

1 disabilities include K-12 students who are documented as
2 having a mental retardation ~~handicap~~, including trainable,
3 profound, or educable; a speech or language impairment; a
4 hearing impairment, including deafness; a visual impairment,
5 including blindness; a dual sensory impairment; a physical
6 impairment; a serious emotional disturbance, including an
7 emotional handicap; a specific learning disability, including,
8 but not limited to, dyslexia, dyscalculia, or developmental
9 aphasia; a traumatic brain injury; or autism.

10 (2) ~~JOHN M. MCKAY SCHOLARSHIP~~ ELIGIBILITY.--The parent
11 of a public school student with a disability who is
12 dissatisfied with the student's progress may request and
13 receive from the state a John M. McKay scholarship for the
14 child to enroll in and attend a private school ~~in accordance~~
15 ~~with this section~~ if:

16 (a) The student has spent the prior school year in
17 attendance at a Florida public school or the Florida School
18 for the Deaf and the Blind. Prior school year in attendance
19 means that the student was:

20 1. Enrolled and reported by a school district ~~for~~
21 ~~funding~~ during the preceding October and February Florida
22 Education Finance Program student membership surveys in
23 kindergarten through grade 12, including ~~which shall include~~
24 time spent in a Department of Juvenile Justice commitment
25 program ~~if~~ funded under the Florida Education Finance Program;

26 2. Enrolled and reported by the Florida School for the
27 Deaf and the Blind during the preceding October and February
28 student membership surveys in kindergarten through grade 12;
29 or

30 3. Enrolled and reported by a school district ~~for~~
31 ~~funding~~ during the preceding October and February Florida

1 Education Finance Program student membership surveys, was at
2 least 4 years old when so enrolled and reported, and was
3 eligible for services under s. 1003.21(1)(e).

4
5 ~~However,~~ A dependent child of a member of the United States
6 Armed Forces who transfers to a school in this state from out
7 of state or from a foreign country pursuant to a parent's
8 permanent change of station orders, or a student unable to
9 maintain regular and direct contact with teachers under
10 paragraph (3)(h) who was receiving a scholarship to a private
11 school and had to drop out of the scholarship program, is
12 exempt from this paragraph but must meet all other eligibility
13 requirements to participate in the program.

14 (b) The parent has obtained acceptance for admission
15 of the student to a private school that is eligible for ~~the~~
16 program participation under subsection (8) and has requested
17 ~~from the department~~ a scholarship at least 60 days prior to
18 the date of the first scholarship payment. The request must be
19 made through a communication directly to the department in a
20 manner that creates a written or electronic record of the
21 request and the date of receipt of the request. The department
22 ~~of Education~~ must notify the district of the parent's intent
23 upon receipt of the parent's request.

24 (3) ELIGIBILITY ~~JOHN M. MCKAY SCHOLARSHIP~~
25 PROHIBITIONS.--A student is not eligible for a John M. McKay
26 scholarship while he or she is:

27 (a) Enrolled in a school operating for the purpose of
28 providing educational services to youth in Department of
29 Juvenile Justice commitment programs;

30 (b) Receiving a corporate income tax credit
31 scholarship under s. 220.187;

1 (c) Receiving an educational scholarship pursuant to
2 this chapter;

3 (d) Participating in a home education program as
4 defined in s. 1002.01(1);

5 (e) Participating in a private tutoring program under
6 ~~pursuant to~~ s. 1002.43;

7 (f) Participating in a virtual school, correspondence
8 school, or distance learning program that receives state
9 funding due pursuant to the student's participation unless the
10 participation is limited to no more than two courses per
11 school year;

12 (g) Enrolled in the Florida School for the Deaf and
13 the Blind; or

14 (h) Not having regular and direct contact with his or
15 her private school teachers at the school's physical location.
16 This prohibition does not apply if a licensed physician
17 provides documentation to the department that the student's
18 disability is of such a severe nature, as corroborated by the
19 student's matrix level, that it precludes the student from
20 having regular and direct contact.

21 (4) TERM OF ~~JOHN M. MCKAY~~ SCHOLARSHIP.--

22 (a) For purposes of continuity of educational choice,
23 a John M. McKay scholarship shall remain in force until the
24 student returns to a public school, graduates from high
25 school, or reaches the age of 22, whichever occurs first.

26 (b) Upon reasonable notice to the department and the
27 school district, the student's parent may remove the student
28 from the private school and place the student in a public
29 school in accordance with this section.

30
31

1 (c) Upon reasonable notice to the department, the
2 student's parent may move the student from one participating
3 private school to another participating private school.

4 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.--

5 (a)~~1.~~ By April 1 of each year and within 10 days after
6 an individual education plan meeting, a school district shall
7 notify the parent of the student of all options available
8 pursuant to this section, inform the parent of the
9 availability of the department's toll-free telephone hotline
10 and Internet website for additional information on John M.
11 McKay scholarships, and offer the ~~that student's~~ parent an
12 opportunity to enroll the student in another public school
13 within the district in lieu of a John M. McKay scholarship.

14 ~~1.2.~~ The parent is not required to accept the offer of
15 enrolling in another public school ~~in lieu of requesting a~~
16 ~~John M. McKay Scholarship to a private school.~~ However, if the
17 parent chooses the public school option, the student may
18 continue attending a public school chosen by the parent until
19 the student graduates from high school.

20 ~~2.3.~~ If the parent chooses a public school consistent
21 with the school district's controlled open enrollment district
22 ~~school board's choice~~ plan under s. 1002.31, the school
23 district shall provide transportation to the public school
24 selected by the parent. The parent is responsible for
25 providing to provide transportation to a public school ~~chosen~~
26 that is not consistent with the school districts's plan
27 ~~district school board's choice plan under s. 1002.31.~~

28 3. The parent may choose, as an alternative, to enroll
29 the student in and transport the student to a public school in
30 an adjacent school district which has available space and has
31 a program offering the services agreed to in the student's

1 individual education plan already in place. The adjacent
2 school district must accept the student and shall report the
3 student for purposes of receiving funding under the Florida
4 Education Finance Program.

5 (b)1. For a student with disabilities who does not
6 have a matrix of services under s. 1011.62(1)(e), the school
7 district must complete a matrix that assigns the student to
8 one of the levels of service as they existed prior to the
9 2000-2001 school year.

10 2.~~a.~~ Within 10 school days after the school district
11 ~~it~~ receives notification of a parent's request for a John M.
12 McKay scholarship, it ~~a school district~~ must notify the
13 student's parent if the matrix of services has not been
14 completed and inform the parent that the district is required
15 to complete the matrix within 30 days after receiving notice
16 of the parent's request for a ~~John M. McKay~~ scholarship. This
17 notice shall ~~should~~ include the required completion date for
18 the matrix.

19 ~~3.b.~~ The school district must complete the matrix of
20 services for any student who is participating in the John M.
21 McKay scholarship ~~Scholarships for Students with Disabilities~~
22 program and must notify the department of the student's matrix
23 level within 30 days after receiving notification of a request
24 to participate in the scholarship program. The school district
25 must provide the student's parent with the student's matrix
26 level within 10 school days after its completion.

27 ~~4.e.~~ The department shall notify the private school of
28 the amount of the John M. McKay scholarship within 10 days
29 after receiving the school district's notification of the
30 student's matrix level.

31

1 ~~5.d.~~ A school district may change a matrix of services
2 only if the change is to correct a technical, typographical,
3 or calculation error.

4 (c) A school district shall provide notification to
5 parents ~~of the availability of a reevaluation at least every 3~~
6 ~~years~~ of each student who receives a John M. McKay scholarship
7 of the availability of a reevaluation at least every 3 years.

8 (d) If the parent chooses the private school option
9 and the student is accepted by the private school pending the
10 availability of a space for the student, the parent ~~of the~~
11 ~~student~~ must notify the department 60 days prior to the first
12 scholarship payment and before the student enters ~~entering~~ the
13 private school in order to be eligible for the scholarship
14 when a space becomes available ~~for the student in the private~~
15 ~~school.~~

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

24 ~~(e)(f)~~ For a student who participates in the John M.
25 McKay scholarship ~~Scholarships for Students with Disabilities~~
26 program whose parent requests that the student take the
27 statewide assessments under s. 1008.22, the district in which
28 the student attends private school shall provide the locations
29 and times for taking the ~~to take all statewide~~ assessments.

30 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
31 department shall:

1 (a) Establish a toll-free telephone hotline and
2 Internet website that provides parents and private schools
3 ~~with~~ information on participation in the John M. McKay
4 Scholarships for Students with Disabilities Program.

5 (b) Annually verify the continued eligibility of
6 private schools that participate in the scholarship program
7 ~~meet the requirements of subsection (8).~~

8 (c) Establish a process by which individuals may
9 notify the department of any violation by a parent, private
10 school, or school district of state laws relating to program
11 participation. The department shall conduct an inquiry of any
12 written complaint of a violation of this section, or make a
13 referral to the appropriate agency for an investigation, if
14 the complaint is signed by the complainant and is legally
15 sufficient. A complaint is legally sufficient if it contains
16 ultimate facts that show that a violation of this section or
17 any rule adopted by the State Board of Education has occurred.
18 In order to determine legal sufficiency, the department may
19 require supporting information or documentation from the
20 complainant. A department inquiry is not subject to the
21 requirements of chapter 120.

22 (d) Require an annual, notarized, sworn compliance
23 statement from ~~by~~ participating private schools certifying
24 compliance with state laws and ~~shall~~ retain ~~such~~ records of
25 such statements.

26 (e) Cross-check the list of participating scholarship
27 students with the public school enrollment lists prior to each
28 scholarship payment to avoid duplication.

29 (f) ~~1-~~ Conduct random site visits to participating
30 private schools ~~participating in the John M. McKay~~
31 ~~Scholarships for Students with Disabilities Program~~. The

1 | purpose of the site visits is solely to verify the information
2 | reported by the schools concerning the enrollment and
3 | attendance of students, the credentials of teachers,
4 | background screening of teachers, and teachers' fingerprinting
5 | results, which information is required by rules of the State
6 | Board of Education, subsection (8), and s. 1002.421. The
7 | department ~~of Education~~ may not make more than three random
8 | site visits each year and ~~may not make~~ more than one random
9 | site visit each year to the same private school.

10 | ~~(g)2-~~ Annually, by December 15, report to the
11 | Governor, the President of the Senate, and the Speaker of the
12 | House of Representatives the department's ~~Department of~~
13 | ~~Education's~~ actions with respect to implementing
14 | accountability in the scholarship program under this section
15 | and s. 1002.421, any substantiated allegations or violations
16 | of law or rule by a participating ~~an eligible~~ private school
17 | ~~under this program~~ concerning the enrollment and attendance of
18 | students receiving scholarships, the credentials of teachers,
19 | background screening of teachers, ~~and~~ teachers' fingerprinting
20 | results, and the corrective action taken by the department ~~of~~
21 | ~~Education~~.

22 | (7) COMMISSIONER OF EDUCATION AUTHORITY AND
23 | OBLIGATIONS.--

24 | ~~(a)~~ The Commissioner of Education may ~~shall~~ deny,
25 | suspend, or revoke a private school's participation in the
26 | scholarship program if it is determined that the private
27 | school has failed to comply with the provisions of this
28 | section.

29 | ~~(a)~~ If ~~However, in instances in which~~ the
30 | noncompliance is correctable within a reasonable amount of
31 | time and ~~in which~~ the health, safety, or welfare of the

1 students is not threatened, the commissioner may issue a
2 notice of noncompliance that provides ~~which shall provide~~ the
3 private school with a timeframe within which to provide
4 evidence of compliance prior to taking action to suspend or
5 revoke the private school's participation in the scholarship
6 program.

7 (b) ~~The commissioner's determination is subject to the~~
8 ~~following:~~

9 ~~1.~~ If the commissioner intends to deny, suspend, or
10 revoke a private school's participation in the scholarship
11 program:
12

13 1. The department shall notify the private school of
14 such proposed action in writing by certified mail and regular
15 mail to the private school's address of record with the
16 department. The notification shall be in accordance with s.
17 ~~120.569 include the reasons for the proposed action and notice~~
18 ~~of the timelines and procedures set forth in this paragraph.~~

19 2. The private school that is adversely affected by
20 the proposed action shall have 15 days from receipt of the
21 notice of proposed action to file with the department's agency
22 clerk a request for a proceeding pursuant to ss. 120.569 and
23 120.57. If the private school is entitled to a hearing under
24 s. 120.57(1), the department shall forward the request to the
25 Division of Administrative Hearings.

26 3. Upon receipt of a request from the department
27 ~~referred pursuant to this paragraph~~, the director of the
28 Division of Administrative Hearings shall expedite the hearing
29 and assign an administrative law judge who shall commence a
30 hearing within 30 days ~~after the receipt of the formal written~~
31 ~~request by the division~~ and enter a recommended order within
30 days after the hearing or within 30 days after receipt of

1 | the hearing transcript, whichever is later. Each party shall
2 | be allowed 10 days in which to submit written exceptions to
3 | the recommended order. A final order shall be entered by the
4 | department ~~agency~~ within 30 days after the entry of a
5 | recommended order. The provisions of this subparagraph may be
6 | waived upon stipulation by all parties.

7 | (c) The commissioner may immediately suspend payment
8 | of scholarship funds if it is determined that there is
9 | probable cause to believe that there is:

10 | 1. An imminent threat to the health, safety, or
11 | welfare of the students; or

12 | 2. Fraudulent activity on the part of the private
13 | school. Notwithstanding s. 1002.22(3), in instances ~~incidents~~
14 | of alleged fraudulent activity under ~~pursuant to~~ this section,
15 | the department's ~~Department of Education's~~ Office of Inspector
16 | General is authorized to release personally identifiable
17 | records or reports of students to the following persons or
18 | organizations:

19 | a. A court of competent jurisdiction in compliance
20 | with an order of that court or the attorney of record in
21 | accordance with a lawfully issued subpoena, consistent with
22 | the Family Educational Rights and Privacy Act, 20 U.S.C. s.
23 | 1232g.

24 | b. A person or entity authorized by a court of
25 | competent jurisdiction in compliance with an order of that
26 | court or the attorney of record pursuant to a lawfully issued
27 | subpoena, consistent with the Family Educational Rights and
28 | Privacy Act, 20 U.S.C. s. 1232g.

29 | c. Any person, entity, or authority issuing a subpoena
30 | for law enforcement purposes when the court or other issuing
31 | agency has ordered that the existence or the contents of the

1 subpoena or the information furnished in response to the
2 subpoena not be disclosed, consistent with the Family
3 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34
4 C.F.R. s. 99.31.

5
6 The commissioner's order suspending payment pursuant to this
7 paragraph may be appealed pursuant to the same procedures and
8 timelines as the notice of proposed action set forth in
9 paragraph (b).

10 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
11 eligible to participate in the John M. McKay Scholarships for
12 Students with Disabilities Program, a private school may be
13 sectarian or nonsectarian and must:

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

17 (b) Provide to the department all documentation
18 required for a student's participation, including the private
19 school's and student's fee schedules, at least 30 days before
20 the first quarterly scholarship payment is made for the
21 student.

22 (c) Be academically accountable to the parent for
23 meeting the educational needs of the student by:

24 1. At a minimum, annually providing to the parent a
25 written explanation of the student's progress.

26 2. Cooperating with the scholarship student whose
27 parent chooses to participate in the statewide assessments
28 under ~~pursuant to~~ s. 1008.22.

29 (d) Maintain in this state a physical location where a
30 scholarship student regularly attends classes.

31

1 (e) For students appropriately documented as unable to
2 have regular and direct contact with his or her private school
3 teachers at the school's physical location under paragraph
4 (3)(h), the private school must maintain a record of the
5 student's attendance, and provide the department with
6 quarterly updates on the student's academic progress and a fee
7 schedule demonstrating how the scholarship funding is being
8 used to support the student's education.

9
10 The inability of a private school to meet the requirements of
11 this subsection shall constitute a basis for the ineligibility
12 of the private school to participate in the scholarship
13 program as determined by the department.

14 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
15 PARTICIPATION.--A parent who applies for a John M. McKay
16 Scholarship is exercising his or her parental option to place
17 his or her child in a private school.

18 (a) The parent must select the private school and
19 apply for the admission of his or her child.

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

23 (c) Any student participating in the scholarship ~~John~~
24 ~~M. McKay Scholarships for Students with Disabilities~~ program
25 must remain in attendance throughout the school year unless
26 excused by the school for illness or other good cause, or as
27 provided under paragraph (3)(h).

28 (d) Each parent and each student has an obligation to
29 the private school to comply with the private school's
30 published policies.

31

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

7 (f) Upon receipt of a scholarship warrant, the parent
8 to whom the warrant is made must restrictively endorse the
9 warrant to the private school for deposit into the account of
10 the private school. The parent may not designate any entity or
11 individual associated with the participating private school as
12 the parent's attorney in fact to endorse a scholarship
13 warrant. A participant who fails to comply with this paragraph
14 forfeits the scholarship.

15 (10) ~~JOHN M. MCKAY~~ SCHOLARSHIP FUNDING AND PAYMENT.--

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

24 2. In addition, a share of the guaranteed allocation
25 for exceptional students shall be determined and added to the
26 calculated amount. The share ~~calculation~~ shall be based on the
27 methodology and the data used to calculate the guaranteed
28 allocation for exceptional students for each district in
29 chapter 2000-166, Laws of Florida. Except as provided in
30 subparagraphs 3. and 4., the calculation shall be based on the
31 student's grade, matrix level of services, and the difference

1 between the 2000-2001 basic program and the appropriate level
2 of services cost factor, multiplied by the 2000-2001 base
3 student allocation and the 2000-2001 district cost
4 differential for the sending district. Also, the calculated
5 amount shall include the per-student share of supplemental
6 academic instruction funds, instructional materials funds,
7 technology funds, and other categorical funds as provided for
8 such purposes in the General Appropriations Act.

9 3. The ~~calculated~~ scholarship amount for a student who
10 is eligible under subparagraph (2)(a)2. shall be calculated as
11 provided in subparagraphs 1. and 2. However, the calculation
12 shall be based on the school district in which the parent
13 resides at the time of the scholarship request.

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

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

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

31

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

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

7 ~~2.b.~~ Be held harmless for such students from the
8 weighted enrollment ceiling for group 2 programs in s.
9 1011.62(1)(d)3.a. during the first school year in which the
10 students are reported.

11 ~~(e)(d)~~ Following notification on July 1, September 1,
12 December 1, or February 1 of the number of program
13 participants, the department shall transfer, from General
14 Revenue funds only, the amount calculated under paragraph (b)
15 from the school district's total funding entitlement under the
16 Florida Education Finance Program and from authorized
17 categorical accounts to a separate account for the scholarship
18 program for quarterly disbursement to the parents of
19 participating students.

20 ~~1.~~ Funds may not be transferred from any funding
21 provided to the Florida School for the Deaf and the Blind for
22 program participants who are eligible under subparagraph
23 (2)(a)2.

24 ~~2.~~ For a student exiting a Department of Juvenile
25 Justice commitment program who chooses to participate in the
26 scholarship program, the amount of the John M. McKay
27 scholarship calculated pursuant to paragraph (b) shall be
28 transferred from the school district in which the student last
29 attended a public school prior to commitment to the Department
30 of Juvenile Justice.

31

1 3. When a student enters the scholarship program, the
2 department must receive all documentation required for the
3 student's participation, including 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.

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

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

24 (11) LIABILITY.--No liability shall arise on the part
25 of the state based on the award or use of a John M. McKay
26 scholarship.

27 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
28 private schools within options available to Florida public
29 school students does not expand the regulatory authority of
30 the state, its officers, or any school district to impose any
31 additional regulation of private schools beyond those

1 reasonably necessary to enforce requirements expressly set
2 forth in this section.

3 (13) RULES.--The State Board of Education shall adopt
4 rules pursuant to ss. 120.536(1) and 120.54 to administer this
5 section, including, but not limited to, rules that:

6 (a) A school district ~~districts~~ must use to expedite
7 the development of a matrix of services based on an active
8 individual education plan from another state or a foreign
9 country for a transferring student with a disability who is a
10 dependent child of a member of the United States Armed Forces.
11 The rules must identify the appropriate school district
12 personnel who must complete the matrix of services. For
13 purposes of these rules, a transferring student with a
14 disability is one who was previously enrolled as a student
15 with a disability in an out-of-state or an out-of-country
16 public or private school or agency program and who is
17 transferring from out of state or from a foreign country
18 pursuant to a parent's permanent change of station orders.

19 (b) The matrix level that a student must have in order
20 to waive the requirement that the student have regular and
21 direct contact with his or her private school teachers at the
22 school's physical location.

23 Section 2. This act shall take effect upon becoming a
24 law.

25 *****

26
27 SENATE SUMMARY

28 Revises various provisions of the John M. McKay
29 Scholarships for Students with Disabilities Program to
30 permit students who, due to their disability, are not
31 able to maintain regular and direct contact with the
private school they are attending on scholarship to
continue to participate in the program.