

6A-6.0960 Florida Tax Credit Scholarship Program.

The Florida Tax Credit Scholarship Program will be implemented as required by Section 1002.395, F.S., to allow nonprofit scholarship-funding organizations to provide scholarships from eligible contributions to qualified students attending eligible private schools or public schools outside the school district in which the student resides or in a laboratory school.

(1) Eligibility of nonprofit scholarship-funding organizations.

(a) A nonprofit organization may apply or register to be a scholarship-funding organization by having its principal officer or legal representative submit documentation to the Department of Education as specified in Form IEPC SFO-1, Nonprofit Scholarship-Funding Organization Participation Application for New Scholarship Funding Organization (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04661>) Form IEPC SFO-2, Nonprofit Scholarship-Funding Organization Participation Renewal for Scholarship Funding Organization (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04662>), or Form IEPC SFO-3, Nonprofit Scholarship-Funding Organization Participation Application for State Universities and Independent Colleges or Universities (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04663>), which are hereby incorporated by reference to become a part of this rule to become effective November 2014. The appropriate Nonprofit Scholarship-Funding Organization Form must be signed by the owner or operator, submitted annually, and be postmarked no later than September 1. Forms may be obtained through Florida Department of Education, Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 1044, Tallahassee, Florida 32399 or http://www.floridaschoolchoice.org/information/CTC/SFO_Renewal.asp.

(b) By July 1 of each year, the Department of Education shall make available the forms for organizations to use pursuant to paragraph (1)(a) of this rule.

(c) Each application submitted shall be reviewed by the Department in consultation with the Department of Revenue, and the Chief Financial Officer, to determine compliance with Section 1002.395, F.S., and requirements in this rule.

(d) Within thirty (30) days of receipt of an application, the Department shall send to each nonprofit scholarship-funding organization applicant, at the address listed on the Nonprofit Scholarship-Funding Organization Form, a written notice of any deficiencies in the application.

(e) Upon notification by the Department, each nonprofit scholarship-funding organization applicant will have thirty (30) days to correct any deficiencies and resubmit the final application.

(f) Within thirty (30) days of receipt of the finalized application, the Commissioner of Education shall recommend approval or disapproval of the application to the State Board of Education.

1. The State Board of Education shall consider the application and recommendation at the next scheduled meeting.

2. In order to assist the State Board of Education in its decision, a Nonprofit Scholarship-Funding Organization must make a brief presentation to the State Board of Education.

3. If the State Board of Education disapproves an organization's application, it shall provide the organization with a written explanation of that determination.

4. The action of the State Board of Education is not subject to proceedings under Chapter 120, F.S.

(g) No later than March 15 of each year, the Department shall submit to the Florida Department of Revenue and the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation a list of organizations that it has determined to be eligible to be listed as a nonprofit scholarship-funding organization for participation in the Florida Tax Credit Scholarship Program.

(h) A state university; or an independent college which is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in Florida, and is not for profit and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, is exempt from the initial or renewal application process, but must file a registration notice with the Department of Education in order to be an eligible nonprofit scholarship-funding organization.

(i) If, at any point during the school year, a nonprofit scholarship-funding organization no longer meets the eligibility requirements for nonprofit scholarship-funding organizations, the Commissioner shall:

1. Issue a notice of noncompliance that gives the nonprofit scholarship-funding organization a reasonable time to meet the requirements, or

2. Issue a notice of proposed action to suspend the nonprofit scholarship-funding organization or to remove the nonprofit scholarship-funding organization from the list of eligible nonprofit scholarship-funding organizations where the health, safety, or welfare of students is involved or the nonprofit scholarship-funding organization has failed to meet requirements specified in a notice of noncompliance pursuant to this paragraph.

(j) Nonprofit scholarship-funding organizations suspended or removed pursuant to paragraph (1)(i) of this rule shall have fifteen (15) days from receipt of the notice of proposed action to file with the Department's agency clerk a request for a proceeding pursuant to Sections 120.569 and 120.57, F.S. All resulting proceedings shall be conducted in accordance with Chapter 120, F.S.

(k) Upon removal of an approved nonprofit scholarship-funding organization, the Department shall notify the Department of Revenue and the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation that the organization is no longer approved to participate in the program.

(2) Nonprofit scholarship-funding organization requirements. Eligible nonprofit scholarship-funding organizations shall five (5) times a year, no later than August 10, October 10, January 10, and March 10 and no later than fifteen (15) days after the last payment date of the school year, submit in a format to be specified by the Department an electronic list of all participating scholarship students. The list shall include the following information:

(a) Demographic information for each student, including name, date of birth, social security number, grade level, gender, race, parent's name, and address;

(b) Information on the student's school of attendance, including tuition, fees, and transportation amounts;

(c) The amount of each student's scholarship; and,

(d) Year-to-date information on the amount paid for each scholarship student during the school year and the school attended. If a student attended more than one school, the summary shall detail the amount of the scholarship payments that the student generated by each school.

(3) Nothing in this rule shall abrogate the Department's authority to request any other information related to the scholarship program.

(4) Qualified students. Applications for a Florida Tax Credit Scholarship shall be made by parents directly through an eligible nonprofit scholarship-funding organization. The nonprofit scholarship-funding organization shall identify qualified students and award all scholarships consistent with the requirements of Section 1002.395, F.S. The process used to identify qualified students and award scholarships is subject to the annual financial and compliance audit required by law.

(5) Private school participation. To participate in the Florida Tax Credit Scholarship Program, a school must meet the definition of an "eligible private school" as defined in Section 1002.395(2)(g), F.S., and:

(a) Register its intent to participate in the scholarship program with the Department using the Department's website;

(b) Complete the annual survey of private schools required by Section 1002.42(2), F.S., using the Department's website, and submit it to the Department in both an electronic format and by mail. The survey that is mailed to the Department must include a notarized statement verifying that the private school owner has complied with the background check requirements of Section 1002.42(2)(c), F.S.

(c) Annually meet all scholarship compliance requirements for private schools pursuant to Rule 6A-6.03315, F.A.C.

(d) Continue to adhere to all statutory and rule requirements after determined eligible to participate in the program.

(6) Measurement of student achievement. Private schools participating in the program are responsible for ensuring that all students in grades three through ten who are receiving scholarships are assessed annually and the results reported as required by Section 1002.395(8)(c)2., F.S. Achievement data for scholarship students shall not be used to rate publicly the performance of private schools that participate in the program.

(a) Pursuant to Section 1002.395(9)(i), F.S., relating to the identification and selection of nationally norm-referenced tests for the measurement of student achievement, participating private schools must annually administer a nationally norm-referenced test that has been approved by the Department and listed on the Department's website to students receiving Florida Income Tax Credit Scholarships. The list may be accessed at <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/ftc/annual-assessment-requirement.shtml>.

(b) The Department of Education may approve the use of a nationally norm-referenced assessment if it meets the following criteria:

1. The assessment has norming studies that show dates of the studies, definition of the populations sampled, the procedure used to draw the samples, sample sizes, participation rates, and any weighting or smoothing procedure used to make the sample data better represent the population. Norming studies must have been conducted within the last ten (10) years, with five (5) years being preferable.

2. The assessment has internal consistency/reliability and must be reported for content sub-domains (e.g., mathematics, reading) at a minimum of 0.80, and that reliability data be reported for each grade level.

3. For any open-ended, constructed-response items, rater agreement information (e.g., exact rater agreement rates, intraclass correlations, or kappa coefficients) is reported.

4. The standard error of measurement and conditional standard error of measurement (at various test score levels) are reported.

5. The test developer includes a clear description of the construct to be measured, the purpose of the test, intended interpretation of the scores/other test results, and intended test-taking population.

6. Documentation includes conceptual, empirical, and theoretical evidence that the test meets its intended purposes and support the intended interpretations of test results for the intended populations.

7. Documentation includes evidence that each test is aligned with rigorous content standards, and serves as an adequate measure of K-12 student achievement in core academic areas.

(7) Commissioner's duties. The Commissioner may deny, suspend, or revoke a private school's participation in the scholarship program pursuant to Section 1002.395(11), F.S.

(a) If the Commissioner issues a notice of noncompliance:

1. Private schools shall be given a reasonable period from the date of the notice, as determined by the Commissioner, to demonstrate compliance.

2. The notice shall state the reasons for the noncompliance, provide instructions on how to demonstrate compliance, and give a deadline for demonstrating compliance to the Commissioner.

3. The private school's participation status shall be unaffected by the above notice of noncompliance process.

4. A copy of the notice shall be provided to the appropriate nonprofit scholarship-funding organization.

(b) If the Commissioner issues a notice of proposed action denying, suspending, or revoking a private school's participation:

1. The notice shall state the reasons for the action and specify the private school's right to appeal.

2. The private school's participation status shall be unaffected until the proposed action becomes final and all relevant appeals have expired.

3. A copy of the notice shall be provided to the appropriate nonprofit scholarship-funding organization.

(c) If the Commissioner immediately suspends payment of scholarship funds:

1. The Commissioner shall issue a notice of proposed action suspending payment of scholarship funds to the private school;

2. The notice shall state the reasons for the suspension and the rights the private school has to appeal; and,

3. The private school's participation status will be adjusted so that it will be unable to receive payments or utilize the Department's website and its functionalities to participate in the scholarship program in any way; and,

4. A copy of the notice shall be provided to the appropriate nonprofit scholarship-funding organization.

(8) Complaint process. The following process is established to allow individuals to notify the Department of any violation by parents, private schools, or school districts of laws or rules related to scholarship program participation.

(a) Persons interested in filing a complaint should contact the Department through the toll-free hotline, established pursuant to Section 1002.395, F.S., or through the Department's website.

(b) An initial complaint shall include, at a minimum, the complainant's name, phone number, address, and details of the situation.

(c) After receipt of the initial complaint, the Department shall offer to provide a formal complaint form to the complainant.

(d) To register a formal complaint, the complainant must complete the formal complaint form, sign it, and mail or fax it to the Department within 30 days of making the initial complaint.

(e) Upon receipt of a formal complaint, the Department shall review the complaint for legal sufficiency. If the complaint is legally sufficient, the Department shall conduct an inquiry, as described in subsection (9) of this rule, or refer the matter to the appropriate agency for investigation. If the complaint is not legally sufficient, the Department may close the complaint.

(f) The Department shall notify the complainant of the final result of all legally sufficient formal complaints.

(9) Inquiry Process. If an inquiry is made as to the conduct of an individual or entity participating in the program:

(a) A letter of inquiry will be delivered using regular and certified mail that alerts the individual or entity to the inquiry and provides the opportunity to respond. The letter of inquiry shall detail any alleged violations of program rules or law, the response required, any documentation requested, and the deadline for responding to the department. A copy of the letter of inquiry shall be provided to the appropriate nonprofit scholarship-funding organization.

(b) Failure to respond to a letter of inquiry, in a timely manner by:

1. A parent, then the Department shall notify the appropriate nonprofit scholarship-funding organization of the nature of the

inquiry and the parent's deemed admission of alleged violation due to a failure to respond to the letter of inquiry. The nonprofit scholarship-funding organization can use that information to reconsider its determination of student eligibility.

2. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.395(11), F.S., and this rule.

3. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, the student, or private school as appropriate.

(c) The Department shall review the response to the letter of inquiry; and:

1. If satisfied that no violation of laws or rules related to scholarship program participation occurred, notify the parent, private school, or school district and complainant that the inquiry will be closed.

2. If more information is needed, request additional information related to the inquiry from the complainant, parent, private school, or school district or conduct a site audit/inspection as appropriate.

3. If a violation of laws or rules related to scholarship program participation has been committed by:

a. A parent, then the Department shall notify the appropriate nonprofit scholarship-funding organization of the violation which it may use to reconsider its determination of student eligibility.

b. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.395(11), F.S., and this rule.

c. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, student, or private school as appropriate.

(d) The Department may at any point in the process set forth in this rule refer an inquiry to the Department's Office of Inspector General or another appropriate agency for investigation.

(e) Notwithstanding any other provisions of this rule, the Commissioner may at any point during the inquiry process exercise the authority given under Section 1002.395(11), F.S., and this rule.

Rulemaking Authority 1002.395(9)(i), (13)(d), (16)(h)-(i) FS. Law Implemented 1002.395 FS. History—New 2-5-07, Amended 11-26-08, 6-22-10, 10-25-10, 11-4-14, 3-22-17.