

CHAPTER 2020-95

Committee Substitute for House Bill No. 7067

An act relating to K-12 scholarship programs; amending s. 1002.394, F.S.; revising initial scholarship eligibility criteria for the Family Empowerment Scholarship Program; establishing a priority order for award of a scholarship that includes an adjusted maximum eligible household income level that is increased in specified circumstances; requiring the Department of Education to maintain and publish a list of nationally norm-referenced tests and to establish deadlines for lists of eligible students, applications, and notifications; requiring a private school to report scores to a state university by a specified date; requiring parents to annually renew participation in the program; requiring an eligible nonprofit scholarship-funding organization to award scholarships in priority order and implement deadlines; requiring, rather than authorizing, an annual specified increase in the maximum number of students participating in the scholarship program; amending s. 1002.395, F.S.; revising eligibility criteria for the Florida Tax Credit Scholarship Program and applying the criteria only to initial eligibility; requiring that priority be given to students whose household income levels do not exceed a specified amount or who are in foster care or out-of-home care; requiring scholarship-funding organizations to prioritize renewal scholarships over initial scholarships; requiring a scholarship-funding organization to refer students who did not receive a scholarship because of lack of funds to another scholarship-funding organization; amending s. 1002.40, F.S.; requiring scholarship-funding organizations to use excess contributions to fund scholarships for specified students under certain conditions; amending s. 1011.62, F.S.; revising funding calculations for certain student memberships; providing an effective date.

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

Section 1. Present paragraphs (b), (c), and (d) of subsection (10) of section 1002.394, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, paragraph (i) of subsection (9) and a new paragraph (b) of subsection (10) are added to that section, and subsections (3) and (7), paragraph (c) of subsection (8), and paragraph (a) of subsection (11) of that section are amended, to read:

1002.394 The Family Empowerment Scholarship Program.—

(3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible for a Family Empowerment Scholarship under this section if the student meets the following criteria:

(a)1. The student is on the direct certification list pursuant to s. 1002.395(2)(c) or the student's household income level does not exceed 185 ~~300~~ 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; or

3. The student's household income level does not exceed 300 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level as established pursuant to paragraph (e).

~~Priority shall be given to students 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. A student who initially receives a scholarship based on eligibility under subparagraph 2. remains eligible to participate 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.~~

(b)1. The student is eligible to enroll in kindergarten;

2. The student ~~or~~ has spent the prior school year in attendance at a Florida public school; or

3. Beginning with the 2020-2021 school year, the student received a scholarship pursuant to s. 1002.395 during the previous school year but did not receive a renewal scholarship based solely on the eligible nonprofit scholarship-funding organization's lack of available funds after the organization fully exhausts its efforts to use funds available for awards under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit scholarship-funding organizations with students who meet the eligibility criterion of this subparagraph must annually notify the department in a format and by a date established by the department.

For purposes of this paragraph, the term "prior school year in attendance" means that the student was enrolled full time and reported by 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. 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 or a foster child is exempt from the prior public school attendance requirement under this paragraph, but must meet the other eligibility requirements specified under this section to participate in the program.

(c) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (8), and the parent has requested a scholarship from the Department of Education by a date established by the department pursuant to paragraph (7)(e), but no later than at least 60 days before the date of the first scholarship payment.

The request must be communicated directly to the department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The department must notify the school district of the parent's intent upon receipt of the parent's request.

(d) The student is awarded a scholarship in accordance with the following priority order:

1. An eligible student who received a Family Empowerment Scholarship during the previous school year and requested a renewal scholarship award.

2. An eligible student who meets the criteria for an initial award under both paragraph (a) and subparagraph (b)3.

3. An eligible student who meets the criteria for an initial award under subparagraph (b)2. and either subparagraph (a)1. or subparagraph (a)2.

4. An eligible student who meets the criteria for an initial award under subparagraph (b)1. and either subparagraph (a)1. or subparagraph (a)2.

5. An eligible student who meets the criteria for an initial award under subparagraph (a)3. and, in priority order, either subparagraph (b)2. or subparagraph (b)1.

(e) The student's household income level does not exceed an adjusted maximum percent of the federal poverty level that is increased by 25 percent in the fiscal year following any fiscal year in which more than 5 percent of the available scholarships authorized under subsection (11) have not been awarded.

(7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Publish and update, as necessary, information on the department website about the Family Empowerment Scholarship Program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.

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

(c) Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (8)(c)1. The tests must meet industry standards of quality in accordance with state board rule.

(d) Notify eligible nonprofit scholarship-funding organizations of the deadlines for submitting the verified list of students determined to be eligible for an initial or renewal scholarship.

(e) Establish deadlines for the receipt of initial applications and renewal notifications in order to implement the priority order for scholarship awards pursuant to paragraph (3)(d).

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be eligible to participate in the Family Empowerment Scholarship Program, a private school may be sectarian or nonsectarian and must:

(c)1. Annually administer or make provision for students participating in the program in grades 3 through 10 to take one of the nationally norm-referenced tests that are identified by the department pursuant to paragraph (7)(c) or to take 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 his or her parent. By August 15 of each year, a participating private school must report the scores of all participating students to a state university as described in s. 1002.395(9)(f).

2. Administer the statewide assessments pursuant to s. 1008.22 if the private school chooses to offer the statewide assessments. 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 and must submit a request in writing to the department by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the scholarship program.

(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for a Family Empowerment Scholarship is exercising his or her parental option to place his or her child in a private school.

(i) The parent must annually renew participation in the program by the date established by the department pursuant to paragraph (7)(e).

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

(b) Shall award initial and renewal scholarships in priority order pursuant to paragraph (3)(d). The eligible nonprofit scholarship-funding organization shall implement the deadlines established by the department pursuant to paragraphs (7)(d) and (e).

(11) SCHOLARSHIP FUNDING AND PAYMENT.—

(a) The scholarship is established for up to 18,000 students annually ~~on a first-come, first-served basis~~ beginning in with the 2019-2020 school year. Beginning in the 2020-2021 school year, the maximum number of students

participating in the scholarship program under this section shall ~~may~~ annually increase by 1.0 ~~0.25~~ percent of the state’s total public school student enrollment.

Section 2. Subsection (3) and paragraphs (e) and (f) of subsection (6) of section 1002.395, Florida Statutes, are amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

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

(b) 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 260 ~~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.~~

Priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care. A student who initially receives a scholarship based on eligibility under this paragraph ~~subparagraph (b)2.~~ remains eligible to participate until he or she 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 student who initially received a scholarship based on income eligibility before the 2019-2020 school year remains eligible to participate until he or she graduates from high school, attains the age of 21 years, or the student’s household income level exceeds 260 percent of the federal poverty level, whichever occurs first.~~ 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.

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

(e) Must give first priority to eligible renewal students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year. The eligible nonprofit scholarship-funding organization must fully apply and exhaust all funds available under this section and s. 1002.40(11)(i) for renewal scholarship awards before awarding any initial scholarships. ~~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 renewal or initial scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority pursuant to paragraph (e). Each eligible nonprofit scholarship-funding organization must refer any student eligible for a scholarship pursuant to this section who did not receive a renewal or initial scholarship based solely on the lack of available funds under this section and s. 1002.40(11)(i) to another eligible nonprofit scholarship-funding organization that may have funds available.

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.

Section 3. Paragraph (i) of subsection (11) of section 1002.40, Florida Statutes, is amended to read:

1002.40 The Hope Scholarship Program.—

(11) FUNDING AND PAYMENT.—

(i) Notwithstanding s. 1002.395(6)(j)2., no more than 5 percent of net eligible contributions may be carried forward to the following state fiscal year by an eligible scholarship-funding organization. For audit purposes, all amounts carried forward must be specifically identified for individual students by student name and by the name of the school to which the student is admitted, subject to the requirements of ss. 1002.21 and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and regulations issued pursuant to such requirements. Any amounts carried forward shall be expended for annual scholarships or partial-year scholarships in the following state fiscal year. Net eligible contributions remaining on June 30 of each year which are in excess of the 5 percent that may be carried forward shall be transferred to other eligible nonprofit scholarship-funding organizations participating in the Hope Scholarship Program to provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into the scholarship account of eligible students. All transferred amounts received by an eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit requirement under s. 1002.395(6)(m). If no other eligible nonprofit scholarship-funding organization participates in the Hope Scholarship Program, net eligible contributions in excess of the 5 percent may be used to fund scholarships for students eligible under s. 1002.395 only after fully exhausting all contributions made in support of scholarships under that section in accordance with the priority established in s. 1002.395(6)(e) prior to awarding any initial scholarships s. 1002.395(3).

Section 4. Paragraph (i) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(i) *Calculation of full-time equivalent membership with respect to dual enrollment instruction.*—

1. Full-time equivalent students.—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university, which is not for profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

2. Additional full-time equivalent student membership.—For students enrolled in an early college program pursuant to s. 1007.273, a value of 0.16

full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A" or better. For students who are not enrolled in an early college program, a value of 0.08 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A." In addition, a value of 0.3 full-time equivalent student membership shall be calculated for any student who receives an associate degree through the dual enrollment program with a 3.0 grade point average or better. This value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. This section shall be effective for credit earned by dually enrolled students for courses taken in the 2020-2021 school year and each school year thereafter. If the associate degree described in this paragraph is earned in 2020-2021 following completion of courses taken in the 2020-2021 school year, then courses taken toward the degree as part of the dual enrollment program before 2020-2021 may not preclude eligibility for the 0.3 additional full-time equivalent student membership bonus. Each school district shall allocate at least 50 percent of the funds received from the dual enrollment bonus FTE funding, in accordance with this paragraph, to the schools that generated the funds to support student academic guidance and postsecondary readiness.

3. Qualifying courses.—For the purposes of this paragraph, general education core courses are those that are identified in rule by the State Board of Education and in regulation by the Board of Governors pursuant to s. 1007.25(3).

Section 5. This act shall take effect July 1, 2020.

Approved by the Governor June 25, 2020.

Filed in Office Secretary of State June 25, 2020.