

CHAPTER 2021-27

Committee Substitute for House Bill No. 7045

An act relating to school choice; amending s. 11.45, F.S.; revising the frequency with which the Auditor General must conduct certain operational audits; repealing s. 1002.385, F.S., relating to the Gardiner Scholarship; amending s. 1002.39, F.S.; revising provisions relating to the calculation of the maximum amount of scholarship funds granted to an eligible student with a disability under the John M. McKay Scholarships for Students with Disabilities Program; providing for future repeal of the program; amending s. 1002.394, F.S.; providing definitions; revising student eligibility requirements under the Family Empowerment Scholarship Program; providing requirements for the use of funds under the program; revising provisions relating to the term of scholarships under the program; providing that certain students are not eligible for a scholarship under the program under certain circumstances; providing exceptions; revising the obligations of school districts, the Department of Education, private schools, and eligible scholarship-funding organizations under the program; revising the responsibilities of parents and students relating to program participation; revising provisions relating to the funding and payment of scholarships awarded under the program; requiring specified state agencies to work with an organization to provide access to lists of approved licensed service providers; providing that certain students with disabilities are eligible for enrollment in transition-to-work programs at certain participating private schools; providing requirements for such students, private schools, and businesses under transition-to-work programs; revising provisions relating to the State Board of Education's rulemaking authority; removing obsolete provisions; amending s. 1002.395, F.S.; revising student eligibility criteria based on household income level for the Florida Tax Credit Scholarship Program; amending ss. 1002.40, 1009.971, 1009.98, 1009.981, 1011.61, and 1011.62, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Paragraph (1) of subsection (2) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(1) At least once every 3 years, ~~Annually~~ conduct operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations receiving eligible contributions under s. 1002.395, including any contracts for services with related entities, to determine compliance with the provisions of that section. Such audits shall include, but not be limited to,

a determination of the eligible nonprofit scholarship-funding organization's compliance with s. 1002.395(6)(j). The Auditor General shall provide its report on the results of the audits to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee, within 30 days of completion of the audit.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

Section 2. Section 1002.385, Florida Statutes, is repealed.

Section 3. Subsection (10) of section 1002.39, Florida Statutes, is amended, and subsection (14) is added to that section, 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.

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

~~(a)1. The maximum scholarship granted for an eligible student with disabilities shall be calculated in accordance with s. 1002.394(12)(b) 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.~~

6. The scholarship amount granted for an eligible student with disabilities is not subject to the maximum value for funding a student under s. 1011.61(4).

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(c)1. The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

~~2. For program participants who are eligible under sub-subparagraph (2)(a)2.b., the school district that is used as the basis for the calculation of the scholarship amount as provided in subparagraph (a)3. shall:~~

~~a. Report to the department all such students who are attending a private school under this program.~~

2.b. The school district shall be held harmless for such students from the weighted enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b. during the first school year in which the students are reported.

(d) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the department shall transfer, from General Revenue funds only, the amount calculated under paragraph (a) (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. Funds may not be transferred from any funding provided to the Florida School for the Deaf and the Blind for program participants who are eligible under sub-subparagraph (2)(a)2.b. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the John M. McKay scholarship calculated pursuant to paragraph

(a) ~~(b)~~ shall be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the department must receive all documentation required for the student's participation, including the private school's and the student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

(e) Upon notification by the department that it has received the documentation required under paragraph (d), the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the scholarship is in force. The initial payment shall be made after department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be made by individual warrant made payable to the student's parent and mailed by the department to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(f) Subsequent to each scholarship payment, the department shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.

(14) REPEAL.—This section is repealed July 1, 2022.

Section 4. Section 1002.394, Florida Statutes, is amended to read:

1002.394 The Family Empowerment Scholarship Program.—

(1) PURPOSE.—The Family Empowerment Scholarship Program is established to provide children of families in this state which have limited financial resources with educational options to achieve success in their education.

(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, 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 and associated online instruction.

(c)(a) “Department” means the Department of Education.

(d) “Disability” means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,

published by the American Psychiatric Association; cerebral palsy, as defined in s. 393.063; Down syndrome, as defined in s. 393.063; an intellectual disability, as defined in s. 393.063; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; an emotional or a behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; Phelan-McDermid syndrome, as defined in s. 393.063; Prader-Willi syndrome, as defined in s. 393.063; spina bifida, as defined in s. 393.063; being a high-risk child, as defined in s. 393.063(23)(a); muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; a hearing impairment, including deafness; a visual impairment, including blindness; traumatic brain injury; hospital or homebound; or identification as dual sensory impaired, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term “hospital or homebound” includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months.

(e)(b) “Eligible nonprofit scholarship-funding organization” or “organization” has the same meaning as provided in s. 1002.395(2)(f).

(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; an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program under s. 1009.89; or an accredited independent postsecondary educational institution, as defined in s. 1005.02, which is licensed to operate in this state under part III of chapter 1005.

(g)(e) “Eligible private school” has the same meaning as provided in s. 1002.395(2)(g).

(h) “IEP” means an individual education plan, regardless of whether the plan has been reviewed or revised within the last 12 months.

(i) “Inactive” means that no eligible expenditures have been made from an account funded pursuant to paragraph (12)(b).

(j) “Job coach” means an individual employed to help people with disabilities learn, accommodate to, and perform their work duties.

(k)(d) “Parent” means a resident of this state who is a parent, as defined in s. 1000.21.

(l)(e) “Program” means 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) A parent of a student may request and receive from the state a scholarship for the purposes specified in paragraph (4)(a) if:

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 percent of the federal poverty level;

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 ~~375~~ 300 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level that is increased by 25 percentage points in the fiscal year following any fiscal year in which more than 5 percent of the available scholarships authorized under paragraph (12)(a) have not been funded;

4. The student is a sibling of a student who is participating in the scholarship program under this subsection and such siblings reside in the same household; or

5. The student is a dependent child of a member of the United States Armed Forces.

~~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 as established pursuant to paragraph (e). 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) A parent of a student with a disability may request and receive from the state a scholarship for the purposes specified in paragraph (4)(b) if the student:

1. Is a resident of this state;

2. Is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation, or is eligible to enroll in kindergarten through grade 12 in a public school in this state;

3. Has a disability as defined in subsection (2); and

4. Is the subject of an IEP written in accordance with rules of the State Board of Education or with the applicable rules of another state or has

received a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459, a psychologist who is licensed under chapter 490, or a physician who holds an active license issued by another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) An approved student who does not receive a scholarship must be placed on the wait list in the order in which the student is approved. An eligible student who does not receive a scholarship within the fiscal year must be retained on the wait list for the subsequent year.

1. The student is eligible to enroll in kindergarten;
2. The student 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.~~

(4) AUTHORIZED USES OF PROGRAM FUNDS.—

(a) Program funds awarded to a student determined eligible pursuant to paragraph (3)(a) may be used for:

1. Tuition and fees at an eligible private school; or

2. Transportation to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned or to a lab school as defined in s. 1002.32 if the student is determined eligible pursuant to subparagraph (3)(a)1. or 2.

(b) Program funds awarded to a student with a disability determined eligible pursuant to paragraph (3)(b) may be used for the following purposes:

1. Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.

2. Curriculum as defined in subsection (2).

3. Specialized services by approved providers or by a hospital in this state which are selected by the parent. These specialized services may include, but are not limited to:

a. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.

b. Services provided by speech-language pathologists as defined in s. 468.1125(8).

c. Occupational therapy services as defined in s. 468.203.

d. Services provided by physical therapists as defined in s. 486.021(8).

e. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who has a hearing impairment, including deafness, and who has received an implant or assistive hearing device.

4. Tuition or fees associated with full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the 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.

5. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

6. Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981 for the benefit of the eligible student.

7. 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 (6).

8. Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as approved by the department. As used in this paragraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

9. Fees for specialized summer education programs.

10. Fees for specialized after-school education programs.

11. Transition services provided by job coaches.

12. Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), if this option is chosen for a home education student.

13. Tuition and fees associated with programs offered by Voluntary Prekindergarten Education Program providers approved pursuant to s. 1002.55 and school readiness providers approved pursuant to s. 1002.88.

14. Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.

15. Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

(5)(4) TERM OF SCHOLARSHIP.—

(a) For purposes of continuity of educational choice, ~~a Family Empowerment Scholarship~~

(a) A scholarship awarded to an eligible student pursuant to paragraph (3)(a) shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 21, whichever occurs first. A scholarship 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 scholarship's term. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school for that purpose.

(b)1. A scholarship awarded to an eligible student pursuant to paragraph (3)(b) shall remain in force until:

a. The parent does not renew program eligibility;

b. The organization determines that the student is not eligible for program renewal;

c. The Commissioner of Education suspends or revokes program participation or use of funds;

d. The student's parent has forfeited participation in the program for failure to comply with subsection (10);

e. The student enrolls in a public school; or

f. The student graduates from high school or attains 22 years of age, whichever occurs first.

2. Reimbursements for program expenditures may continue until the account balance is expended or the account is closed.

3. A student's scholarship account must be closed and any remaining funds, including, but not limited to, contributions made to the Stanley G. Tate Florida Prepaid College Program or earnings from or contributions made to the Florida College Savings Program using program funds pursuant to subparagraph (4)(b)6., shall revert to the state after:

a. Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services received pursuant to subsection (4);

b. Any period of 3 consecutive years after high school completion or graduation during which the student has not been enrolled in an eligible postsecondary educational institution or a program offered by the institution; or

c. Two consecutive fiscal years in which an account has been inactive.

(c) Upon reasonable notice to the organization ~~department~~ and the school district, the student's parent may remove the student from the private school and place the student in a public school in accordance with this section.

(d)(e) Upon reasonable notice to the organization ~~department~~, the student's parent may move the student from one participating private school to another participating private school.

(6)(5) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a Family Empowerment Scholarship while he or she is:

(a) Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school authorized under s. 1002.32, or a charter school authorized under this chapter. For purposes of this paragraph, a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program is considered to be a student enrolled in a public school;

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

(c) Receiving any other educational scholarship pursuant to this chapter;

(d) Not having regular and direct contact with his or her private school teachers pursuant to s. 1002.421(1)(i), unless he or she is eligible pursuant to paragraph (3)(b) and enrolled in the private school's transition-to-work

program pursuant to subsection (16) or a home education program pursuant to s. 1002.41;

~~(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 unless he or she is determined eligible pursuant to paragraph (3)(b); or~~

~~(f) Participating in a virtual instruction pursuant to s. 1002.455 school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation.~~

~~(7)(6)~~ SCHOOL DISTRICT OBLIGATIONS.—

~~(a) By January July 15, 2019, and by April 1 of each year thereafter, 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 to the department for a Family Empowerment Scholarship. The form of such notice shall be provided by the department, and the school district shall include the provided form in any normal correspondence with eligible households. Such notice is limited to once a year.~~

~~(b)1. The parent of a student with a disability who does not have an IEP in accordance with subparagraph (3)(b)4. or who seeks a reevaluation of an existing IEP may request an IEP meeting and evaluation from the school district in order to obtain or revise a matrix of services. The school district shall notify a parent who has made a request for an IEP that the district is required to complete the IEP and matrix of services within 30 days after receiving notice of the parent's request. The school district shall conduct a meeting and develop an IEP and a matrix of services within 30 days after receipt of the parent's request in accordance with State Board of Education rules. The district must accept the diagnosis, and consider the service plan of the licensed professional providing the diagnosis pursuant to subparagraph (3)(b)4. 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. The school district must provide the student's parent and the department with the student's matrix level within 10 calendar days after its completion.~~

~~b. The department shall notify the parent and the organization of the amount of the funds awarded within 10 days after receiving the school district's notification of the student's matrix level.~~

~~c. A school district may change a matrix of services only if the change is a result of an IEP reevaluation or to correct a technical, typographical, or calculation error.~~

(c)1. Within 10 days after an IEP meeting is held, a school district shall notify the parent of a student of all options available pursuant to this section and offer that student's parent an opportunity to enroll the student in another public school in the school district.

2. The parent is not required to accept the offer of enrolling the student in another public school in lieu of requesting a scholarship. However, if the parent chooses the public school option, the student may continue attending the public school chosen by the parent until the student graduates from high school.

3. The parent may choose another public school in the school district and the school district shall provide transportation to the public school selected by the parent.

4. The parent may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district that has available space and has a program with the services agreed to in the student's IEP already in place, and that school district shall accept the student and report the student for purposes of the school district's funding pursuant to the Florida Education Finance Program.

(d)(b) The school district in which a participating student resides must notify the student and his or her parent about the locations and times to take all statewide assessments under s. 1008.22 if the student chooses to participate in such assessments. Upon the request of the department, 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. For a student who participates in the Family Empowerment Scholarship Program whose parent requests that the student take the statewide assessments under s. 1008.22, the district in which the student attends a private school shall provide locations and times to take all statewide 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.

(e)(e) Each school district must publish information about the Family Empowerment Scholarship Program on the district's website homepage. At a minimum, the published information must include a website link to the Family Empowerment Scholarship Program published on the Department of Education website as well as a telephone number and e-mail that students and parents may use to contact relevant personnel in the school district to obtain information about the scholarship.

(f) A school district shall report all students who are receiving a scholarship under this program. Students receiving a scholarship shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

(g) A school district shall be held harmless for students who are receiving a scholarship under this program from the weighted enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b. during the first school year in which the students are reported.

~~(8)(7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:~~

(a) The department shall:

1. 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.

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

3.(e) Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (9)(c)1. ~~(8)(e)1.~~ The tests must meet industry standards of quality in accordance with state board rule.

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

5. Notify each school district of a parent's participation in the scholarship program for purposes of paragraph (7)(f).

6. Deny or terminate program participation upon a parent's failure to comply with subsection (10).

7. Notify the parent and the organization when a scholarship account is closed and program funds revert to the state.

8. Notify an eligible nonprofit scholarship-funding organization of any of the organization's or other organization's identified students who are receiving scholarships under this chapter.

9. Maintain on its website a list of approved providers as required by s. 1002.66, eligible postsecondary educational institutions, eligible private schools, and eligible organizations and may identify or provide links to lists of other approved providers.

10. Require each organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to subparagraphs (4)(b)1. and 2. Review of expenditures made for services specified in subparagraphs (4)(b)3.-15. may be completed after the purchase is made.

11. Investigate any written complaint of a violation of this section by a parent, a student, a private school, a public school, a school district, an organization, a provider, or another appropriate party in accordance with the process established under s. 1002.421.

12. Require quarterly reports by an organization, which must include, at a minimum, the number of students participating in the program; the demographics of program participants; the disability category of program participants; the matrix level of services, if known; the program award amount per student; the total expenditures for the purposes specified in paragraph (4)(b); the types of providers of services to students; and any other information deemed necessary by the department.

13. Notify eligible nonprofit scholarship funding organizations that scholarships may not be awarded in a school district in which the award will exceed 99 percent of the school district's share of state funding through the Florida Education Finance Program as calculated by the department.

(b) At the direction of the Commissioner of Education, the department may:

1. Suspend or revoke program participation or use of program funds by the student or participation or eligibility of an organization, eligible postsecondary educational institution, approved provider, or other party for a violation of this section.

2. Determine the length of, and conditions for lifting, a suspension or revocation specified in this paragraph.

3. Recover unexpended program funds or withhold payment of an equal amount of program funds to recover program funds that were not authorized for use.

In determining whether to suspend or revoke participation or lift a suspension or revocation in accordance with this paragraph, the department may consider factors that include, but are not limited to, acts or omissions that led to a previous suspension or revocation of participation in a state or

federal program or an education scholarship program; failure to reimburse the organization for funds improperly received or retained; failure to reimburse government funds improperly received or retained; imposition of a prior criminal sanction related to the person or 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 a person's or entity's management or operation; or other types of criminal proceedings in which the person or 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.

(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).

(9)(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:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the organization ~~department~~ all documentation required for a student's participation, including the private school's and student's fee schedules, at least 30 days before any quarterly scholarship payment is made for the student pursuant to paragraph (12)(a) ~~(11)(f)~~. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.

(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 (8)(a) ~~(7)(e)~~ or to take the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determines that 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.

~~(10)~~(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—

(a) A parent who applies for program participation under paragraph (3)(a) a Family Empowerment Scholarship is exercising his or her parental option to place his or her child in a private school and must:-

1.(a) ~~The parent must~~ Select the private school and apply for the admission of his or her student.

2.(b) ~~The parent must~~ Request the scholarship by a date established by the organization, in a manner that creates a written or electronic record of the request and the date of receipt of the request at least 60 days before the date of the first scholarship payment.

3.(c) ~~The parent must~~ Inform the applicable school district when the parent withdraws his or her student from a public school to attend an eligible private school.

4.(d) Require his or her ~~Any~~ student participating in the program to ~~must~~ remain in attendance throughout the school year unless excused by the school for illness or other good cause.

5.(e) ~~Before enrolling in a private school, a student and his or her parent or guardian must~~ Meet with the private school's principal or the principal's designee to review the school's academic programs and policies, customized educational programs, code of student conduct, and attendance policies prior to enrollment.

6.(f) Require ~~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 paragraph (7)(d) ~~(6)(b)~~.

(g) If the parent requests that the student participating in the program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

7.(h) ~~Upon receipt of a scholarship warrant, the parent to whom the warrant is issued must~~ Restrictively endorse the warrant, issued in the name of the parent pursuant to subparagraph (12)(a)6., to the private school for deposit into the private school's account. 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.~~

(b) A parent who applies for program participation under paragraph (3)(b) 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 and must:

1. Apply to an eligible nonprofit scholarship-funding organization to participate in the program by a date set by the organization. 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.

2. Sign an agreement with the organization and annually submit a sworn compliance statement to the organization to satisfy or maintain program eligibility, including eligibility to receive and spend program payments by:

a. Affirming that the student is enrolled in a program that meets regular school attendance requirements as provided in s. 1003.01(13)(b), (c), or (d).

b. Affirming that the program funds are used only for authorized purposes serving the student's educational needs, as described in paragraph (4)(b); that any prepaid college plan or college savings plan funds contributed pursuant to subparagraph (4)(b)6. will not be transferred to another beneficiary while the plan contains funds contributed pursuant to this section; and that they will not receive a payment, refund, or rebate of any funds provided under this section.

c. Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student by, as applicable:

(I) Requiring the student to take an assessment in accordance with paragraph (9)(c);

(II) Providing an annual evaluation in accordance with s. 1002.41(1)(f);
or

(III) Requiring the child to take any preassessments and postassessments selected by the provider if the child is 4 years of age and is enrolled in a program provided by an eligible Voluntary Prekindergarten Education Program provider. A student with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determines that a preassessment and postassessment is not appropriate is exempt from this requirement. A participating provider shall report a student's scores to the parent.

d. Affirming that the student remains in good standing with the provider or school if those options are selected by the parent.

e. Enrolling his or her child in a program from a Voluntary Prekindergarten Education Program provider authorized under s. 1002.55, a school

readiness provider authorized under s. 1002.88, or an eligible private school if either option is selected by the parent.

f. Renewing participation in the program each year. A student whose participation in the program is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the account must be closed pursuant to subparagraph (5)(b)3. 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. However, for a high-risk child to continue to participate in the program in the school year after he or she reaches 6 years of age, the child's application for renewal of program participation must contain documentation that the child has a disability defined in paragraph (2)(d) other than high-risk status.

g. Procuring the services necessary to educate the student. If a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive fiscal years, the student is ineligible for additional scholarship payments until the scholarship funding organization verifies that expenditures from the account have occurred. When the student receives a scholarship, 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 IEP or matrix level of services.

(c) A participant who fails to comply with this subsection forfeits the scholarship.

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

(11)(10) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING ORGANIZATIONS.—

(a) An eligible nonprofit scholarship-funding organization awarding scholarships to eligible students pursuant to paragraph (3)(a):

1.(a) Must receive applications, determine student eligibility, notify parents in accordance with the requirements of this section, and provide the department with information on the student to enable the department to determine student funding in accordance with paragraph (12)(a).

2. Shall verify the household income level of students pursuant to subparagraph (3)(a)1. and submit the verified list of students and related documentation to the department.

3.(b) Shall award ~~initial and renewal~~ scholarships in priority order pursuant to paragraph ~~(3)(a)~~ (3)(d). The ~~eligible nonprofit scholarship-~~

~~funding organization shall implement the deadlines established by the department pursuant to paragraphs (7)(d) and (e).~~

~~4.(e) May, from eligible contributions received pursuant to s. 1002.395(6)(j)1., use an amount not to exceed 2.5 ~~1~~ percent of the total amount of all scholarships funded awarded under this section for administrative expenses associated with performing functions under this section. Such administrative expense amount is considered within the 3 percent limit on the total amount an organization may use to administer scholarships under this chapter.~~

~~5.(d) Must, in a timely manner, submit any information requested by the department relating to the scholarship under this section.~~

~~6.(e) Must notify the department about any violation of this section by a parent or a private school.~~

~~(b) An eligible nonprofit scholarship-funding organization awarding scholarships to eligible students pursuant to paragraph (3)(b) shall:~~

~~1. Receive applications, determine student eligibility, and notify parents in accordance with the requirements of this section. When an application is approved, the organization must provide the department with information on the student to enable the department to determine student funding in accordance with paragraph (12)(b).~~

~~2. Establish a date by which a parent must confirm initial or continuing participation in the program.~~

~~3. Review applications and award scholarships using the following priorities:~~

~~a. For the 2021-2022 school year, a student who received a Gardiner Scholarship in the 2020-2021 school year and meets the eligibility requirements in paragraph (3)(b).~~

~~b. Renewing students from the previous school year.~~

~~c. Students retained on the previous school year's wait list.~~

~~d. An eligible student who meets the criteria for an initial award pursuant to paragraph (3)(b).~~

~~An approved student who does not receive a scholarship must be placed on the wait list in the order in which his or her application is approved. A student who does not receive a scholarship within the fiscal year shall be retained on the wait list for the subsequent fiscal year.~~

~~4. Establish and maintain separate accounts for each eligible student. For each account, the organization must maintain a record of accrued~~

interest that is retained in the student's account and available only for authorized program expenditures.

5. Verify qualifying educational expenditures pursuant to the requirements of paragraph (4)(b).

6. Return any remaining program funds to the department pursuant to paragraph (6)(b).

7. Notify the parent about the availability of, and the requirements associated with requesting, an initial IEP or IEP reevaluation every 3 years for each student participating in the program.

8. Notify the department of any violation of this section.

9. Document each scholarship student's eligibility for a fiscal year before granting a scholarship for that fiscal year pursuant to paragraph (3)(b). A student is ineligible for a scholarship if the student's account has been inactive for 2 consecutive fiscal years.

(12)(11) SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. Scholarships for students determined eligible pursuant to paragraph (3)(a) are ~~The scholarship is established for up to 18,000 students annually beginning in 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 annually increase by 1.0 percent of the state's total public school student enrollment. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:~~

a. 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 exhausted 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 criterion in this subparagraph must annually notify the department in a format and by a date established by the department. The maximum number of scholarships awarded pursuant to this subparagraph shall not exceed 15,000 per school year;

b. Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; or

c. Is determined eligible pursuant to subparagraph (3)(a)1. or 2. and either spent the prior school year in attendance at a Florida public school or, beginning in the 2022-2023 school year, is eligible to enroll in kindergarten. For purposes of this subparagraph, the term "prior school year in attendance" means that the student was enrolled and reported by a school district for funding during either the preceding October or 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.

~~2.(b)~~ The scholarship amount provided to a student for any single school year shall be for tuition and fees for an eligible private school, not to exceed annual limits, which shall be determined in accordance with this ~~subparagraph~~ paragraph. The calculated amount for a participating student to attend an eligible private school shall be based upon the grade level and school district in which the student was assigned as ~~100~~ 95 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.62(1)(c)1., plus a per-full-time equivalent share of funds for all categorical programs, except for the Exceptional Student Education Guaranteed Allocation.

~~3.(e)~~ The amount of the scholarship Family Empowerment Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school and any costs to provide a digital device, including Internet access, if necessary, to the student may be paid from the total amount of the scholarship.

4. A scholarship of \$750 may be awarded to a student who is determined eligible pursuant to subparagraph (3)(a)1. or 2. and enrolled in a Florida public school that is different from the school to which the student was assigned or in a lab school as defined in s. 1002.32 if the school district does not provide the student with transportation to the school.

~~(d) The school district shall report all students who are attending a private school under this program. The students attending private schools on Family Empowerment Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.~~

~~5.(e)~~ Upon Following notification from the organization on July 1, September 1, December 1, and or February 1 that an application has been approved for the program of the number of program participants, the department shall verify that the student is not prohibited from receiving a scholarship pursuant to subsection (6). The organization must provide the department with the documentation necessary to verify the student's participation. Upon verification, the department shall transfer, from state general revenue funds only, the amount calculated pursuant to subparagraph 2. paragraph (b) to the organization a separate account for the scholarship program for quarterly disbursement to parents of participating students each school year in which the scholarship is in force. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the Family Empowerment Scholarship calculated pursuant to subparagraph 2. paragraph (b) must be transferred from the school district in which the student

last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the organization department must receive all documentation required for the student's participation, including the private school's and the student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

~~6.(f) Upon notification by the department that it has received the documentation required under paragraph (e), the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force. The initial payment shall be made after the organization's department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent or by funds transfer or any other means of payment that the department deems to be commercially viable or cost-effective. If the payment is made by warrant, the warrant must be delivered and mailed by the organization department to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. An organization shall ensure that the parent to whom the warrant is made has restrictively endorsed the warrant to the private school for deposit into the account of the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.~~

~~(g) Subsequent to each scholarship payment, the department shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.~~

(b)1. Scholarships for students determined eligible pursuant to paragraph (3)(b) are established for up to 20,000 students annually beginning in the 2021-2022 school year. Beginning in the 2022-2023 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 1.0 percent of the state's total exceptional student education full-time equivalent student enrollment, not including gifted students. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

a. 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 IEP developed by the local school board in accordance with rules of the State Board of Education;

b. Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child;

c. 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, the term “prior school year in attendance” means that the student was enrolled and reported by:

(I) A school district for funding during either the preceding October or 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;

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

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

(IV) Received a John M. McKay Scholarship for Students with Disabilities in the 2021-2022 school year.

2. For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, the calculated scholarship amount for a student participating in the program must be based upon the grade level and school district in which the student would have been enrolled as the total funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic exceptional student education program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act, except that for the exceptional student education guaranteed allocation as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be allocated based on the school district’s average exceptional student education guaranteed allocation funds per exceptional student education full-time equivalent student.

3. For a student with a Level IV or Level V matrix of services, the calculated scholarship amount must be based upon the school district to which the student would have been assigned as the total funds per full-time equivalent for the Level IV or Level V exceptional student education program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act.

4. For a student who received a Gardiner Scholarship pursuant to s. 1002.385 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

5. For a student who received a John M. McKay Scholarship pursuant to s. 1002.39 in the 2020-2021 school year, the amount shall be the greater of

the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

6. Upon notification from an organization on July 1, September 1, December 1, and February 1 that an application has been approved for the program, the department shall verify that the student is not prohibited from receiving a scholarship pursuant to subsection (6). The organization must provide the department with the documentation necessary to verify the student's participation.

7. Upon verification, the department shall release, from state funds only, the student's scholarship funds to the organization, to be deposited into the student's account in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

8. Accrued interest in the student's account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

9. The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment which the department deems to be commercially viable or cost-effective. A student's scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

10. Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

~~(13)~~(12) **LIABILITY.**—No liability shall arise on the part of the state based on the award or use of a Family Empowerment Scholarship.

~~(14)~~(13) **SCOPE OF AUTHORITY.**—The inclusion of eligible private schools within the options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

~~(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 organization for easy or automated access to lists of licensed providers of services specified in subparagraph (4)(b)3. to ensure efficient administration of the program.

~~(16)~~ **TRANSITION-TO-WORK PROGRAM.**—A student with a disability who is determined eligible pursuant to paragraph (3)(b) who is at least 17 years, but not older than 22 years of age and who has not received a high

school diploma or certificate of completion is eligible for enrollment in his or her private school's transition-to-work program. A transition-to-work program shall consist of academic instruction, work skills training, and a volunteer or paid work experience.

(a) To offer a transition-to-work program, a participating private school must:

1. Develop a transition-to-work program plan, which must include a written description of the academic instruction and work skills training students will receive and the goals for students in the program.

2. Submit the transition-to-work program plan to the Office of Independent Education and Parental Choice.

3. Develop a personalized transition-to-work program plan for each student enrolled in the program. The student's parent, the student, and the school principal must sign the personalized plan. The personalized plan must be submitted to the Office of Independent Education and Parental Choice upon request by the office.

4. Provide a release of liability form that must be signed by the student's parent, the student, and a representative of the business offering the volunteer or paid work experience.

5. Assign a case manager or job coach to visit the student's job site on a weekly basis to observe the student and, if necessary, provide support and guidance to the student.

6. Provide to the parent and student a quarterly report that documents and explains the student's progress and performance in the program.

7. Maintain accurate attendance and performance records for the student.

(b) A student enrolled in a transition-to-work program must, at a minimum:

1. Receive 15 instructional hours at the private school's physical facility, which must include academic instruction and work skills training.

2. Participate in 10 hours of work at the student's volunteer or paid work experience.

(c) To participate in a transition-to-work program, a business must:

1. Maintain an accurate record of the student's performance and hours worked and provide the information to the private school.

2. Comply with all state and federal child labor laws.

~~(17)(14) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. The state board rules must include a requirement that the department work collaboratively with an approved scholarship funding organization to expedite the process for the verification and reporting obligations specified under subsection (10).~~

~~(15) IMPLEMENTATION SCHEDULE FOR THE 2019-2020 SCHOOL YEAR.—Notwithstanding the provisions of this section related to notification requirements and eligibility timelines, for the 2019-2020 school year:~~

~~(a) A student is eligible for a Family Empowerment Scholarship under this section if the student’s parent has obtained acceptance of the student’s admission 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 no later than August 15, 2019. 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.~~

~~(b) The department shall expedite the publication of information relevant to the Family Empowerment Scholarship Program on the department’s website, including, but not limited to, the eligibility criteria for students to qualify for the scholarship under this section and how parents may request the scholarship. The department must immediately notify the school district of the parent’s intent upon receipt of the parent’s request.~~

~~(c) Upon notification by the department that it has received the documentation required under paragraph (10)(a), the Chief Financial Officer shall make the first quarter payment of scholarships no later than October 1, 2019.~~

~~This subsection shall expire June 30, 2020.~~

Section 5. Paragraph (b) of subsection (3), paragraph (j) of subsection (6), paragraph (c) of subsection (9), and paragraph (a) of subsection (11) of section 1002.395, Florida Statutes, are amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

(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 375 ~~260~~ percent of the federal poverty level or an adjusted maximum percent of the federal poverty level authorized under s. 1002.394(3)(a)3.; 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.

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 remains eligible to participate until he or she 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.

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

(j)1. May use eligible contributions received pursuant to this section and ss. 212.099, 212.1832, and 1002.40 during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated as an eligible nonprofit scholarship-funding organization for at least the preceding 3 fiscal years and did not have any findings of material weakness or material noncompliance in its most recent audit under paragraph (m). Administrative expenses from eligible contributions may not exceed 3 percent of the total amount of all scholarships funded awarded by an eligible scholarship-funding organization under this chapter. Such administrative expenses must be reasonable and necessary for the organization's management and distribution of scholarships funded awarded under this chapter. 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. An eligible nonprofit scholarship-funding organization may not charge an application fee.

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. No later than September 30 of each 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 used to provide scholarships to eligible students or transferred to other eligible nonprofit scholarship-funding organizations to

provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into its scholarship account. All transferred amounts received by any eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit required under paragraph (m).

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.

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.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(c) 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)(l).~~

(11) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) The scholarship amount 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. For a student who received a scholarship in the 2018-2019 school year, who remains eligible, and who is enrolled in an eligible private school, the amount shall be the greater amount calculated pursuant to subparagraph 2. or a percentage of the unweighted FTE funding amount for the 2018-2019 state fiscal year and thereafter as follows:

a. Eighty-eight percent for a student enrolled in kindergarten through grade 5.

b. Ninety-two percent for a student enrolled in grade 6 through grade 8.

c. Ninety-six percent for a student enrolled in grade 9 through grade 12.

2. For students initially eligible in the 2019-2020 school year or thereafter, the calculated amount for a student to attend an eligible private school shall be calculated in accordance with s. 1002.394(12)(a) based upon the grade level and school district in which the student resides as 95 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.62(1)(c)1., plus a per-full-time equivalent share of funds for all

categorical programs, except for the Exceptional Student Education Guaranteed Allocation.

3. The scholarship amount awarded to a student enrolled in a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned or in a lab school as defined in s. 1002.32, is limited to \$750.

Section 6. Paragraph (a) of subsection (11) of section 1002.40, Florida Statutes, is amended to read:

1002.40 The Hope Scholarship Program.—

(11) FUNDING AND PAYMENT.—

(a) For students initially eligible in the 2019-2020 school year or thereafter, the calculated amount for a student to attend an eligible private school shall be calculated in accordance with s. 1002.394(12)(a) based upon ~~the grade level and school district in which the student was assigned as 95 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.62(1)(c)1., plus a per full-time equivalent share of funds for all categorical programs, except for the Exceptional Student Education Guaranteed Allocation.~~

Section 7. Paragraph (aa) of subsection (4) of section 1009.971, Florida Statutes, is amended to read:

1009.971 Florida Prepaid College Board.—

(4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES. The board shall have the powers and duties necessary or proper to carry out the provisions of ss. 1009.97-1009.988, including, but not limited to, the power and duty to:

(aa) Adopt rules relating to the purchase and use of a prepaid college plan authorized under s. 1009.98 or a college savings plan authorized under s. 1009.981 for the Family Empowerment Gardiner Scholarship Program pursuant to s. 1002.394 ~~s. 1002.385~~, which may include, but need not be limited to:

1. The use of such funds for postsecondary education programs for students with disabilities;

2. Effective procedures that allow program funds to be used in conjunction with other funds used by a parent in the purchase of a prepaid college plan or a college savings plan;

3. The tracking and accounting of program funds separately from other funds contributed to a prepaid college plan or a college savings plan;

4. The reversion of program funds, including, but not limited to, earnings from contributions to the Florida College Savings Plan;

5. The use of program funds only after private payments have been used for prepaid college plan or college savings plan expenditures;

6. Contracting with each eligible nonprofit scholarship-funding organization to establish mechanisms to implement s. 1002.394 ~~s. 1002.385~~, including, but not limited to, identifying the source of funds being deposited in the plans; and

7. The development of a written agreement that defines the owner and beneficiary of an account and outlines responsibilities for the use of the advance payment contract funds or savings program funds.

Section 8. Subsection (11) of section 1009.98, Florida Statutes, is amended to read:

1009.98 Stanley G. Tate Florida Prepaid College Program.—

(11) IMPLEMENTATION PROCEDURES.—

(a) A prepaid college plan may be purchased, accounted for, used, and terminated as provided in s. 1002.394 ~~s. 1002.385~~.

(b) A qualified beneficiary may apply the benefits of an advance payment contract toward the program fees of a program designed for students with disabilities conducted by a state postsecondary institution. A transfer authorized under this subsection may not exceed the redemption value of the advance payment contract at a state postsecondary institution or the number of semester credit hours contracted on behalf of a qualified beneficiary. A qualified beneficiary may not be changed while a prepaid college plan contains funds contributed under s. 1002.394 ~~s. 1002.385~~.

Section 9. Subsection (10) of section 1009.981, Florida Statutes, is amended to read:

1009.981 Florida College Savings Program.—

(10) IMPLEMENTATION PROCEDURES.—

(a) A college savings plan may be purchased, accounted for, used, and terminated as provided in s. 1002.394 ~~s. 1002.385~~.

(b) A designated beneficiary may apply the benefits of a participation agreement toward the program fees of a program designed for students with disabilities conducted by a state postsecondary institution. A designated beneficiary may not be changed while a college savings plan contains funds contributed under s. 1002.394 ~~s. 1002.385~~.

Section 10. Effective July 1, 2022, subsection (4) of section 1011.61, Florida Statutes, is amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(4) The maximum value for funding a student in kindergarten through grade 12 or in a prekindergarten program for exceptional children as provided in s. 1003.21(1)(e) shall be the sum of the calculations in paragraphs (a), (b), and (c) as calculated by the department.

(a) The sum of the student's full-time equivalent student membership value for the school year or the equivalent derived from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-subparagraphs (1)(c)2.b. and c., ~~subparagraph (1)(e)3.,~~ and subsection (2). If the sum is greater than 1.0, the full-time equivalent student membership value for each program or course shall be reduced by an equal proportion so that the student's total full-time equivalent student membership value is equal to 1.0.

(b) If the result in paragraph (a) is less than 1.0 full-time equivalent student and the student has full-time equivalent student enrollment pursuant to sub-sub-subparagraph (1)(c)1.b.(VIII), calculate an amount that is the lesser of the value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of 1.0 less the value in paragraph (a).

(c) The full-time equivalent student enrollment value in sub-subparagraph (1)(c)2.a.

~~A scholarship award provided to a student enrolled in the John M. McKay Scholarships for Students with Disabilities Program pursuant to s. 1002.39 is not subject to the maximum value for funding a student under this subsection.~~

Section 11. Paragraph (f) of subsection (18) 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:

(18) TEACHER SALARY INCREASE ALLOCATION.—The Legislature may annually provide in the Florida Education Finance Program a teacher salary increase allocation to assist school districts in their recruitment and retention of classroom teachers and other instructional personnel. The amount of the allocation shall be specified in the General Appropriations Act.

~~(f) Notwithstanding any other provision of law, funds allocated under this subsection shall not be included in the calculated amount for any scholarship awarded under chapter 1002.~~

Section 12. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2021.

Approved by the Governor May 11, 2021.

Filed in Office Secretary of State May 11, 2021.