

## CHAPTER 2011-127

### Committee Substitute for House Bill No. 1329

An act relating to the John M. McKay Scholarships for Students with Disabilities Program; amending s. 1002.39, F.S.; making scholarships available to students with disabilities who have a 504 accommodation plan issued under s. 504 of the federal Rehabilitation Act; allowing a parent to request and receive a scholarship for a student to enroll in and attend a private school if the student has a 504 accommodation plan; providing that students with certain temporary 504 accommodation plans are ineligible for a scholarship; requiring that the school district notify a parent of available options within 10 days after a 504 accommodation plan is issued; providing that a parent may choose to enroll the student in a public school in an adjacent district under certain conditions; providing for scholarship amounts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1), paragraph (a) of subsection (2), subsection (3), paragraphs (a) and (e) of subsection (5), and paragraph (a) of subsection (10) of section 1002.39, Florida Statutes, are amended to read:

1002.39 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.—The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom:

(a) An individual educational plan has been written in accordance with rules of the State Board of Education; or

(b) A 504 accommodation plan has been issued under s. 504 of the Rehabilitation Act of 1973.

Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a student with a disability may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) The student has:

1. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current individual educational plan developed by the local school board in accordance with rules of the State Board of Education for the John M. McKay Scholarships for Students with Disabilities Program or a 504 accommodation plan has been issued under s. 504 of the Rehabilitation Act of 1973;

2. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, prior school year in attendance means that the student was enrolled and reported by:

a. A school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

b. The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or

c. A school district for funding during the preceding October and February Florida Education Finance Program surveys, was at least 4 years of age when so enrolled and reported, and was eligible for services under s. 1003.21(1)(e); or

3. Been enrolled and reported by a school district for funding, during the October and February Florida Education Finance Program surveys, in any of the 5 years prior to the 2010-2011 fiscal year; has a current individualized educational plan developed by the district school board in accordance with rules of the State Board of Education for the John M. McKay Scholarship Program no later than June 30, 2011; and receives a first-time John M. McKay scholarship for the 2011-2012 school year. Upon request of the parent, the local school district shall complete a matrix of services as required in subparagraph (5)(b)1. for a student requesting a current individualized educational plan in accordance with the provisions of this subparagraph.

However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent's permanent change of station orders is exempt from

this paragraph but must meet all other eligibility requirements to participate in the program.

(3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a John M. McKay Scholarship ~~while he or she is~~:

(a) ~~While he or she is~~ enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) ~~While he or she is~~ receiving a Florida tax credit scholarship under s. 1002.395;

(c) ~~While he or she is~~ receiving an educational scholarship pursuant to this chapter;

(d) ~~While he or she is~~ participating in a home education program as defined in s. 1002.01(1);

(e) ~~While he or she is~~ participating in a private tutoring program pursuant to s. 1002.43;

(f) ~~While he or she is~~ 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;

(g) ~~While he or she is~~ enrolled in the Florida School for the Deaf and the Blind; ~~or~~

(h) ~~While he or she is~~ not having regular and direct contact with his or her private school teachers at the school's physical location; ~~or~~

(i) If he or she has been issued a temporary 504 accommodation plan under s. 504 of the Rehabilitation Act of 1973 which is valid for 6 months or less.

(5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

(a)1. By April 1 of each year and within 10 days after an individual education plan meeting ~~or a 504 accommodation plan is issued under s. 504 of the Rehabilitation Act of 1973~~, a school district shall notify the parent of the student of all options available pursuant to this section, inform the parent of the availability of the department's telephone hotline and Internet website for additional information on John M. McKay Scholarships, and offer that student's parent an opportunity to enroll the student in another public school ~~in~~ within the district.

2. The parent is not required to accept the offer of enrolling in another public school in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student

may continue attending a public school chosen by the parent until the student graduates from high school.

3. If the parent chooses a public school consistent with the district school board's choice plan under s. 1002.31, the school district shall provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the district school board's choice plan under s. 1002.31.

(e) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services agreed to in the student's individual education plan or 504 accommodation plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students 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 subparagraphs 3. and 4., the calculation shall be based on the student's grade, 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 shall include 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. The scholarship amount for a student who is eligible under subparagraph (2)(a)2.b. shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

4. Until the school district completes the matrix required by paragraph (5)(b), the calculation shall be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

5. The scholarship amount for a student eligible under s. 504 of the Rehabilitation Act of 1973 shall be based on the program cost factor the student currently generates through the Florida Education Finance Program.

Section 2. This act shall take effect July 1, 2011.

Approved by the Governor June 2, 2011.

Filed in Office Secretary of State June 2, 2011.