section or s. [1002.421](#); or
3. Fraudulent activity on the part of the private school. Notwithstanding s. [1002.22](#), in incidents of alleged fraudulent activity pursuant to this section, the Department of Education's Office of Inspector General is authorized to release personally identifiable records or reports of students to the following persons or organizations:
 - a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.
 - b. A person or entity authorized by a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.
 - c. Any person, entity, or authority issuing a subpoena for law enforcement purposes when the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

The commissioner's order suspending payment pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the notice of proposed action set forth in paragraph (b).

(12) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) Except as provided in subparagraph 2., the amount of a scholarship provided to any student for any single school year by an eligible nonprofit scholarship-funding organization from eligible contributions shall be for total costs authorized under paragraph (6)(d), not to exceed annual limits, which shall be determined as follows:

- 1.a. For a scholarship awarded to a student enrolled in an eligible private school, the limit shall be determined by multiplying the unweighted FTE funding amount in that state fiscal year by the percentage used to determine the limit in the prior state fiscal year. However, in each state fiscal year that the tax credit cap amount increases pursuant to paragraph (5)(a), the prior year percentage shall be increased by 4 percentage points and the increased percentage shall be used to determine the limit for that state fiscal year. If the percentage so calculated reaches 80 percent in a state fiscal year, no further increase in the percentage is allowed and the limit shall be 80 percent of the unweighted FTE funding amount for that state fiscal year and thereafter. Beginning in the 2016-2017 state fiscal year, the amount of a scholarship awarded to a student enrolled in an eligible private school shall be equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter.
 - b. For a scholarship awarded to a student enrolled in a Florida public school that is located outside the district in which the student resides or in a lab school as defined in s. [1002.32](#), the limit shall be \$500.
2. The annual limit for a scholarship under sub-subparagraph 1.a. shall be reduced by:
 - a. Twenty-five percent if the student's household income level is equal to or greater than 200 percent, but less than 215 percent, of the federal poverty level.

b. Fifty percent if the student's household income level is equal to or greater than 215 percent, but equal to or less than 230 percent, of the federal poverty level.

3. For the 2016-2017 state fiscal year and thereafter, the annual limit for a scholarship under sub-subparagraph 1.a. shall be reduced by:

a. Twelve percent if the student's household income level is greater than or equal to 200 percent, but less than 215 percent, of the federal poverty level.

b. Twenty-six percent if the student's household income level is greater than or equal to 215 percent, but less than 230 percent, of the federal poverty level.

c. Forty percent if the student's household income level is greater than or equal to 230 percent, but less than 245 percent, of the federal poverty level.

d. Fifty percent if the student's household income level is greater than or equal to 245 percent, but less than or equal to 260 percent, of the federal poverty level.

(b) Payment of the scholarship by the eligible nonprofit scholarship-funding organization shall be by individual warrant made payable to the student's parent. If the parent chooses that his or her child attend an eligible private school, the warrant must be delivered by the eligible nonprofit scholarship-funding organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. An eligible nonprofit scholarship-funding organization shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school for deposit into the account of the private school.

(c) An eligible nonprofit scholarship-funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(d) Payment of the scholarship shall be made by the eligible nonprofit scholarship-funding organization no less frequently than on a quarterly basis.

(13) ADMINISTRATION; RULES.—

(a) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(b) The department shall adopt rules necessary to administer this section and ss. [211.0251](#), [212.1831](#), [220.1875](#), [561.1211](#), and [624.51055](#), including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(c) The division shall adopt rules necessary to administer its responsibilities under this section and s. [561.1211](#).

(d) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible contributions received by an eligible nonprofit scholarship-funding organization shall be deposited in a manner consistent with s. [17.57\(2\)](#).

(15) PRESERVATION OF CREDIT.—If any provision or portion of this section, s. [211.0251](#), s. [212.1831](#), s. [220.1875](#), s. [561.1211](#), or s. [624.51055](#) or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity shall not affect any credit earned under s. [211.0251](#), s. [212.1831](#), s. [220.1875](#), s. [561.1211](#), or s. [624.51055](#) by any taxpayer with respect to any contribution paid to an eligible nonprofit scholarship-funding organization before the date of a determination of unconstitutionality or invalidity. Such credit shall be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law shall result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible nonprofit scholarship-funding organization.

(16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS; APPLICATION.—In order to participate in the scholarship program created under this section, a charitable organization

that seeks to be a nonprofit scholarship-funding organization must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice no later than September 1 of each year before the school year for which the organization intends to offer scholarships.

(a) An application for initial approval must include:

1. A copy of the organization's incorporation documents and registration with the Division of Corporations of the Department of State.
2. A copy of the organization's Internal Revenue Service determination letter as a s. 501(c)(3) not-for-profit organization.
3. A description of the organization's financial plan that demonstrates sufficient funds to operate throughout the school year.
4. A description of the geographic region that the organization intends to serve and an analysis of the demand and unmet need for eligible students in that area.
5. The organization's organizational chart.
6. A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility.
7. A description of the application process, including deadlines and any associated fees.
8. A description of the deadlines for attendance verification and scholarship payments.
9. A copy of the organization's policies on conflict of interest and whistleblowers.
10. A copy of a surety bond or letter of credit in an amount equal to 25 percent of the scholarship funds anticipated for each school year or \$100,000, whichever is greater.

(b) In addition to the information required by subparagraphs (a)1.-9., an application for renewal must include:

1. A surety bond or letter of credit equal to the amount of undisbursed donations held by the organization based on the annual report submitted pursuant to paragraph (6)(m). The amount of the surety bond or letter of credit must be at least \$100,000, but not more than \$25 million.
2. The organization's completed Internal Revenue Service Form 990 submitted no later than November 30 of the year before the school year that the organization intends to offer the scholarships, notwithstanding the September 1 application deadline.
3. A copy of the statutorily required audit to the Department of Education and Auditor General.
4. An annual report that includes:
 - a. The number of students who completed applications, by county and by grade.
 - b. The number of students who were approved for scholarships, by county and by grade.
 - c. The number of students who received funding for scholarships within each funding category, by county and by grade.
 - d. The amount of funds received, the amount of funds distributed in scholarships, and an accounting of remaining funds and the obligation of those funds.
 - e. A detailed accounting of how the organization spent the administrative funds allowable under paragraph (6)(j).

(c) In consultation with the Department of Revenue and the Chief Financial Officer, the Office of Independent Education and Parental Choice shall review the application. The Department of Education shall notify the organization in writing of any deficiencies within 30 days after receipt of the application and allow the organization 30 days to correct any deficiencies.

(d) Within 30 days after receipt of the finalized application by the Office of Independent Education and Parental Choice, the Commissioner of Education shall recommend approval or disapproval of the application to the State Board of Education. The State Board of Education shall consider the application and recommendation at the next scheduled meeting, adhering to appropriate meeting notice requirements. If the State Board of Education disapproves the organization's application, it shall provide the organization with a written explanation of that determination. The State Board of Education's action is not subject to chapter 120.

(e) If the State Board of Education disapproves the renewal of a nonprofit scholarship-funding organization, the organization must notify the affected eligible students and parents of the decision within 15 days after disapproval. An eligible student affected by the disapproval of an organization's participation remains eligible under this section until the end of the school year in which the organization was disapproved. The student must apply and be accepted by another eligible nonprofit scholarship-funding organization for the upcoming school year. The student shall be given priority in accordance with paragraph (6)(f).

(f) All remaining funds held by a nonprofit scholarship-funding organization that is disapproved for participation must revert to the Department of Revenue for redistribution to other eligible nonprofit scholarship-funding organizations.

(g) A nonprofit scholarship-funding organization is a renewing organization if it maintains continuous approval and participation in the program. An organization that chooses not to participate for 1 year or more or is disapproved to participate for 1 year or more must submit an application for initial approval in order to participate in the program again.

(h) The State Board of Education shall adopt rules providing guidelines for receiving, reviewing, and approving applications for new and renewing nonprofit scholarship-funding organizations. The rules must include a process for compiling input and recommendations from the Chief Financial Officer, the Department of Revenue, and the Department of Education. The rules must also require that the nonprofit scholarship-funding organization make a brief presentation to assist the State Board of Education in its decision.

(i) A state university; or an independent college or university which is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, is exempt from the initial or renewal application process, but must file a registration notice with the Department of Education to be an eligible nonprofit scholarship-funding organization. The State Board of Education shall adopt rules that identify the procedure for filing the registration notice with the department. The rules must identify appropriate reporting requirements for fiscal, programmatic, and performance accountability purposes consistent with this section, but shall not exceed the requirements for eligible nonprofit scholarship-funding organizations for charitable organizations. A nonprofit scholarship-funding organization that becomes eligible pursuant to this paragraph may begin providing scholarships to participating students in the 2015-2016 school year.

History.—s. 5, ch. 2001-225; s. 42, ch. 2002-218; s. 258, ch. 2003-261; s. 9, ch. 2003-391; s. 16, ch. 2004-5; s. 2, ch. 2006-75; s. 2, ch. 2008-142; s. 2, ch. 2008-235; s. 1, ch. 2008-241; s. 2, ch. 2009-108; s. 4, ch. 2009-239; s. 1, ch. 2010-24; s. 4, ch. 2010-209; s. 3, ch. 2011-123; s. 1, ch. 2012-22; s. 67, ch. 2013-116; s. 364, ch. 2014-19; s. 17, ch. 2014-184.

¹Note.—The word "as" was substituted for the word "is" by the editors.

Note.—Former s. 220.187.

[Title XLVIII](#)

K-20 EDUCATION CODE

[Chapter 1002](#)

STUDENT AND PARENTAL RIGHTS AND EDUCATIONAL CHOICES

[View Entire Chapter](#)

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.

**PRIVATE SCHOOL APPLICATION TO ADMINISTER
FLORIDA STATEWIDE ASSESSMENTS IN 2015-16**

Attachment A: Section 1002.395, Florida Statutes

SIGNATURE PAGE

I hereby confirm that I have read and will abide by Attachment A: Section 1002.395, Florida Statutes.

Signature

Name - Please Print

Position

Date