

1 A bill to be entitled
 2 An act relating to private school eligibility
 3 requirements; amending s. 1002.421, F.S.; revising
 4 private school eligibility requirements for the state
 5 school choice scholarship program; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (1) of section 1002.421, Florida
 11 Statutes, is amended to read:

12 1002.421 State school choice scholarship program
 13 accountability and oversight.—

14 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
 15 school participating in an educational scholarship program
 16 established pursuant to this chapter must be a private school as
 17 defined in s. 1002.01(2) in this state, be registered, and be in
 18 compliance with all requirements of this section in addition to
 19 private school requirements outlined in s. 1002.42, specific
 20 requirements identified within respective scholarship program
 21 laws, and other provisions of Florida law that apply to private
 22 schools; may not deny enrollment to a student based on the
 23 student's race, ethnicity, national origin, gender, disability,
 24 religion, sexual orientation, or gender identity;~~7~~ and must:

25 (a) Comply with the antidiscrimination provisions of 42

26 U.S.C. s. 2000d.

27 (b) Notify the department of its intent to participate in
28 a scholarship program.

29 (c) Notify the department of any change in the school's
30 name, school director, mailing address, or physical location
31 within 15 days after the change.

32 (d) Provide to the department or scholarship-funding
33 organization all documentation required for a student's
34 participation, including the private school's and student's
35 individual fee schedule, and attendance verification as required
36 by the department or scholarship-funding organization, prior to
37 scholarship payment.

38 (e) Annually complete and submit to the department a
39 notarized scholarship compliance statement certifying that all
40 school employees and contracted personnel with direct student
41 contact have undergone background screening pursuant to s.
42 943.0542 and have met the screening standards as provided in s.
43 435.04.

44 (f) Demonstrate fiscal soundness and accountability by:

45 1. Being in operation for at least 3 school years or
46 obtaining a surety bond or letter of credit for the amount equal
47 to the scholarship funds for any quarter and filing the surety
48 bond or letter of credit with the department.

49 2. Requiring the parent of each scholarship student to
50 personally restrictively endorse the scholarship warrant to the

51 school or to approve a funds transfer before any funds are
52 deposited for a student. The school may not act as attorney in
53 fact for the parent of a scholarship student under the authority
54 of a power of attorney executed by such parent, or under any
55 other authority, to endorse a scholarship warrant or approve a
56 funds transfer on behalf of such parent.

57 (g) Meet applicable state and local health, safety, and
58 welfare laws, codes, and rules, including:

- 59 1. Firesafety.
- 60 2. Building safety.

61 (h) Employ or contract with teachers who hold
62 baccalaureate or higher degrees, have at least 3 years of
63 teaching experience in public or private schools, or have
64 special skills, knowledge, or expertise that qualifies them to
65 provide instruction in subjects taught.

66 (i) Maintain a physical location in the state at which
67 each student has regular and direct contact with teachers.

68 (j) Publish on the school's website, or provide in a
69 written format, information for parents regarding the school,
70 including, but not limited to, programs, services, and the
71 qualifications of classroom teachers.

72 (k) At a minimum, provide the parent of each scholarship
73 student with a written explanation of the student's progress on
74 a quarterly basis.

75 (l) Cooperate with a student whose parent chooses to

76 | participate in the statewide assessments pursuant to s. 1008.22.

77 | (m) Require each employee and contracted personnel with
78 | direct student contact, upon employment or engagement to provide
79 | services, to undergo a state and national background screening,
80 | pursuant to s. 943.0542, by electronically filing with the
81 | Department of Law Enforcement a complete set of fingerprints
82 | taken by an authorized law enforcement agency or an employee of
83 | the private school, a school district, or a private company who
84 | is trained to take fingerprints and deny employment to or
85 | terminate an employee if he or she fails to meet the screening
86 | standards under s. 435.04. Results of the screening shall be
87 | provided to the participating private school. For purposes of
88 | this paragraph:

89 | 1. An "employee or contracted personnel with direct
90 | student contact" means any employee or contracted personnel who
91 | has unsupervised access to a scholarship student for whom the
92 | private school is responsible.

93 | 2. The costs of fingerprinting and the background check
94 | shall not be borne by the state.

95 | 3. Continued employment of an employee or contracted
96 | personnel after notification that he or she has failed the
97 | background screening under this paragraph shall cause a private
98 | school to be ineligible for participation in a scholarship
99 | program.

100 | 4. An employee or contracted personnel holding a valid

101 Florida teaching certificate who has been fingerprinted pursuant
102 to s. 1012.32 is not required to comply with the provisions of
103 this paragraph.

104 5. All fingerprints submitted to the Department of Law
105 Enforcement as required by this section shall be retained by the
106 Department of Law Enforcement in a manner provided by rule and
107 entered in the statewide automated biometric identification
108 system authorized by s. 943.05(2)(b). Such fingerprints shall
109 thereafter be available for all purposes and uses authorized for
110 arrest fingerprints entered in the statewide automated biometric
111 identification system pursuant to s. 943.051.

112 6. The Department of Law Enforcement shall search all
113 arrest fingerprints received under s. 943.051 against the
114 fingerprints retained in the statewide automated biometric
115 identification system under subparagraph 5. Any arrest record
116 that is identified with the retained fingerprints of a person
117 subject to the background screening under this section shall be
118 reported to the employing school with which the person is
119 affiliated. Each private school participating in a scholarship
120 program is required to participate in this search process by
121 informing the Department of Law Enforcement of any change in the
122 employment or contractual status of its personnel whose
123 fingerprints are retained under subparagraph 5. The Department
124 of Law Enforcement shall adopt a rule setting the amount of the
125 annual fee to be imposed upon each private school for performing

126 | these searches and establishing the procedures for the retention
127 | of private school employee and contracted personnel fingerprints
128 | and the dissemination of search results. The fee may be borne by
129 | the private school or the person fingerprinted.

130 | 7. Employees and contracted personnel whose fingerprints
131 | are not retained by the Department of Law Enforcement under
132 | subparagraphs 5. and 6. are required to be refingerprinted and
133 | must meet state and national background screening requirements
134 | upon reemployment or reengagement to provide services in order
135 | to comply with the requirements of this section.

136 | 8. Every 5 years following employment or engagement to
137 | provide services with a private school, employees or contracted
138 | personnel required to be screened under this section must meet
139 | screening standards under s. 435.04, at which time the private
140 | school shall request the Department of Law Enforcement to
141 | forward the fingerprints to the Federal Bureau of Investigation
142 | for national processing. If the fingerprints of employees or
143 | contracted personnel are not retained by the Department of Law
144 | Enforcement under subparagraph 5., employees and contracted
145 | personnel must electronically file a complete set of
146 | fingerprints with the Department of Law Enforcement. Upon
147 | submission of fingerprints for this purpose, the private school
148 | shall request that the Department of Law Enforcement forward the
149 | fingerprints to the Federal Bureau of Investigation for national
150 | processing, and the fingerprints shall be retained by the

151 Department of Law Enforcement under subparagraph 5.

152 (n) Adopt policies establishing standards of ethical
153 conduct for instructional personnel and school administrators.
154 The policies must require all instructional personnel and school
155 administrators, as defined in s. 1012.01, to complete training
156 on the standards; establish the duty of instructional personnel
157 and school administrators to report, and procedures for
158 reporting, alleged misconduct by other instructional personnel
159 and school administrators which affects the health, safety, or
160 welfare of a student; and include an explanation of the
161 liability protections provided under ss. 39.203 and 768.095. A
162 private school, or any of its employees, may not enter into a
163 confidentiality agreement regarding terminated or dismissed
164 instructional personnel or school administrators, or personnel
165 or administrators who resign in lieu of termination, based in
166 whole or in part on misconduct that affects the health, safety,
167 or welfare of a student, and may not provide the instructional
168 personnel or school administrators with employment references or
169 discuss the personnel's or administrators' performance with
170 prospective employers in another educational setting, without
171 disclosing the personnel's or administrators' misconduct. Any
172 part of an agreement or contract that has the purpose or effect
173 of concealing misconduct by instructional personnel or school
174 administrators which affects the health, safety, or welfare of a
175 student is void, is contrary to public policy, and may not be

176 | enforced.

177 | (o) Before employing instructional personnel or school
178 | administrators in any position that requires direct contact with
179 | students, conduct employment history checks of each of the
180 | personnel's or administrators' previous employers, screen the
181 | personnel or administrators through use of the educator
182 | screening tools described in s. 1001.10(5), and document the
183 | findings. If unable to contact a previous employer, the private
184 | school must document efforts to contact the employer.

185 | (p) Require each owner or operator of the private school,
186 | prior to employment or engagement to provide services, to
187 | undergo level 2 background screening as provided under chapter
188 | 435. For purposes of this paragraph, the term "owner or
189 | operator" means an owner, operator, superintendent, or principal
190 | of, or a person with equivalent decisionmaking authority over, a
191 | private school participating in a scholarship program
192 | established pursuant to this chapter. The fingerprints for the
193 | background screening must be electronically submitted to the
194 | Department of Law Enforcement and may be taken by an authorized
195 | law enforcement agency or a private company who is trained to
196 | take fingerprints. However, the complete set of fingerprints of
197 | an owner or operator may not be taken by the owner or operator.
198 | The owner or operator shall provide a copy of the results of the
199 | state and national criminal history check to the Department of
200 | Education. The cost of the background screening may be borne by

201 the owner or operator.

202 1. Every 5 years following employment or engagement to
203 provide services, each owner or operator must meet level 2
204 screening standards as described in s. 435.04, at which time the
205 owner or operator shall request the Department of Law
206 Enforcement to forward the fingerprints to the Federal Bureau of
207 Investigation for level 2 screening. If the fingerprints of an
208 owner or operator are not retained by the Department of Law
209 Enforcement under subparagraph 2., the owner or operator must
210 electronically file a complete set of fingerprints with the
211 Department of Law Enforcement. Upon submission of fingerprints
212 for this purpose, the owner or operator shall request that the
213 Department of Law Enforcement forward the fingerprints to the
214 Federal Bureau of Investigation for level 2 screening, and the
215 fingerprints shall be retained by the Department of Law
216 Enforcement under subparagraph 2.

217 2. Fingerprints submitted to the Department of Law
218 Enforcement as required by this paragraph must be retained by
219 the Department of Law Enforcement in a manner approved by rule
220 and entered in the statewide automated biometric identification
221 system authorized by s. 943.05(2)(b). The fingerprints must
222 thereafter be available for all purposes and uses authorized for
223 arrest fingerprints entered in the statewide automated biometric
224 identification system pursuant to s. 943.051.

225 3. The Department of Law Enforcement shall search all

226 | arrest fingerprints received under s. 943.051 against the
227 | fingerprints retained in the statewide automated biometric
228 | identification system under subparagraph 2. Any arrest record
229 | that is identified with an owner's or operator's fingerprints
230 | must be reported to the owner or operator, who must report to
231 | the Department of Education. Any costs associated with the
232 | search shall be borne by the owner or operator.

233 | 4. An owner or operator who fails the level 2 background
234 | screening is not eligible to participate in a scholarship
235 | program under this chapter.

236 | 5. In addition to the offenses listed in s. 435.04, a
237 | person required to undergo background screening pursuant to this
238 | part or authorizing statutes may not have an arrest awaiting
239 | final disposition for, must not have been found guilty of, or
240 | entered a plea of nolo contendere to, regardless of
241 | adjudication, and must not have been adjudicated delinquent for,
242 | and the record must not have been sealed or expunged for, any of
243 | the following offenses or any similar offense of another
244 | jurisdiction:

- 245 | a. Any authorizing statutes, if the offense was a felony.
246 | b. This chapter, if the offense was a felony.
247 | c. Section 409.920, relating to Medicaid provider fraud.
248 | d. Section 409.9201, relating to Medicaid fraud.
249 | e. Section 741.28, relating to domestic violence.
250 | f. Section 817.034, relating to fraudulent acts through

251 | mail, wire, radio, electromagnetic, photoelectronic, or
 252 | photooptical systems.

253 | g. Section 817.234, relating to false and fraudulent
 254 | insurance claims.

255 | h. Section 817.505, relating to patient brokering.

256 | i. Section 817.568, relating to criminal use of personal
 257 | identification information.

258 | j. Section 817.60, relating to obtaining a credit card
 259 | through fraudulent means.

260 | k. Section 817.61, relating to fraudulent use of credit
 261 | cards, if the offense was a felony.

262 | l. Section 831.01, relating to forgery.

263 | m. Section 831.02, relating to uttering forged
 264 | instruments.

265 | n. Section 831.07, relating to forging bank bills, checks,
 266 | drafts, or promissory notes.

267 | o. Section 831.09, relating to uttering forged bank bills,
 268 | checks, drafts, or promissory notes.

269 | p. Section 831.30, relating to fraud in obtaining
 270 | medicinal drugs.

271 | q. Section 831.31, relating to the sale, manufacture,
 272 | delivery, or possession with the intent to sell, manufacture, or
 273 | deliver any counterfeit controlled substance, if the offense was
 274 | a felony.

275 | 6. At least 30 calendar days before a transfer of

276 ownership of a private school, the owner or operator shall
277 notify the parent of each scholarship student.

278 7. The owner or operator of a private school that has been
279 deemed ineligible to participate in a scholarship program
280 pursuant to this chapter may not transfer ownership or
281 management authority of the school to a relative in order to
282 participate in a scholarship program as the same school or a new
283 school. For purposes of this subparagraph, the term "relative"
284 means father, mother, son, daughter, grandfather, grandmother,
285 brother, sister, uncle, aunt, cousin, nephew, niece, husband,
286 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,
287 brother-in-law, sister-in-law, stepfather, stepmother, stepson,
288 stepdaughter, stepbrother, stepsister, half-brother, or half-
289 sister.

290 (q) Provide a report from an independent certified public
291 accountant who performs the agreed-upon procedures developed
292 pursuant to s. 1002.395(6)(o) if the private school receives
293 more than \$250,000 in funds from scholarships awarded under this
294 chapter in a state fiscal year. A private school subject to this
295 subsection must annually submit the report by September 15 to
296 the scholarship-funding organization that awarded the majority
297 of the school's scholarship funds. However, a school that
298 receives more than \$250,000 in scholarship funds only through
299 the John M. McKay Scholarship for Students with Disabilities
300 Program pursuant to s. 1002.39 must submit the annual report by

301 September 15 to the department. The agreed-upon procedures must
302 be conducted in accordance with attestation standards
303 established by the American Institute of Certified Public
304 Accountants.

305

306 The department shall suspend the payment of funds to a private
307 school that knowingly fails to comply with this subsection, and
308 shall prohibit the school from enrolling new scholarship
309 students, for 1 fiscal year and until the school complies. If a
310 private school fails to meet the requirements of this subsection
311 or has consecutive years of material exceptions listed in the
312 report required under paragraph (q), the commissioner may
313 determine that the private school is ineligible to participate
314 in a scholarship program.

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