

By the Committee on Education

304-2237-04

1 A bill to be entitled
2 An act relating to accountability of the John
3 M. McKay Scholarships for Students with
4 Disabilities Program; amending s. 1002.39, F.S;
5 revising the definition of an eligible student;
6 revising the definition of prior school year in
7 attendance; revising the eligibility
8 requirements of the program to extend the term
9 of the scholarship; prohibiting certain
10 students from receiving a scholarship; revising
11 the parental notification requirements;
12 authorizing certain scholarship students to
13 participate in a distance learning or
14 correspondence course under certain
15 circumstances; providing a definition of timely
16 parental notification; providing requirements
17 for district school boards with respect to
18 completing and making changes to the matrix of
19 services for scholarship students; requiring
20 school districts to provide parental
21 notification related to reassessments; revising
22 requirements that a participating private
23 school demonstrate fiscal soundness; requiring
24 a surety bond; providing an exception;
25 requiring annual registration of private
26 schools; providing requirements for
27 documentation and notice; providing additional
28 requirements for participating private schools;
29 requiring annual sworn and notarized compliance
30 statements to be filed with the department;
31 requiring specific documentation for

1 participating scholarship students; requiring
2 that the private school maintain a physical
3 location in this state; requiring that
4 information be made available to potential
5 scholarship students and the department;
6 requiring scholarship students to participate
7 in assessments; requiring notification to
8 parents regarding student skill levels;
9 requiring notification to the department
10 regarding changes in information; requiring
11 notification to local health departments;
12 requiring fingerprinting of all private school
13 owners, employees, and contractors who are in
14 direct contact with students by a time certain;
15 specifying the personnel who are authorized to
16 take fingerprints; providing for the costs of
17 fingerprinting, criminal records checks, and
18 processing; requiring that the results of
19 fingerprint and criminal records checks be
20 forwarded to the Department of Education;
21 prohibiting a private school from acting as an
22 attorney in fact for the parent of a
23 scholarship student or endorsing scholarship
24 warrants on behalf of a parent; prohibiting
25 participating private schools from sending or
26 directing scholarship funds to parents of a
27 scholarship student who receives instruction at
28 home; prohibiting a participating school from
29 being a correspondence or distance learning
30 school; prohibiting a participating school from
31 accepting students pending verification of

1 information; authorizing a participating
2 private school to request, and the department
3 to grant, closed-enrollment status for a
4 school; prohibiting the parent of a scholarship
5 student from designating a participating
6 private school as the parent's attorney in fact
7 to sign a scholarship warrant; clarifying that
8 the school district must report to the
9 department the students who are attending a
10 private school under the program; establishing
11 additional obligations of the Department of
12 Education; requiring the department to review,
13 approve, and verify information and review
14 background checks; requiring the department to
15 determine the eligibility of a private school
16 to participate in the program; requiring the
17 department to publish an on-line list of
18 current eligible private schools; requiring the
19 department to deny or refuse to allow the
20 participation of a private school for failing
21 to meet certain requirements; requiring the
22 department to issue a notice of noncompliance
23 for minor violations; providing for an
24 emergency order revoking the registration of a
25 private school for failing to satisfy the
26 requirements in the notice; requiring the
27 Department of Education to immediately revoke
28 the registration of a private school for
29 certain other violations; requiring the
30 department to revoke the scholarship for a
31 participant for failing to comply with

1 statutory requirements or for engaging in
2 specified practices; requiring the department
3 to conduct investigations of legally sufficient
4 complaints of violations; authorizing the
5 department to require supporting information or
6 documentation; authorizing the Department of
7 Education to change the matrix of services
8 under certain circumstances; providing for
9 audits by the Auditor General or an independent
10 certified public accountant; providing
11 requirements for the audits; requiring the
12 State Board of Education to adopt rules;
13 specifying the required rules; requiring the
14 State Board of Education to initiate the
15 adoption of rules by a time certain and report
16 to the Legislature; providing exceptions for
17 certain participating private schools subject
18 to specific conditions; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (1), (2), (3), (4), and (5) and
24 paragraphs (d) and (e) of subsection (6) of section 1002.39,
25 Florida Statutes, are amended, present subsections (7) and (8)
26 of that section are redesignated as subsections (9) and (10),
27 respectively, and amended, and new subsections (7) and (8) are
28 added to that section, to read:

29 1002.39 The John M. McKay Scholarships for Students
30 with Disabilities Program.--There is established a program
31 that is separate and distinct from the Opportunity Scholarship

1 Program and is named the John M. McKay Scholarships for
2 Students with Disabilities Program, pursuant to this section.

3 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
4 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
5 Students with Disabilities Program is established to provide
6 the option to attend a public school other than the one to
7 which assigned, or to provide a scholarship to a private
8 school of choice, for students with disabilities for whom an
9 individual education plan has been written in accordance with
10 rules of the State Board of Education. Students with
11 disabilities include K-12 students who are documented as
12 having mental retardation, a mentally handicapped, speech or
13 and language impairment, a impaired, deaf or hard of hearing
14 impairment, including deafness, a visual impairment, including
15 blindness, a, visually impaired, dual sensory impairment, a
16 physical impairment, a serious emotional disturbance,
17 including an emotional handicap, a impaired, physically
18 impaired, emotionally handicapped, specific learning
19 disability, including, but not limited to, dyslexia,
20 dyscalculia, or developmental aphasia, a traumatic brain
21 injury disabled, hospitalized or homebound, or autism
22 autistic.

23 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

24 (a) The parent of a public school student with a
25 disability who is dissatisfied with the student's progress may
26 request and receive from the state a John M. McKay Scholarship
27 for the child to enroll in and attend a private school in
28 accordance with this section if:

29 1.(a) By assigned school attendance area or by special
30 assignment, the student has spent the prior school year in
31 attendance at a Florida public school. Prior school year in

1 attendance means that the student was enrolled and reported as
2 an exceptional student with a disability, as defined in s.
3 1003.01(3), with an individual education plan by a school
4 district for funding during the preceding October and February
5 Florida Education Finance Program surveys in kindergarten
6 through grade 12.

7 2.(b) The parent has obtained acceptance for admission
8 of the student to a private school that is eligible for the
9 program under subsection (4) and has notified the Department
10 of Education ~~school district~~ of the request for a scholarship
11 at least 60 days prior to the date of the first scholarship
12 payment. The parental notification must be through a
13 communication directly to the ~~district or through the~~
14 Department of Education ~~to the district~~ in a manner that
15 creates a written or electronic record of the notification and
16 the date of receipt of the notification. The Department of
17 Education must notify the district of the parent's intent,
18 upon receipt of the parent's notification.

19
20 ~~This section does not apply to a student who is enrolled in a~~
21 ~~school operating for the purpose of providing educational~~
22 ~~services to youth in Department of Juvenile Justice commitment~~
23 ~~programs.~~ For purposes of continuity of educational choice,
24 the scholarship shall remain in force until the student
25 returns to a public school or graduates from high school or
26 reaches the age of 22, whichever occurs first. However, at any
27 time, the student's parent may remove the student from the
28 private school and place the student in another private school
29 that is eligible for the program under subsection (4) or in a
30 public school as provided in subsection (3).

31

1 (b) A student is not eligible to receive a scholarship
2 under this section if he or she:

3 1. Receives a scholarship from an eligible scholarship
4 funding organization under s. 220.187.

5 2. Receives an opportunity scholarship under s.
6 1002.38.

7 3. Participates in a home education program as defined
8 in s. 1002.01(1).

9 4. Receives instruction from a correspondence school
10 or participates in distance learning courses.

11 5. Does not have regular and direct contact with his
12 or her private school teachers at the school's physical
13 location.

14 6. Is enrolled in a school operating for the purpose
15 of providing educational services to youth in commitment
16 programs of the Department of Juvenile Justice.

17
18 Notwithstanding the prohibition set forth in subparagraph 4.,
19 a student who receives a John M. McKay Scholarship may
20 participate in a distance learning course or a course offered
21 by a correspondence school, the tuition and other costs of
22 which are not paid by scholarship funds provided under this
23 section.

24 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
25 OBLIGATIONS.--

26 (a) The Department of Education ~~A school district~~
27 shall timely notify the parent of each public school ~~the~~
28 student of all options available pursuant to this section and
29 offer that student's parent an opportunity to enroll the
30 student in another public school within the district. The
31 parent is not required to accept this offer in lieu of

1 requesting a John M. McKay Scholarship to a private school.
2 However, if the parent chooses the public school option, the
3 student may continue attending a public school chosen by the
4 parent until the student graduates from high school. If the
5 parent chooses a public school consistent with the district
6 school board's choice plan under s. 1002.31, the school
7 district shall provide transportation to the public school
8 selected by the parent. The parent is responsible to provide
9 transportation to a public school chosen that is not
10 consistent with the district school board's choice plan under
11 s. 1002.31. For purposes of this paragraph, timely
12 notification means notification no later than April 1 of each
13 school year.

14 (b)1. For a student with disabilities who does not
15 have a matrix of services under s. 1011.62(1)(e), the school
16 district must complete a matrix that assigns the student to
17 one of the levels of service as they existed prior to the
18 2000-2001 school year.

19 2.a. The school district must complete the matrix of
20 services for any student who is participating in the John M.
21 McKay Scholarships for Students with Disabilities Program and
22 must notify the Department of Education of the student's
23 matrix level within 30 days after receiving notification by
24 the Department of Education of the parent's ~~student's parent~~
25 ~~of~~ intent to participate in the scholarship program. The
26 nature and intensity of the services indicated in the matrix
27 must be consistent with the services described in the
28 student's individual education plan.

29 b. A school district may change a matrix of services
30 only if the change is to:

31

1 (I) Correct a technical, typographical, or calculation
2 error; or

3 (II) Align the matrix of services with the student's
4 individual education plan completed by the public school
5 district for use in the public school prior to the student
6 enrolling in or attending a private school.

7 3. The Department of Education shall notify the
8 private school of the amount of the scholarship within 10 days
9 after receiving the school district's notification of the
10 student's matrix level.

11 4. Within 10 school days after it receives
12 notification of a parent's intent to apply for a McKay
13 Scholarship, a district school board must notify the student's
14 parent if the matrix has not been completed and provide the
15 parent with the date for completion of the matrix required in
16 this paragraph.

17 (c) If the parent chooses the private school option
18 and the student is accepted by the private school pending the
19 availability of a space for the student, the parent of the
20 student must notify the Department of Education ~~school~~
21 ~~district~~ 60 days prior to the first scholarship payment and
22 before entering the private school in order to be eligible for
23 the scholarship when a space becomes available for the student
24 in the private school.

25 (d) The parent of a student may choose, as an
26 alternative, to enroll the student in and transport the
27 student to a public school in an adjacent school district
28 which has available space and has a program with the services
29 agreed to in the student's individual education plan already
30 in place, and that school district shall accept the student
31 and report the student to the Department of Education for

1 purposes of the district's funding pursuant to the Florida
2 Education Finance Program.

3 (e) For a student in the district who participates in
4 the John M. McKay Scholarships for Students with Disabilities
5 Program whose parent requests that the student take the
6 statewide assessments under s. 1008.22, the district shall
7 provide locations and times to take all statewide assessments.

8 (f) ~~A school district must notify~~ The Department of
9 Education must notify the school district upon receipt of the
10 ~~within 10 days after it receives~~ notification of a parent's
11 intent to apply for a scholarship for a student with a
12 disability. A school district must provide the student's
13 parent with the student's matrix level within 10 school days
14 after its completion.

15 (g) A school district shall provide notification to
16 parents of the availability of a reassessment of each student
17 who receives a McKay Scholarship at least every 3 years.

18 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
19 PROHIBITIONS.--

20 (a) To be eligible to participate in the John M. McKay
21 Scholarships for Students with Disabilities Program, a private
22 school must be a Florida private school as defined in s.
23 1002.01(2), may be sectarian or nonsectarian, and must:

24 1.(a) Demonstrate fiscal soundness by filing with
25 ~~being in operation for 1 school year or provide~~ the Department
26 of Education ~~with~~ a surety bond for the amount equal to the
27 scholarship amount for each quarter of the school year. The
28 surety bond must be filed at the time of the private school's
29 initial registration and at each renewal period thereafter for
30 a total of 2 years. This requirement does not apply to an
31 eligible private school that:

1 a. Participates in the program for a total of 2 years
2 or longer; and

3 b. Has had no action taken by the Department of
4 Education against the private school for any violation of this
5 section during the 2-year period.

6
7 However, any private school that was subject to an action
8 taken by the department for any violation of this section
9 shall, following the date on which the action was taken
10 against the private school for a violation of this section,
11 but prior to receiving the next quarterly payment and for 2
12 years thereafter, file a surety bond with the department.

13 2. Annually register with the Department of Education.
14 Each owner or administrator of a private school must provide
15 the following information:

16 a. The legal business and trade name, mailing address,
17 and business location of the private school;

18 b. The full name, address, and telephone number of
19 each owner or administrator of the private school;

20 c. A notification of the private school's intent to
21 participate in the program under this section. The notice must
22 specify the grade levels and services that the private school
23 has available for students with disabilities who are
24 participating in the scholarship program.~~statement by a~~
25 ~~certified public accountant confirming that the private school~~
26 ~~desiring to participate is insured and the owner or owners~~
27 ~~have sufficient capital or credit to operate the school for~~
28 ~~the upcoming year serving the number of students anticipated~~
29 ~~with expected revenues from tuition and other sources that may~~
30 ~~be reasonably expected. In lieu of such a statement, a surety~~
31 ~~bond or letter of credit for the amount equal to the~~

1 ~~scholarship funds for any quarter may be filed with the~~
2 ~~department.~~

3 ~~(b) Notify the Department of Education of its intent~~
4 ~~to participate in the program under this section. The notice~~
5 ~~must specify the grade levels and services that the private~~
6 ~~school has available for students with disabilities who are~~
7 ~~participating in the scholarship program.~~

8 3.(c) Comply with the antidiscrimination provisions of
9 42 U.S.C. s. 2000d.

10 4.(d) Meet state and local health and safety laws and
11 codes.

12 5.(e) Be academically accountable to the parent for
13 meeting the educational needs of the student.

14 6.(f) Employ or contract with teachers who hold
15 baccalaureate or higher degrees, or have at least 3 years of
16 teaching experience in public or private schools, or have
17 special skills, knowledge, or expertise that qualifies them to
18 provide instruction in subjects taught.

19 7.(g) Comply with all state laws relating to general
20 regulation of private schools, including, but not limited to,
21 s. 1002.42.

22 8.(h) Publish and adhere to the tenets of its adopted
23 ~~published~~ disciplinary procedures prior to the expulsion of a
24 scholarship student.

25 9. Provide the Department of Education with all
26 documentation required for each scholarship student's
27 participation in the scholarship program, including, but not
28 limited to:

29 a. The private school's fee schedule, including, but
30 not limited to, fees for services, tuition, and instructional
31 materials, and each individual scholarship student's schedule

1 of fees and charges, at least 30 days before the first
2 quarterly scholarship payment is made for the student; and

3 b. The enrollment and attendance information,
4 including an on-line attendance verification form, for each
5 scholarship student at the private school, prior to each
6 scholarship payment.

7
8 The on-line attendance form must be documented each quarter by
9 a notarized statement that is signed by the private school and
10 the parents of each McKay scholarship student in attendance at
11 the private school. The private school must send this
12 documentation to the Department of Education each quarter.

13 10. Maintain a physical location in this state where a
14 scholarship student regularly attends classes.

15 11.a. Advertise or notify potential McKay Scholarship
16 students and parents of the specific types of disabilities
17 served by the school, and provide this information to the
18 Department of Education.

19 b. Review with the parent the student's individual
20 education plan.

21 12. Require each McKay Scholarship student to
22 participate at least annually in a student assessment which as
23 determined by the private school, in consultation with the
24 student's parent or guardian, will demonstrate the student's
25 skill level to the student's parents.

26 13. Notify the student's parent at least annually
27 about the student's skill level on a student assessment that
28 is determined by the private school.

29 14. Notify the Department of Education of any change
30 in the school's registered name or location prior to any such
31 change and notify the Department of Education within 15 days

1 after any other change in the registration information
2 submitted to the department.

3 15. Notify each local health department within 15 days
4 after establishing operations at a physical location or
5 address and within 3 days after discovering any ongoing health
6 code violation that has not yet been remedied in full.

7 16. Annually complete and file with the Department of
8 Education a sworn and notarized compliance statement in a form
9 and timeline specified in rules adopted by the State Board of
10 Education.

11 17.a. Complete and file, with the Department of Law
12 Enforcement for state processing and a criminal records check
13 and with the Federal Bureau of Investigation for federal
14 processing and a criminal records check, a complete set of
15 fingerprints for each person who is employed at or under
16 contract with the private school and who is in direct contact
17 with students.

18 b. All required fingerprints must be filed with the
19 specified authorities within 10 business days after employment
20 or signature of contract.

21 c. The fingerprints required under this section shall
22 be taken by an authorized law enforcement agency or an
23 employee of the private school who is trained to take
24 fingerprints. The costs of fingerprinting, criminal records
25 checks, and processing shall be borne by the employee or the
26 private school.

27 d. The results of the criminal records check required
28 under this subparagraph shall be forwarded by the Department
29 of Law Enforcement and the Federal Bureau of Investigation to
30 the owner of the private school for use in employment
31 decisions and to the Department of Education.

1 18. In addition to the requirements for fingerprinting
2 and criminal records checks in s. 1002.42 for state
3 processing, complete and file with the Department of Law
4 Enforcement for submission by the Department of law
5 Enforcement to the Federal Bureau of Investigation for federal
6 processing and a criminal records check a complete set of
7 fingerprints for each person who is an owner or administrator
8 of the private school or who establishes, purchases, or
9 otherwise becomes an owner of the private school. The results
10 of the criminal records checks required under this
11 subparagraph and s. 1002.42 shall be forwarded by the
12 Department of Law Enforcement and the Federal Bureau of
13 Investigation to the Department of Education and to the owner
14 of the private school.

15 (b) A private school participating in the John M.
16 McKay Scholarships for Students with Disabilities Program may
17 not:

18 1. Act as attorney in fact for parents of a
19 scholarship student under the authority of a power of attorney
20 executed by such parents, or under any other authority, to
21 endorse scholarship warrants on behalf of parents.

22 2. Send or direct McKay Scholarship funds to parents
23 of a scholarship student who receives instruction at home.

24 3. Be a correspondence school or distance learning
25 school.

26 4. Accept a McKay scholarship student until the sworn
27 and notarized compliance statement has been completed,
28 submitted to, and independently verified by the Department of
29 Education.

30 (c) A participating private school may request that
31 the school be listed by the Department of Education with a

1 closed-enrollment status in the McKay Scholarship program if
2 the school is no longer accepting new students with McKay
3 Scholarships. As used in this paragraph, the term
4 "closed-enrollment status" means that the private school is no
5 longer accepting any new student with a McKay Scholarship.
6 However, the private school is subject to all the requirements
7 under this section and all applicable rules adopted by the
8 State Board of Education if the private school is serving a
9 student with a McKay Scholarship. The private school must
10 provide a written request for closed-enrollment status to the
11 Department of Education. The Department of Education may grant
12 closed-enrollment status to a participating private school.
13 However, closed-enrollment status may not be granted for
14 longer than 1 school year.

15 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

16 (a) A parent who applies for a John M. McKay
17 Scholarship is exercising his or her parental option to place
18 his or her child in a private school. The parent must select
19 the private school and apply for the admission of his or her
20 child.

21 (b) The parent must have requested the scholarship at
22 least 60 days prior to the date of the first scholarship
23 payment.

24 (c) Any student participating in the scholarship
25 program must remain in attendance throughout the school year,
26 unless excused by the school for illness or other good cause,
27 and must comply fully with the school's code of conduct.

28 (d) The parent of each student participating in the
29 scholarship program must comply fully with the private
30 school's parental involvement requirements, unless excused by
31 the school for illness or other good cause.

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

6 (f) Upon receipt of a scholarship warrant, the parent
7 to whom the warrant is made must restrictively endorse the
8 warrant to the private school for deposit into the account of
9 the private school.

10 (g) The parent of a student participating in the
11 scholarship program may not designate any participating
12 private school as the parent's attorney in fact to sign a
13 scholarship warrant.

14 (h)~~(g)~~ A participant who fails to comply with this
15 subsection forfeits the scholarship.

16 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

17 (d) The school district shall report to the Department
18 of Education all students who are attending a private school
19 under this program. The students with disabilities attending
20 private schools on John M. McKay Scholarships shall be
21 reported separately from other students reported for purposes
22 of the Florida Education Finance Program.

23 (e) Following notification on July 1, September 1,
24 December 1, or February 1 of the number of program
25 participants, the Department of Education shall transfer, from
26 General Revenue funds only, the amount calculated under
27 paragraph (b) from the school district's total funding
28 entitlement under the Florida Education Finance Program and
29 from authorized categorical accounts to a separate account for
30 the scholarship program for quarterly disbursement to the
31 parents of participating students. When a student enters the

1 scholarship program, the Department of Education must receive
2 all documentation required for the student's participation,
3 including, but not limited to, the private school's and
4 student's fee schedules, at least 30 days before the first
5 quarterly scholarship payment is made for the student. The
6 Department of Education may not make any retroactive payments.

7 (7) OBLIGATIONS OF THE DEPARTMENT OF EDUCATION.--

8 (a) The Department of Education shall perform the
9 following duties:

10 1. Review for compliance all documentation required
11 for each scholarship student's participation, including,
12 without limitation, the private school's schedule and the
13 student's fee schedule.

14 2. Verify the admission acceptance of each scholarship
15 student to an eligible private school prior to the initial
16 scholarship payment.

17 3. Verify, prior to each scholarship payment, the
18 enrollment and attendance of each scholarship student at the
19 private school and that the scholarship student is not:

20 a. Receiving a scholarship under s. 220.187 or s.
21 1002.38.

22 b. Participating in a home education program as
23 defined in s. 1002.01(1).

24 c. Participating in instruction delivered by a
25 correspondence school or distance learning courses, except as
26 specifically permitted in paragraph (2)(b).

27 d. Enrolled in a school operating for the purpose of
28 providing education services to youth in commitment programs
29 of the Department of Juvenile Justice.

30 e. Currently enrolled in a public school in the state,
31 if the student has a scholarship to attend a private school.

1 4. Administer and prescribe an annual sworn and
2 notarized compliance statement for each participating private
3 school and independently verify the information provided by
4 each participating private school.

5 5. Review all results of the background checks
6 performed pursuant to subsection (4).

7 6. Determine the eligibility of a private school to
8 accept McKay scholarship students, based upon independent
9 verification that the private school meets all the
10 requirements in this section and all applicable rules adopted
11 by the State Board of Education.

12 7. Publish a current, on-line list of eligible private
13 schools.

14 8. Include each eligible private school on the on-line
15 list of eligible private schools within 10 days after the
16 private school is determined as eligible to participate in the
17 McKay scholarship program.

18 9. Remove immediately from the on-line list of
19 eligible private schools any school that is determined by the
20 Department of Education to be an ineligible private school, as
21 provided for in paragraph (b).

22 10. Remove immediately from the on-line list of
23 eligible private schools any school that is determined by the
24 Department of Education to be an ineligible school, as
25 provided for in paragraphs (b) and (c).

26 (b) The Department of Education shall deny or refuse
27 to allow the participation of any private school if it
28 determines that the private school or any of its owners or
29 administrators has failed to meet the requirements for initial
30 application or renewal as provided in this section.

31

1 (c) The Department of Education shall issue a notice
2 of noncompliance pursuant to s. 120.695 to any participating
3 private school that violates any of the provisions of this
4 section or the rules of the State Board of Education, if the
5 violation is a minor violation as defined in s. 120.695. If a
6 private school fails to satisfy the requirements specified in
7 the notice of noncompliance within 30 days after its receipt
8 by the school, the Department of Education shall issue an
9 emergency order revoking the registration of the participating
10 private school. The Department of Education shall issue an
11 emergency order to immediately revoke the registration of a
12 participating private school for a violation that is not a
13 minor violation as defined in s. 120.695.

14 (d) The Department of Education shall revoke the
15 scholarship for a participant who fails to comply with the
16 requirements in subsection (5) or who:

17 1. Receives a scholarship under s. 220.187 or s.
18 1002.38.

19 2. Participates in a home education program as defined
20 in s. 1002.01(1).

21 3. Participates in instruction delivered by a
22 correspondence school or distance learning courses, except as
23 specifically permitted in paragraph (2)(b).

24 4. Does not have regular and direct contact with the
25 student's private school teachers at the school's physical
26 location.

27 5. Enrolls in a school operating for the purpose of
28 providing educational services to youth in commitment programs
29 of the Department of Juvenile Justice.

30 (e) The Department of Education shall conduct an
31 investigation of any written complaint of a violation of this

1 section if the complaint is signed by the complainant and is
2 legally sufficient. A complaint is legally sufficient if it
3 contains ultimate facts that show that a violation of this
4 section or any rule adopted by the State Board of Education
5 has occurred. In order to determine legal sufficiency, the
6 Department of Education may require supporting information or
7 documentation.

8 (f) The Department of Education may not change a
9 matrix of services completed by a school district. However,
10 the department may make the following changes for a matrix for
11 a student if the school district has identified the error but
12 has failed to make a correction in a timely manner:

13 1. A correction to a technical, typographical, or
14 calculation error; or

15 2. A change to align the matrix of services with the
16 student's individual education plan completed by the school
17 district for use in the public school prior to the student
18 enrolling in or attending a private school.

19
20 The department must report any change made under this
21 paragraph to the school district and the parent of the
22 student.

23 (8) OBLIGATIONS OF THE AUDITOR

24 GENERAL.--Notwithstanding any other law to the contrary, the
25 Auditor General must annually audit the Florida Education
26 Finance Program (FEFP) for each school district participating
27 in the John M. McKay Scholarships for Students with
28 Disabilities Program. The audit shall include a review of a
29 sample of the warrants used to pay for the scholarships, as
30 well as random site visits to participating private schools in
31 order to verify student enrollment and other information

1 reported by the private schools as required by rules of the
2 State Board of Education. In lieu of conducting these audits,
3 the Auditor General may contract with an independent certified
4 public accountant to annually conduct an audit of a small
5 sample of participating private schools, including a review of
6 a sample of the warrants used to pay for the scholarships, as
7 well as random site visits to participating private schools in
8 order to verify student enrollment and other information
9 reported by the private schools.

10 (9)(7) LIABILITY.--No liability shall arise on the
11 part of the state based on the award or use of a John M. McKay
12 Scholarship.

13 (10)(8) RULES.--The State Board of Education shall may
14 adopt rules pursuant to ss. 120.536(1) and 120.54 to
15 administer this section, including rules for:--

16 (a) Administering the annual sworn and notarized
17 compliance statement to all participating private schools;

18 (b) Establishing procedures for schools to request
19 closed-enrollment and active status;

20 (c) Establishing forms for changes to a matrix by a
21 school district and the department;

22 (d) Implementing the requirement that a private school
23 timely notify the Department of Education of material changes
24 to the school's registration information;

25 (e) Establishing attendance-verification procedures
26 and forms; and

27 (f) Establishing procedures for determining student
28 eligibility and approving scholarships.

29
30 The rules related to the annual sworn and notarized compliance
31 statement shall establish a deadline for the receipt of the

1 initial sworn and notarized compliance statement from the
2 private school and shall enumerate the items to be included in
3 the statement. The rules shall enumerate the items to be
4 included in a subsequent annual sworn and notarized compliance
5 statement that is required in January of each year from the
6 private school.However, the inclusion of eligible private
7 schools within options available to Florida public school
8 students does not expand the regulatory authority of the
9 state, its officers, or any school district to impose any
10 additional regulation of private schools beyond those
11 reasonably necessary to enforce requirements expressly set
12 forth in this section.

13 Section 2. The State Board of Education shall initiate
14 the adoption of rules required by this act 10 days after the
15 effective date of this act. The State Board of Education shall
16 report to the presiding officers of the Legislature by
17 December 1, 2004, on the status of the rulemaking required by
18 this act.

19 Section 3. (1) A private school that meets the
20 following requirements on June 1, 2004, is not required to
21 file the surety bond as required in section 1002.39(4)(a)1.,
22 Florida Statutes:

23 (a) The private school is participating in the McKay
24 Scholarship Program under section 1002.39, Florida Statutes;
25 and

26 (b) The private school is determined by the Department
27 of Education to be in compliance with section 1002.39, Florida
28 Statutes.

29 (2) Notwithstanding section 1002.39(4)(b)4., Florida
30 Statutes, a private school that meets the requirements in
31

1 paragraphs (1)(a) and (b) may accept a McKay scholarship
2 student.

3 (3) Notwithstanding subsections (1) and (2), if the
4 private school becomes, after June 1, 2004, subject to an
5 action taken by the Department of Education for any violation
6 of section 1002.39, Florida Statutes, the private school:

7 (a) Shall file a surety bond with the Department of
8 Education following the date on which the action was taken
9 against the private school for a violation of section 1002.39,
10 Florida Statutes, but prior to receiving the next quarterly
11 payment;

12 (b) Shall file a surety bond with the Department of
13 Education for 2 additional consecutive years thereafter; and

14 (c) May not accept new McKay scholarship students
15 until the private school complies with all the requirements in
16 section 1002.39, Florida Statutes, and all applicable rules of
17 the State Board of Education, as determined by the Department
18 of Education.

19 Section 4. This act shall take effect upon becoming a
20 law.

21
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
23 COMMITTEE SUBSTITUTE FOR
24 SB 2882

25 The Committee Substitute requires the student's assessment to
26 be determined by the private school, in consultation with the
27 student's parent or guardian. The Committee Substitute also
28 makes three technical changes relating to the fingerprinting
29 requirements and the on-line list of eligible private schools.
30
31