

By the Committee on Education; and Senator Simmons

581-03948-17

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1 A bill to be entitled
2 An act relating to the Gardiner Scholarship Program;
3 amending s. 1002.385, F.S.; redefining the terms
4 "disability" and "IEP"; defining the term "inactive";
5 prohibiting a student who is enrolled in the Florida
6 School for the Deaf and the Blind from being eligible
7 for the program; revising the purposes for which
8 program funds may be used; requiring that a student's
9 account be closed and program funds revert to the
10 state after the account is inactive for a specified
11 number of years; revising the date upon which certain
12 private schools must submit a required report;
13 specifying that certain actions of the private school
14 are a basis for program ineligibility; revising parent
15 and student responsibilities for program
16 participation; revising obligations of scholarship-
17 funding organizations; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraphs (d) and (h) of subsection (2) of
22 section 1002.385, Florida Statutes, are amended, present
23 paragraphs (i) and (j) of that subsection are redesignated as
24 paragraphs (j) and (k), respectively, a new paragraph (i) is
25 added to that subsection, paragraph (a) of subsection (3) of
26 that section is amended, paragraph (e) is added to subsection
27 (4) of that section, and subsection (5), paragraph (b) of
28 subsection (6), subsection (8), paragraph (f) of subsection
29 (11), and paragraph (j) of subsection (12) of that section are

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30 amended, to read:

31 1002.385 The Gardiner Scholarship.—

32 (2) DEFINITIONS.—As used in this section, the term:

33 (d) "Disability" means, for a 3- or 4-year-old child or for
34 a student in kindergarten to grade 12, autism spectrum disorder,
35 as defined in the Diagnostic and Statistical Manual of Mental
36 Disorders, Fifth Edition, published by the American Psychiatric
37 Association; cerebral palsy, as defined in s. 393.063(6); Down
38 syndrome, as defined in s. 393.063(15); an intellectual
39 disability, as defined in s. 393.063(24); Phelan-McDermid
40 syndrome, as defined in s. 393.063(28); Prader-Willi syndrome,
41 as defined in s. 393.063(29); spina bifida, as defined in s.
42 393.063(40); being a high-risk child, as defined in s.
43 393.063(23) (a); muscular dystrophy; ~~and~~ Williams syndrome; rare
44 diseases which affect patient populations of fewer than 200,000
45 individuals in the United States; anaphylaxis; or identification
46 as deaf, visually impaired, hospital or homebound, dual sensory
47 impaired, or traumatic brain injured, as defined by rules of the
48 State Board of Education and evidenced by reports from local
49 school districts. The term "hospital or homebound" includes a
50 student who has a medically diagnosed physical or psychiatric
51 condition or illness, as defined by the state board in rule, and
52 who is confined to the home or hospital for more than 6 months.

53 (h) "IEP" means individual education plan, regardless of
54 whether the plan has been reviewed or revised within the last 12
55 months.

56 (i) "Inactive" means that eligible expenditures have not
57 been made from an account funded pursuant to paragraph (13) (d).

58 (3) PROGRAM ELIGIBILITY.—A parent of a student with a

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59 disability may request and receive from the state a Gardiner
60 Scholarship for the purposes specified in subsection (5) if:

61 (a) The student:

62 1. Is a resident of this state;

63 2. Is 3 or 4 years of age on or before September 1 of the
64 year in which the student applies for program participation, or
65 is eligible to enroll in kindergarten through grade 12 in a
66 public school in this state;

67 3. Has a disability as defined in paragraph (2)(d); and

68 4. Is the subject of an IEP written in accordance with
69 rules of the State Board of Education or with the applicable
70 rules of another state or has received a diagnosis of a
71 disability from a physician who is licensed under chapter 458 or
72 chapter 459, ~~or~~ a psychologist who is licensed under chapter
73 490, or a physician who holds an active license issued by
74 another state or territory of the United States, the District of
75 Columbia, or the Commonwealth of Puerto Rico.

76 (4) PROGRAM PROHIBITIONS.—A student is not eligible for the
77 program if he or she is:

78 (e) Enrolled in the Florida School for the Deaf and the
79 Blind.

80 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
81 used to meet the individual educational needs of an eligible
82 student and may be spent for the following purposes:

83 (a) Instructional materials, including digital devices,
84 digital periphery devices, and assistive technology devices that
85 allow a student to access instruction or instructional content
86 and training on the use of and maintenance agreements for these
87 devices.

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88 (b) Curriculum as defined in paragraph (2)(b).

89 (c) Specialized services by approved providers or by a
90 hospital in this state which ~~that~~ are selected by the parent.

91 These specialized services may include, but are not limited to:

92 1. Applied behavior analysis services as provided in ss.
93 627.6686 and 641.31098.

94 2. Services provided by speech-language pathologists as
95 defined in s. 468.1125.

96 3. Occupational therapy services as defined in s. 468.203.

97 4. Services provided by physical therapists as defined in
98 s. 486.021.

99 5. Services provided by listening and spoken language
100 specialists and an appropriate acoustical environment for a
101 child who is deaf or hard of hearing and who has received an
102 implant or assistive hearing device.

103 (d) Enrollment in, or tuition or fees associated with
104 enrollment in, a home education program, an eligible private
105 school, an eligible postsecondary educational institution or a
106 program offered by the institution, a private tutoring program
107 authorized under s. 1002.43, a virtual program offered by a
108 department-approved private online provider that meets the
109 provider qualifications specified in s. 1002.45(2)(a), the
110 Florida Virtual School as a private paying student, or an
111 approved online course offered pursuant to s. 1003.499 or s.
112 1004.0961.

113 (e) Fees for nationally standardized, norm-referenced
114 achievement tests, Advanced Placement Examinations, industry
115 certification examinations, assessments related to postsecondary
116 education, or other assessments.

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117 (f) Contributions to the Stanley G. Tate Florida Prepaid
118 College Program pursuant to s. 1009.98 or the Florida College
119 Savings Program pursuant to s. 1009.981, for the benefit of the
120 eligible student.

121 (g) Contracted services provided by a public school or
122 school district, including classes. A student who receives
123 services under a contract under this paragraph is not considered
124 enrolled in a public school for eligibility purposes as
125 specified in subsection (4).

126 (h) Tuition and fees for part-time tutoring services
127 provided by a person who holds a valid Florida educator's
128 certificate pursuant to s. 1012.56; a person who holds an
129 adjunct teaching certificate pursuant to s. 1012.57; or a person
130 who has demonstrated a mastery of subject area knowledge
131 pursuant to s. 1012.56(5). As used in this paragraph, the term
132 "part-time tutoring services" does not qualify as regular school
133 attendance as defined in s. 1003.01(13)(e).

134 (i) Fees for specialized summer education programs.

135 (j) Fees for specialized after-school education programs.

136 (k) Transition services provided by job coaches.

137 (l) Fees for an annual evaluation of educational progress
138 by a state-certified teacher under s. 1002.41(1)(c), if this
139 option is chosen for a home education student.

140 (m) Tuition and fees associated with programs offered by
141 Voluntary Prekindergarten Education Program providers approved
142 pursuant to s. 1002.55 and school readiness providers approved
143 pursuant to s. 1002.88.

144 (n) Fees for services provided at a center that is a member
145 of the Professional Association of Therapeutic Horsemanship

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146 International.

147 (o) Fees for services provided by a therapist who is
148 certified by the Certification Board for Music Therapists or
149 credentialed by the Art Therapy Credentials Board.

150
151 A provider of any services receiving payments pursuant to this
152 subsection may not share, refund, or rebate any moneys from the
153 Gardiner Scholarship with the parent or participating student in
154 any manner. A parent, student, or provider of any services may
155 not bill an insurance company, Medicaid, or any other agency for
156 the same services that are paid through the Gardiner Scholarship
157 funds.

158 (6) TERM OF THE PROGRAM.—For purposes of continuity of
159 educational choice and program integrity:

160 (b)1. A student's scholarship account must be closed and
161 any remaining funds, including, but not limited to,
162 contributions made to the Stanley G. Tate Florida Prepaid
163 College Program or earnings from or contributions made to the
164 Florida College Savings Program using program funds pursuant to
165 paragraph (5)(f), shall revert to the state after ~~upon~~:

166 a. Denial or revocation of program eligibility by the
167 commissioner for fraud or abuse, including, but not limited to,
168 the student or student's parent accepting any payment, refund,
169 or rebate, in any manner, from a provider of any services
170 received pursuant to subsection (5); ~~or~~

171 b. ~~After~~ Any period of 3 consecutive years after high
172 school completion or graduation during which the student has not
173 been enrolled in an eligible postsecondary educational
174 institution or a program offered by the institution; or.

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175 c. Three consecutive fiscal years in which an account has
176 been inactive.

177 2. The commissioner must notify the parent and the
178 organization when a Gardiner Scholarship account is closed and
179 program funds revert to the state.

180 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
181 private school may be sectarian or nonsectarian and shall:

182 (a) Comply with all requirements for private schools
183 participating in state school choice scholarship programs
184 pursuant to s. 1002.421.

185 (b) Provide to the organization, upon request, all
186 documentation required for the student's participation,
187 including the private school's and student's fee schedules.

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

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

192 2. Annually administering or making provision for students
193 participating in the program in grades 3 through 10 to take one
194 of the nationally norm-referenced tests identified by the
195 Department of Education or the statewide assessments pursuant to
196 s. 1008.22. Students with disabilities for whom standardized
197 testing is not appropriate are exempt from this requirement. A
198 participating private school shall report a student's scores to
199 the parent.

200 3. Cooperating with the scholarship student whose parent
201 chooses to have the student participate in the statewide
202 assessments pursuant to s. 1008.22 or, if a private school
203 chooses to offer the statewide assessments, administering the

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204 assessments at the school.

205 a. A participating private school may choose to offer and
206 administer the statewide assessments to all students who attend
207 the private school in grades 3 through 10.

208 b. A participating private school shall submit a request in
209 writing to the Department of Education by March 1 of each year
210 in order to administer the statewide assessments in the
211 subsequent school year.

212 (d) Employ or contract with teachers who have regular and
213 direct contact with each student receiving a scholarship under
214 this section at the school's physical location.

215 (e) Annually contract with an independent certified public
216 accountant to perform the agreed-upon procedures developed under
217 s. 1002.395(6)(o) and produce a report of the results if the
218 private school receives more than \$250,000 in funds from
219 scholarships awarded under this section in the 2014-2015 state
220 fiscal year or a state fiscal year thereafter. A private school
221 subject to this paragraph must submit the report by September
222 15, 2015, and annually thereafter by August 15 to the
223 organization that awarded the majority of the school's
224 scholarship funds. The agreed-upon procedures must be conducted
225 in accordance with attestation standards established by the
226 American Institute of Certified Public Accountants.

227
228 If The inability of a private school is unable to meet the
229 requirements of this subsection or has in consecutive years had
230 material exceptions listed in its agreed-upon procedures
231 reports, there is ~~constitutes~~ a basis for the ineligibility of
232 the private school to participate in the program as determined

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233 by the commissioner.

234 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
235 PARTICIPATION.—A parent who applies for program participation
236 under this section is exercising his or her parental option to
237 determine the appropriate placement or the services that best
238 meet the needs of his or her child. The scholarship award for a
239 student is based on a matrix that assigns the student to support
240 Level III services. If a parent receives an IEP and a matrix of
241 services from the school district pursuant to subsection (7),
242 the amount of the payment shall be adjusted as needed, when the
243 school district completes the matrix.

244 (f) The parent is responsible for procuring the services
245 necessary to educate the student. If a parent does not procure
246 the necessary educational services for the student and the
247 student's account has been inactive for 2 consecutive fiscal
248 years, the student is ineligible for additional scholarship
249 payments until the scholarship-funding organization verifies
250 that expenditures from the account have occurred. When the
251 student receives a Gardiner Scholarship, the district school
252 board is not obligated to provide the student with a free
253 appropriate public education. For purposes of s. 1003.57 and the
254 Individuals with Disabilities in Education Act, a participating
255 student has only those rights that apply to all other
256 unilaterally parentally placed students, except that, when
257 requested by the parent, school district personnel must develop
258 an individual education plan or matrix level of services.

259
260 A parent who fails to comply with this subsection forfeits the
261 Gardiner Scholarship.

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262 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An
263 organization may establish Gardiner Scholarships for eligible
264 students by:

265 (j) Documenting each scholarship student's eligibility for
266 a fiscal year before granting a scholarship for that fiscal year
267 pursuant to paragraph (3) (b). A student is ineligible for a
268 scholarship if the student's account has been inactive for 2
269 consecutive fiscal years. However, once an eligible expenditure
270 is made pursuant to paragraph (11) (f), the student is eligible
271 for a scholarship, based on available funds.

272 Section 2. This act shall take effect July 1, 2017.