

1 A bill to be entitled
 2 An act relating to private school eligibility
 3 requirements for participation in educational
 4 scholarship programs; amending s. 1002.421, F.S.;
 5 revising private school eligibility requirements for
 6 participation in certain educational scholarship
 7 programs; providing an effective date.

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

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

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

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

26 | and must:

27 | (a) Comply with the antidiscrimination provisions of 42
28 | U.S.C. s. 2000d.

29 | (b) Notify the department of its intent to participate in
30 | a scholarship program.

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

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

40 | (e) Annually complete and submit to the department a
41 | notarized scholarship compliance statement certifying that all
42 | school employees and contracted personnel with direct student
43 | contact have undergone background screening pursuant to s.
44 | 943.0542 and have met the screening standards as provided in s.
45 | 435.04.

46 | (f) Demonstrate fiscal soundness and accountability by:

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

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

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

- 61 1. Firesafety.
- 62 2. Building safety.

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

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

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

74 (k) At a minimum, provide the parent of each scholarship
75 student with a written explanation of the student's progress on

76 | a quarterly basis.

77 | (1) Cooperate with a student whose parent chooses to
78 | participate in the statewide assessments pursuant to s. 1008.22.

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

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

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

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

101 program.

102 4. An employee or contracted personnel holding a valid
103 Florida teaching certificate who has been fingerprinted pursuant
104 to s. 1012.32 is not required to comply with the provisions of
105 this paragraph.

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

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

126 of Law Enforcement shall adopt a rule setting the amount of the
127 annual fee to be imposed upon each private school for performing
128 these searches and establishing the procedures for the retention
129 of private school employee and contracted personnel fingerprints
130 and the dissemination of search results. The fee may be borne by
131 the private school or the person fingerprinted.

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

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

151 fingerprints to the Federal Bureau of Investigation for national
152 processing, and the fingerprints shall be retained by the
153 Department of Law Enforcement under subparagraph 5.

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

176 administrators which affects the health, safety, or welfare of a
177 student is void, is contrary to public policy, and may not be
178 enforced.

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

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

201 state and national criminal history check to the Department of
202 Education. The cost of the background screening may be borne by
203 the owner or operator.

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

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

226 identification system pursuant to s. 943.051.

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

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

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

- 247 a. Any authorizing statutes, if the offense was a felony.
248 b. This chapter, if the offense was a felony.
249 c. Section 409.920, relating to Medicaid provider fraud.
250 d. Section 409.9201, relating to Medicaid fraud.

- 251 e. Section 741.28, relating to domestic violence.
- 252 f. Section 817.034, relating to fraudulent acts through
253 mail, wire, radio, electromagnetic, photoelectronic, or
254 photooptical systems.
- 255 g. Section 817.234, relating to false and fraudulent
256 insurance claims.
- 257 h. Section 817.505, relating to patient brokering.
- 258 i. Section 817.568, relating to criminal use of personal
259 identification information.
- 260 j. Section 817.60, relating to obtaining a credit card
261 through fraudulent means.
- 262 k. Section 817.61, relating to fraudulent use of credit
263 cards, if the offense was a felony.
- 264 l. Section 831.01, relating to forgery.
- 265 m. Section 831.02, relating to uttering forged
266 instruments.
- 267 n. Section 831.07, relating to forging bank bills, checks,
268 drafts, or promissory notes.
- 269 o. Section 831.09, relating to uttering forged bank bills,
270 checks, drafts, or promissory notes.
- 271 p. Section 831.30, relating to fraud in obtaining
272 medicinal drugs.
- 273 q. Section 831.31, relating to the sale, manufacture,
274 delivery, or possession with the intent to sell, manufacture, or
275 deliver any counterfeit controlled substance, if the offense was

276 | a felony.

277 | 6. At least 30 calendar days before a transfer of
278 | ownership of a private school, the owner or operator shall
279 | notify the parent of each scholarship student.

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

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

301 the John M. McKay Scholarship for Students with Disabilities
302 Program pursuant to s. 1002.39 must submit the annual report by
303 September 15 to the department. The agreed-upon procedures must
304 be conducted in accordance with attestation standards
305 established by the American Institute of Certified Public
306 Accountants.

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

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