

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education Pre-K - 12

BILL: SB 1062

INTRODUCER: Senator Stargel

SUBJECT: Educational Choice

DATE: February 1, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Pre-meeting
2.			AED	
3.			AP	

I. Summary:

SB 1062 removes from law the prior school year attendance requirements for eligibility to participate in the John M. McKay Scholarships for Students with Disabilities Program (McKay) and K-12 virtual instruction.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

McKay Scholarship For Students With Disabilities Program

The John M. McKay Scholarship Program For Students With Disabilities Program (McKay) provides the option to attend an eligible public or private school for students with disabilities that have an individual education plan (IEP) or an accommodation plan that has been issued under s. 504 of the Rehabilitation Act of 1973 (504 accommodation plan).¹

Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; and other health impairments; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.²

¹ Section 1002.39(1), F.S.

² Section 1002.39(1), F.S.

Student Eligibility

The parent of a student with a disability may request and receive a McKay scholarship for the child to enroll in and attend a private school if the student has:³

- Received specialized instructional services under the Voluntary Prekindergarten Education Program⁴ during the previous school year and has a current IEP or 504 accommodation plan; or
- Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of scholarship eligibility, the term “prior school year in attendance” means the student was enrolled and reported by:⁵
 - A school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;
 - The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
 - A school district for funding during the preceding October and February FEFP surveys and the student was at least 4 years old when enrolled and reported and eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.

The legislature has authorized one exception to these prior school year attendance requirements. A dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country due to a parent’s permanent change of station orders is exempt from the prior school year attendance requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program.⁶

The parent must have also obtained acceptance for the student’s admission to a private school that is eligible for the program, and the student’s parent has requested a McKay scholarship from the Department of Education (DOE) at least 60 days before the date of the first scholarship payment.

K-12 Virtual Instruction

Florida offers more virtual options for their students than any other state.⁷ Florida students at all grade levels have both full-time (virtual school) and part-time (virtual course) options.⁸ The

³ Section 1002.39(2), F.S.

⁴ In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the Voluntary Prekindergarten Education (VPK) Program. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current IEP developed by the district school board. Section 1002.66, F.S.; see also s. 1002.53, F.S.

⁵ Section 1002.39(2)(a)2., F.S. Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. Section 1003.21(1)(e), F.S.

⁶ Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph).

⁷ Florida Department of Education, *Information on Virtual School Choice Options for Florida Students* (2015) available at <http://www.fldoe.org/core/fileparse.php/7509/urlt/school-choice-memo-virtual-school.pdf>.

⁸ *Id.*

options include virtual schools and courses offered by the Florida Virtual School (FLVS), and by all 67 school districts.⁹ Schools may offer their own virtual schools or enter into agreements with other school districts, a DOE approved private provider or virtual charter schools to provide virtual options for their students.¹⁰

Student Eligibility

A student is eligible to participate in virtual instruction if the student:¹¹

- Spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;
- Is a dependent child of a member of the United States Armed Forces who transferred within the last 12 months to this state from another state or from a foreign country pursuant to a permanent change of station order;
- Was enrolled during the prior school year in a virtual instruction program or a full-time Florida Virtual School program;
- Has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in that program at the end of the prior school year;
- Is eligible to enter kindergarten or first grade; or
- Is eligible to enter grades 2-5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.

These student eligibility requirements specifically apply to virtual instruction provided through charter schools,¹² the Florida Virtual School,¹³ virtual instruction programs provided by the school district or by a virtual charter school,¹⁴ and school district virtual courses.¹⁵

III. Effect of Proposed Changes:

SB 1062 removes from law the prior school year attendance requirements for eligibility to participate in the John M. McKay Scholarships for Students with Disabilities Program (McKay) and K-12 virtual instruction.

McKay Student Eligibility – Prior School Year Attendance

The bill removes from law the prior school year attendance requirements for a student to be eligible for the McKay Scholarship Program. In effect, to be eligible for McKay, a student would need to have a specified disability, an IEP or 504 accommodations plan, and be accepted into a private school that participates in the McKay program.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 1002.455(2), F.S.

¹² Section 1002.33(1), F.S.

¹³ Section 1002.37(8)(a), F.S.

¹⁴ Section 1002.45(5), F.S. The virtual charter school must be operated in the district in which the student resides. *Id.*

¹⁵ Section 1003.498(2), F.S.

K-12 Virtual Instruction – Prior School Year Attendance

Similarly, the bill removes from law the prior school year attendance requirements to be eligible for virtual instruction. In effect, to be eligible for virtual instruction, a student would need to be eligible to enter kindergarten through grade 12.

Elimination of the prior year enrollment requirement will likely result in increased participation in the McKay scholarship program and virtual instruction opportunities.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Not determined.

C. Government Sector Impact:

Not determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.39, 1002.455.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
