

By the Policy and Steering Committee on Ways and Means; the Committee on Education Pre-K - 12; and Senator Gardiner

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1 A bill to be entitled
2 An act relating to education programs for children
3 with disabilities; amending s. 1002.39, F.S.; revising
4 provisions relating to the John M. McKay Scholarships
5 for Students with Disabilities Program; authorizing
6 students who receive certain services under the
7 Voluntary Prekindergarten Education Program to receive
8 a John M. McKay Scholarship; authorizing the
9 Commissioner of Education to deny, suspend, or revoke
10 a private school's participation in the scholarship
11 program if the owner or operator of such school has
12 operated an educational institution in this state or
13 another in a manner contrary to the health, safety, or
14 welfare of the public; providing factors for the
15 commissioner to consider in making a determination;
16 providing a definition for the term "owner or
17 operator"; conforming cross-references; amending s.
18 1002.51, F.S.; providing definitions for the terms
19 "disability" and "specialized instructional services
20 provider" for purposes of the Voluntary
21 Prekindergarten Education Program; amending s.
22 1002.53, F.S.; providing that a parent may enroll his
23 or her child in a specialized instructional services
24 program for children who have disabilities if the
25 child is eligible for the Voluntary Prekindergarten
26 Education Program; creating s. 1002.66, F.S.;
27 establishing specialized instructional services for
28 children with disabilities; providing eligibility
29 criteria for such services; requiring that such

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30 services be delivered in accordance with certain
31 standards; requiring that the Department of Education
32 approve specialized instructional service providers;
33 authorizing the expenditure of funds for specialized
34 instructional services; amending s. 1002.71, F.S.;
35 revising provisions for the funding of a child
36 receiving specialized instructional services to
37 conform to changes made by the act; amending s.
38 1002.73, F.S.; requiring that the Department of
39 Education adopt procedures for approving specialized
40 instructional services providers; amending s. 1002.75,
41 F.S.; requiring that the Agency for Workforce
42 Innovation adopt procedures for enrolling children in
43 and determining the eligibility of children for the
44 Voluntary Prekindergarten Education Program and paying
45 specialized instructional services providers;
46 providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (2), paragraph (a) of subsection (7),
51 and paragraphs (a), (c), and (d) of subsection (10) of section
52 1002.39, Florida Statutes, are amended to read:

53 1002.39 The John M. McKay Scholarships for Students with
54 Disabilities Program.—There is established a program that is
55 separate and distinct from the Opportunity Scholarship Program
56 and is named the John M. McKay Scholarships for Students with
57 Disabilities Program.

58 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a

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59 ~~public school~~ student with a disability ~~who is dissatisfied with~~
60 ~~the student's progress~~ may request and receive from the state a
61 John M. McKay Scholarship for the child to enroll in and attend
62 a private school in accordance with this section if:

63 (a) The student has:

64 1. Received specialized instructional services under the
65 Voluntary Prekindergarten Education Program pursuant to s.
66 1002.66 during the previous school year and the student has a
67 current individual educational plan developed by the local
68 school board in accordance with rules of the State Board of
69 Education for the John M. McKay Scholarships for Students with
70 Disabilities Program; or

71 2. Spent the prior school year in attendance at a Florida
72 public school or the Florida School for the Deaf and the Blind.
73 For purposes of this subparagraph, prior school year in
74 attendance means that the student was:

75 1. enrolled and reported by:

76 a. A school district for funding during the preceding
77 October and February Florida Education Finance Program surveys
78 in kindergarten through grade 12, which includes shall include
79 time spent in a Department of Juvenile Justice commitment
80 program if funded under the Florida Education Finance Program;

81 ~~b.2. Enrolled and reported by~~ The Florida School for the
82 Deaf and the Blind during the preceding October and February
83 student membership surveys in kindergarten through grade 12; or

84 ~~c.3. Enrolled and reported by~~ A school district for funding
85 during the preceding October and February Florida Education
86 Finance Program surveys, was at least 4 years of age ~~old~~ when so
87 enrolled and reported, and was eligible for services under s.

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88 1003.21(1)(e).

89

90 However, a dependent child of a member of the United States
91 Armed Forces who transfers to a school in this state from out of
92 state or from a foreign country due to ~~pursuant to~~ a parent's
93 permanent change of station orders is exempt from this paragraph
94 but must meet all other eligibility requirements to participate
95 in the program.

96 (b) The parent has obtained acceptance for admission of the
97 student to a private school that is eligible for the program
98 under subsection (8) and has requested from the department a
99 scholarship at least 60 days before ~~prior to~~ the date of the
100 first scholarship payment. The request must be communicated
101 ~~through a communication~~ directly to the department in a manner
102 that creates a written or electronic record of the request and
103 the date of receipt of the request. The department ~~of Education~~
104 must notify the district of the parent's intent upon receipt of
105 the parent's request.

106 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

107 (a) The Commissioner of Education:

108 1. Shall deny, suspend, or revoke a private school's
109 participation in the scholarship program if it is determined
110 that the private school has failed to comply with the provisions
111 of this section. However, if ~~in instances in which~~ the
112 noncompliance is correctable within a reasonable amount of time
113 and if ~~in which~~ the health, safety, or welfare of the students
114 is not threatened, the commissioner may issue a notice of
115 noncompliance which provides ~~shall provide~~ the private school
116 with a timeframe within which to provide evidence of compliance

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117 before ~~prior to~~ taking action to suspend or revoke the private
118 school's participation in the scholarship program.

119 2. May deny, suspend, or revoke a private school's
120 participation in the scholarship program if the commissioner
121 determines that an owner or operator of the private school is
122 operating or has operated an educational institution in this
123 state or in another state or jurisdiction in a manner contrary
124 to the health, safety, or welfare of the public.

125 a. In making such a determination, the commissioner may
126 consider factors that include, but are not limited to, acts or
127 omissions by an owner or operator which led to a previous denial
128 or revocation of participation in an education scholarship
129 program; an owner's or operator's failure to reimburse the
130 Department of Education for scholarship funds improperly
131 received or retained by a school; imposition of a prior criminal
132 sanction related to an owner's or operator's management or
133 operation of an educational institution; imposition of a civil
134 fine or administrative fine, license revocation or suspension,
135 or program eligibility suspension, termination, or revocation
136 related to an owner's or operator's management or operation of
137 an educational institution; or other types of criminal
138 proceedings in which an owner or operator was found guilty of,
139 regardless of adjudication, or entered a plea of nolo contendere
140 or guilty to, any offense involving fraud, deceit, dishonesty,
141 or moral turpitude.

142 b. For purposes of this subparagraph, the term "owner or
143 operator" includes an owner, operator, superintendent, or
144 principal of, or a person who has equivalent decisionmaking
145 authority over, a private school participating in the

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146 scholarship program.

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

148 (a)1. The maximum scholarship granted for an eligible
149 student with disabilities shall be ~~a calculated amount~~
150 equivalent to the base student allocation in the Florida
151 Education Finance Program multiplied by the appropriate cost
152 factor for the educational program that would have been provided
153 for the student in the district school to which he or she was
154 assigned, multiplied by the district cost differential.

155 2. In addition, a share of the guaranteed allocation for
156 exceptional students shall be determined and added to the
157 ~~calculated~~ amount in subparagraph 1. The calculation shall be
158 based on the methodology and the data used to calculate the
159 guaranteed allocation for exceptional students for each district
160 in chapter 2000-166, Laws of Florida. Except as provided in
161 subparagraphs 3. and 4., the calculation shall be based on the
162 student's grade, matrix level of services, and the difference
163 between the 2000-2001 basic program and the appropriate level of
164 services cost factor, multiplied by the 2000-2001 base student
165 allocation and the 2000-2001 district cost differential for the
166 sending district. ~~Also,~~ The calculated amount shall include the
167 per-student share of supplemental academic instruction funds,
168 instructional materials funds, technology funds, and other
169 categorical funds as provided ~~for such purposes~~ in the General
170 Appropriations Act.

171 3. The ~~calculated~~ scholarship amount for a student who is
172 eligible under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~
173 shall be calculated as provided in subparagraphs 1. and 2.
174 However, the calculation shall be based on the school district

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175 in which the parent resides at the time of the scholarship
176 request.

177 4. Until the school district completes the matrix required
178 by paragraph (5) (b), the calculation shall be based on the
179 matrix that assigns the student to support level I of service as
180 it existed prior to the 2000-2001 school year. When the school
181 district completes the matrix, the amount of the payment shall
182 be adjusted as needed.

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

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

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

194 b. Be held harmless for such students from the weighted
195 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.
196 during the first school year in which the students are reported.

197 (d) Following notification on July 1, September 1, December
198 1, or February 1 of the number of program participants, the
199 department shall transfer, from General Revenue funds only, the
200 amount calculated under paragraph (b) from the school district's
201 total funding entitlement under the Florida Education Finance
202 Program and from authorized categorical accounts to a separate
203 account for the scholarship program for quarterly disbursement

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204 to the parents of participating students. Funds may not be
205 transferred from any funding provided to the Florida School for
206 the Deaf and the Blind for program participants who are eligible
207 under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~ For a
208 student exiting a Department of Juvenile Justice commitment
209 program who chooses to participate in the scholarship program,
210 the amount of the John M. McKay Scholarship calculated pursuant
211 to paragraph (b) shall be transferred from the school district
212 in which the student last attended a public school before ~~prior~~
213 ~~to~~ commitment to the Department of Juvenile Justice. When a
214 student enters the scholarship program, the department must
215 receive all documentation required for the student's
216 participation, including the private school's and the student's
217 fee schedules, at least 30 days before the first quarterly
218 scholarship payment is made for the student.

219 Section 2. Present subsections (2) through (5) of section
220 1002.51, Florida Statutes, are redesignated as subsections (4)
221 through (7), respectively, and new subsections (2) and (3) are
222 added to that section, to read:

223 1002.51 Definitions.—As used in this part, the term:

224 (2) "Disability" means any disability listed in the
225 definition of exceptional student in s. 1003.01.

226 (3) "Specialized instructional services provider" means a
227 provider delivering specialized instructional services under s.
228 1002.66.

229 Section 3. Subsections (1) and (3) of section 1002.53,
230 Florida Statutes, are amended to read:

231 1002.53 Voluntary Prekindergarten Education Program;
232 eligibility and enrollment.—

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233 (1) ~~There is created~~ The Voluntary Prekindergarten
234 Education Program is created and. ~~The program shall take effect~~
235 ~~in each county at the beginning of the 2005-2006 school year and~~
236 shall be organized, designed, and delivered in accordance with
237 s. 1(b) and (c), Art. IX of the State Constitution.

238 (3) The parent of each child eligible under subsection (2)
239 may enroll the child in one of the following programs:

240 (a) A school-year prekindergarten program delivered by a
241 private prekindergarten provider under s. 1002.55;

242 (b) A summer prekindergarten program delivered by a public
243 school or private prekindergarten provider under s. 1002.61; ~~or~~

244 (c) A school-year prekindergarten program delivered by a
245 public school; or

246 (d) A specialized instructional services program for
247 children who have disabilities, if the child has been evaluated
248 and determined as eligible, has an individual educational plan
249 developed by the local school board, and is eligible for the
250 program under s. 1002.66.

251
252 Except as provided in s. 1002.71(4), a child may not enroll in
253 more than one of these programs.

254 Section 4. Section 1002.66, Florida Statutes, is created to
255 read:

256 1002.66 Specialized instructional services for children
257 with disabilities.-

258 (1) Beginning with the 2012-2013 school year, a child who
259 has a disability and enrolls with the early learning coalition
260 under s. 1002.53(3)(d) is eligible for specialized instructional
261 services if:

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262 (a) The child is eligible for the Voluntary Prekindergarten
263 Education Program under s. 1002.53; and

264 (b) A current individual educational plan has been
265 developed for the child by the local school board in accordance
266 with rules of the State Board of Education.

267 (2) The parent of a child who is eligible for the
268 prekindergarten program for children with disabilities may
269 select one or more specialized instructional services that are
270 consistent with the child's individual educational plan. These
271 specialized instructional services may include, but are not
272 limited to:

273 (a) Applied behavior analysis as defined in ss. 627.6686
274 and 641.31098.

275 (b) Speech-language pathology as defined in s. 468.1125.

276 (c) Occupational therapy as defined in s. 468.203.

277 (d) Physical therapy as defined is s. 486.021.

278 (3) The specialized instructional services provided for a
279 child under this section must be delivered according to
280 professionally accepted standards; must be in accordance with
281 the performance standards adopted by the department under s.
282 1002.67; and must address the age-appropriate progress of the
283 child in the development of the capabilities, capacities, and
284 skills required under s. 1(b), Art. IX of the State
285 Constitution.

286 (4) The department shall approve specialized instructional
287 service providers whose services meet the standards in
288 subsection (3), maintain a list of approved providers, and
289 notify each school district and early learning coalition of the
290 approved provider list. Upon the request of a child's parent,

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291 the department may approve a specialized instructional service
292 provider that is not on the approved list if the provider's
293 services meet the standards in subsection (3) and the service is
294 consistent with the child's individual educational plan.

295 (5) The coalition shall reimburse an approved specialized
296 instructional service provider for authorized services provided
297 to an eligible child; however, the cumulative total of services
298 reimbursed for a child may not exceed the amount of the base
299 student allocation provided in the Voluntary Prekindergarten
300 Education Program in the General Appropriations Act. Providers
301 shall be reimbursed from funds allocated to the early learning
302 coalition for the Voluntary Prekindergarten Education Program.

303 Section 5. Paragraph (a) of subsection (4) of section
304 1002.71, Florida Statutes, is amended to read:

305 1002.71 Funding; financial and attendance reporting.-

306 (4) Notwithstanding s. 1002.53(3) and subsection (2):

307 (a) A child who, for any of the prekindergarten programs
308 listed in s. 1002.53(3), has not completed more than 70 percent
309 of the hours authorized to be reported for funding under
310 subsection (2), or has not expended more than 70 percent of the
311 funds authorized for the child under s. 1002.66, may withdraw
312 from the program for good cause and reenroll in one of the
313 programs. The total funding for a child who reenrolls in one of
314 the programs for good cause may not exceed one full-time
315 equivalent student. Funding for a child who withdraws and
316 reenrolls in one of the programs for good cause shall be issued
317 in accordance with the agency's uniform attendance policy
318 adopted pursuant to paragraph (6) (d).

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320 A child may reenroll only once in a prekindergarten program
321 under this section. A child who reenrolls in a prekindergarten
322 program under this subsection may not subsequently withdraw from
323 the program and reenroll. The Agency for Workforce Innovation
324 shall establish criteria specifying whether a good cause exists
325 for a child to withdraw from a program under paragraph (a),
326 whether a child has substantially completed a program under
327 paragraph (b), and whether an extreme hardship exists which is
328 beyond the child's or parent's control under paragraph (b).

329 Section 6. Subsection (2) of section 1002.73, Florida
330 Statutes, is amended to read:

331 (2) The department shall adopt procedures for its ~~the~~
332 ~~department's~~:

333 (a) Approval of prekindergarten director credentials under
334 ss. 1002.55 and 1002.57.

335 (b) Approval of emergent literacy training courses under
336 ss. 1002.55 and 1002.59.

337 (c) Administration of the statewide kindergarten screening
338 and calculation of kindergarten readiness rates under s.
339 1002.69.

340 (d) Approval of specialized instructional services
341 providers under s. 1002.66.

342 Section 7. Subsection (3) of section 1002.75, Florida
343 Statutes, is amended to read:

344 1002.75 Agency for Workforce Innovation; powers and duties;
345 operational requirements.—

346 (3) The Agency for Workforce Innovation shall adopt, in
347 consultation with and subject to approval by the department,
348 procedures governing the administration of the Voluntary

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349 Prekindergarten Education Program by the early learning
350 coalitions and school districts for:

351 (a) Approving improvement plans of private prekindergarten
352 providers and public schools under s. 1002.67.

353 (b) Placing private prekindergarten providers and public
354 schools on probation and requiring corrective actions under s.
355 1002.67.

356 (c) Removing a private prekindergarten provider or public
357 school from eligibility to deliver the program due to the
358 provider's or school's remaining on probation beyond the time
359 permitted under s. 1002.67.

360 (d) Enrolling children in and determining the eligibility
361 of children for the Voluntary Prekindergarten Education Program
362 under s. 1002.66.

363 (e) Paying specialized instructional services providers
364 under s. 1002.66.

365 Section 8. This act shall take effect July 1, 2010.