

By Senator Diaz

36-01414-22

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1 A bill to be entitled
2 An act relating to educational choice scholarships;
3 amending s. 1002.394, F.S.; revising eligibility for
4 the Family Empowerment Scholarship Program; deleting a
5 requirement that the Department of Education cross-
6 check before each distribution of funds the list of
7 participating scholarship students with the public
8 school enrollment lists; conforming a cross-reference;
9 deleting limits on the number of students receiving
10 scholarships; deleting a requirement that the
11 department verify that a student is not prohibited
12 from receiving a scholarship; deleting a requirement
13 that a nonprofit scholarship-funding organization
14 verify certain information before payments are made;
15 conforming provisions to changes made by the act;
16 amending s. 1002.395, F.S.; conforming cross-
17 references; deleting a requirement that the department
18 cross-check the list of participating Florida Tax
19 Credit Scholarship Program students with the public
20 school enrollment lists to avoid duplication; deleting
21 a requirement that a nonprofit scholarship-funding
22 organization obtain verification from the private
23 school of a student's continued attendance at the
24 school for each period covered by a scholarship
25 payment; amending s. 1002.40, F.S.; deleting a
26 requirement that the department cross-check the list
27 of participating Hope Scholarship Program students
28 with the public school enrollment lists to avoid
29 duplication; deleting a requirement that a nonprofit

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30 scholarship-funding organization obtain verification
31 from the private school of a student's continued
32 attendance at the school for each period covered by a
33 scholarship payment; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Paragraph (a) of subsection (3), paragraph (a)
38 of subsection (8), paragraph (c) of subsection (9), paragraph
39 (a) of subsection (10), and subsection (12) of section 1002.394,
40 Florida Statutes, are amended to read:

41 1002.394 The Family Empowerment Scholarship Program.—

42 (3) SCHOLARSHIP ELIGIBILITY.—

43 (a) A parent of a student may request and receive from the
44 state a scholarship for the purposes specified in paragraph
45 (4) (a) if:

46 1. The student is on the direct certification list pursuant
47 to s. 1002.395(2) (c) or the student's household income level
48 does not exceed 185 percent of the federal poverty level;

49 2. The student is currently placed, or during the previous
50 state fiscal year was placed, in foster care or in out-of-home
51 care as defined in s. 39.01;

52 3. The student's household income level does not exceed 375
53 percent of the federal poverty level or an adjusted maximum
54 percent of the federal poverty level which that is increased by
55 25 percentage points each fiscal year ~~in the fiscal year~~
56 ~~following any fiscal year in which more than 5 percent of the~~
57 ~~available scholarships authorized under paragraph (12) (a) have~~
58 ~~not been funded;~~

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59 4. The student is a sibling of a student who is
60 participating in the scholarship program under this subsection
61 and such siblings reside in the same household; or

62 5. The student is a dependent child of a member of the
63 United States Armed Forces.

64

65 Priority must be given to a student whose household income level
66 does not exceed 185 percent of the federal poverty level or who
67 is in foster care or out-of-home care.

68 (8) DEPARTMENT OF EDUCATION OBLIGATIONS.—

69 (a) The department shall:

70 1. Publish and update, as necessary, information on the
71 department website about the Family Empowerment Scholarship
72 Program, including, but not limited to, student eligibility
73 criteria, parental responsibilities, and relevant data.

74 2. ~~Cross-check before each distribution of funds the list~~
75 ~~of participating scholarship students with the public school~~
76 ~~enrollment lists before each scholarship payment to avoid~~
77 ~~duplication.~~

78 ~~3.~~ Maintain and publish a list of nationally norm-
79 referenced tests identified for purposes of satisfying the
80 testing requirement in subparagraph (9)(c)1. The tests must meet
81 industry standards of quality in accordance with state board
82 rule.

83 3.4. Notify eligible nonprofit scholarship-funding
84 organizations of the deadlines for submitting the verified list
85 of students determined to be eligible for a scholarship.

86 ~~4.5.~~ Notify each school district of a parent's
87 participation in the scholarship program for purposes of

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88 paragraph (7) (f).

89 ~~5.6.~~ Deny or terminate program participation upon a
90 parent's failure to comply with subsection (10).

91 ~~6.7.~~ Notify the parent and the organization when a
92 scholarship account is closed and program funds revert to the
93 state.

94 ~~7.8.~~ Notify an eligible nonprofit scholarship-funding
95 organization of any of the organization's or other
96 organization's identified students who are receiving
97 scholarships under this chapter.

98 ~~8.9.~~ Maintain on its website a list of approved providers
99 as required by s. 1002.66, eligible postsecondary educational
100 institutions, eligible private schools, and eligible
101 organizations and may identify or provide links to lists of
102 other approved providers.

103 ~~9.10.~~ Require each organization to verify eligible
104 expenditures before the distribution of funds for any
105 expenditures made pursuant to subparagraphs (4) (b)1. and 2.
106 Review of expenditures made for services specified in
107 subparagraphs (4) (b)3.-15. may be completed after the purchase
108 is made.

109 ~~10.11.~~ Investigate any written complaint of a violation of
110 this section by a parent, a student, a private school, a public
111 school, a school district, an organization, a provider, or
112 another appropriate party in accordance with the process
113 established under s. 1002.421.

114 ~~11.12.~~ Require quarterly reports by an organization, which
115 must include, at a minimum, the number of students participating
116 in the program; the demographics of program participants; the

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117 disability category of program participants; the matrix level of
118 services, if known; the program award amount per student; the
119 total expenditures for the purposes specified in paragraph
120 (4) (b); the types of providers of services to students; and any
121 other information deemed necessary by the department.

122 12.13. Notify eligible nonprofit scholarship funding
123 organizations that scholarships may not be awarded in a school
124 district in which the award will exceed 99 percent of the school
125 district's share of state funding through the Florida Education
126 Finance Program as calculated by the department.

127 (9) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
128 eligible to participate in the Family Empowerment Scholarship
129 Program, a private school may be sectarian or nonsectarian and
130 must:

131 (c)1. Annually administer or make provision for students
132 participating in the program in grades 3 through 10 to take one
133 of the nationally norm-referenced tests that are identified by
134 the department pursuant to paragraph (8) (a) or to take the
135 statewide assessments pursuant to s. 1008.22. Students with
136 disabilities for whom the physician or psychologist who issued
137 the diagnosis or the IEP team determines that standardized
138 testing is not appropriate are exempt from this requirement. A
139 participating private school shall report a student's scores to
140 his or her parent. By August 15 of each year, a participating
141 private school must report the scores of all participating
142 students to a state university as described in s. 1002.395(9) (e)
143 ~~s. 1002.395(9) (f)~~.

144 2. Administer the statewide assessments pursuant to s.
145 1008.22 if the private school chooses to offer the statewide

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146 assessments. A participating private school may choose to offer
147 and administer the statewide assessments to all students who
148 attend the private school in grades 3 through 10 and must submit
149 a request in writing to the department by March 1 of each year
150 in order to administer the statewide assessments in the
151 subsequent school year.

152
153 If a private school fails to meet the requirements of this
154 subsection or s. 1002.421, the commissioner may determine that
155 the private school is ineligible to participate in the
156 scholarship program.

157 (10) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
158 PARTICIPATION.—

159 (a) A parent who applies for program participation under
160 paragraph (3) (a) is exercising his or her parental option to
161 place his or her child in a private school and must:

162 1. Select the private school and apply for the admission of
163 his or her student.

164 2. Request the scholarship by a date established by the
165 organization, in a manner that creates a written or electronic
166 record of the request and the date of receipt of the request.

167 3. Inform the applicable school district when the parent
168 withdraws his or her student from a public school to attend an
169 eligible private school.

170 4. Require his or her student participating in the program
171 to remain in attendance throughout the school year unless
172 excused by the school for illness or other good cause.

173 5. Meet with the private school's principal or the
174 principal's designee to review the school's academic programs

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175 and policies, customized educational programs, code of student
176 conduct, and attendance policies prior to enrollment.

177 6. Require that the student participating in the
178 scholarship program takes the norm-referenced assessment offered
179 by the private school. The parent may also choose to have the
180 student participate in the statewide assessments pursuant to
181 paragraph (7) (d). If the parent requests that the student
182 participating in the program take all statewide assessments
183 required pursuant to s. 1008.22, the parent is responsible for
184 transporting the student to the assessment site designated by
185 the school district.

186 7. Restrictively endorse the warrant, issued in the name of
187 the parent pursuant to subparagraph (12) (a) 5. ~~(12) (a) 6.~~, to the
188 private school for deposit into the private school's account.
189 The parent may not designate any entity or individual associated
190 with the participating private school as the parent's attorney
191 in fact to endorse a scholarship warrant.

192 (12) SCHOLARSHIP FUNDING AND PAYMENT.—

193 (a)1. The scholarship amount ~~Scholarships~~ for students
194 determined eligible pursuant to paragraph (3) (a) ~~are established~~
195 ~~for up to 18,000 students annually beginning in the 2019-2020~~
196 ~~school year. Beginning in the 2020-2021 school year, the maximum~~
197 ~~number of students participating in the scholarship program~~
198 ~~under this section shall annually increase by 1.0 percent of the~~
199 ~~state's total public school student enrollment. An eligible~~
200 ~~student who meets any of the following requirements shall be~~
201 ~~excluded from the maximum number of students if the student:~~

202 a. ~~Received a scholarship pursuant to s. 1002.395 during~~
203 ~~the previous school year but did not receive a renewal~~

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204 ~~scholarship based solely on the eligible nonprofit scholarship~~
205 ~~funding organization's lack of available funds after the~~
206 ~~organization fully exhausted its efforts to use funds available~~
207 ~~for awards under ss. 1002.395 and 1002.40(11)(i). Eligible~~
208 ~~nonprofit scholarship funding organizations with students who~~
209 ~~meet the criterion in this subparagraph must annually notify the~~
210 ~~department in a format and by a date established by the~~
211 ~~department. The maximum number of scholarships awarded pursuant~~
212 ~~to this subparagraph shall not exceed 15,000 per school year;~~
213 ~~b. Is a dependent child of a member of the United States~~
214 ~~Armed Forces, a foster child, or an adopted child; or~~
215 ~~e. Is determined eligible pursuant to subparagraph (3)(a)1.~~
216 ~~or subparagraph (3)(a)2. and either spent the prior school year~~
217 ~~in attendance at a Florida public school or, beginning in the~~
218 ~~2022-2023 school year, is eligible to enroll in kindergarten.~~
219 ~~For purposes of this subparagraph, the term "prior school year~~
220 ~~in attendance" means that the student was enrolled and reported~~
221 ~~by a school district for funding during either the preceding~~
222 ~~October or February Florida Education Finance Program surveys in~~
223 ~~kindergarten through grade 12, which includes time spent in a~~
224 ~~Department of Juvenile Justice commitment program if funded~~
225 ~~under the Florida Education Finance Program.~~
226 ~~2. The scholarship amount provided to a student for any~~
227 ~~single school year shall be for tuition and fees for an eligible~~
228 ~~private school, not to exceed annual limits, which shall be~~
229 ~~determined in accordance with this subparagraph. The calculated~~
230 ~~amount for a participating student shall be based upon the grade~~
231 ~~level and school district in which the student was assigned as~~
232 ~~100 percent of the funds per unweighted full-time equivalent in~~

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233 the Florida Education Finance Program for a student in the basic
234 program established pursuant to s. 1011.62(1)(c)1., plus a per-
235 full-time equivalent share of funds for all categorical
236 programs, except for the Exceptional Student Education
237 Guaranteed Allocation.

238 ~~2.3.~~ The amount of the scholarship shall be the calculated
239 amount or the amount of the private school's tuition and fees,
240 whichever is less. The amount of any assessment fee required by
241 the participating private school and any costs to provide a
242 digital device, including Internet access, if necessary, to the
243 student may be paid from the total amount of the scholarship.

244 ~~3.4.~~ A scholarship of \$750 may be awarded to a student who
245 is determined eligible pursuant to subparagraph (3)(a)1. or
246 subparagraph (3)(a)2. and enrolled in a Florida public school
247 that is different from the school to which the student was
248 assigned or in a lab school as defined in s. 1002.32 if the
249 school district does not provide the student with transportation
250 to the school.

251 ~~4.5.~~ ~~Upon notification from the organization on July 1,~~
252 ~~September 1, December 1, and February 1 that an application has~~
253 ~~been approved for the program, the department shall verify that~~
254 ~~the student is not prohibited from receiving a scholarship~~
255 ~~pursuant to subsection (6).~~ The organization must provide the
256 department with the documentation necessary to verify the
257 student's participation. Upon receiving the documentation
258 ~~verification~~, the department shall transfer, from state funds
259 only, the amount calculated pursuant to subparagraph 1. 2. to
260 the organization for quarterly disbursement to parents of
261 participating students each school year in which the scholarship

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262 is in force. For a student exiting a Department of Juvenile
263 Justice commitment program who chooses to participate in the
264 scholarship program, the amount of the Family Empowerment
265 Scholarship calculated pursuant to subparagraph 1. ~~2.~~ must be
266 transferred from the school district in which the student last
267 attended a public school before commitment to the Department of
268 Juvenile Justice. When a student enters the scholarship program,
269 the organization must receive all documentation required for the
270 student's participation, including the private school's and the
271 student's fee schedules, at least 30 days before the first
272 quarterly scholarship payment is made for the student.

273 ~~5.6. The initial payment shall be made after the~~
274 ~~organization's verification of admission acceptance, and~~
275 ~~subsequent payments shall be made upon verification of continued~~
276 ~~enrollment and attendance at the private school.~~ Payment must be
277 by individual warrant made payable to the student's parent or by
278 funds transfer or any other means of payment that the department
279 deems to be commercially viable or cost-effective. If the
280 payment is made by warrant, the warrant must be delivered by the
281 organization to the private school of the parent's choice, and
282 the parent shall restrictively endorse the warrant to the
283 private school. An organization shall ensure that the parent to
284 whom the warrant is made has restrictively endorsed the warrant
285 to the private school for deposit into the account of the
286 private school or that the parent has approved a funds transfer
287 before any scholarship funds are deposited.

288 (b)1. The scholarship amount ~~Scholarships~~ for students
289 determined eligible pursuant to paragraph (3) (b) is as follows:
290 ~~are established for up to 20,000 students annually beginning in~~

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291 ~~the 2021-2022 school year. Beginning in the 2022-2023 school~~
292 ~~year, the maximum number of students participating in the~~
293 ~~scholarship program under this section shall annually increase~~
294 ~~by 1.0 percent of the state's total exceptional student~~
295 ~~education full-time equivalent student enrollment, not including~~
296 ~~gifted students. An eligible student who meets any of the~~
297 ~~following requirements shall be excluded from the maximum number~~
298 ~~of students if the student:~~

299 ~~a. Received specialized instructional services under the~~
300 ~~Voluntary Prekindergarten Education Program pursuant to s.~~
301 ~~1002.66 during the previous school year and the student has a~~
302 ~~current IEP developed by the local school board in accordance~~
303 ~~with rules of the State Board of Education;~~

304 ~~b. Is a dependent child of a member of the United States~~
305 ~~Armed Forces, a foster child, or an adopted child;~~

306 ~~e. Spent the prior school year in attendance at a Florida~~
307 ~~public school or the Florida School for the Deaf and the Blind.~~
308 ~~For purposes of this subparagraph, the term "prior school year~~
309 ~~in attendance" means that the student was enrolled and reported~~
310 ~~by:~~

311 ~~(I) A school district for funding during either the~~
312 ~~preceding October or February Florida Education Finance Program~~
313 ~~surveys in kindergarten through grade 12, which includes time~~
314 ~~spent in a Department of Juvenile Justice commitment program if~~
315 ~~funded under the Florida Education Finance Program;~~

316 ~~(II) The Florida School for the Deaf and the Blind during~~
317 ~~the preceding October or February student membership surveys in~~
318 ~~kindergarten through grade 12;~~

319 ~~(III) A school district for funding during the preceding~~

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320 ~~October or February Florida Education Finance Program surveys,~~
321 ~~was at least 4 years of age when enrolled and reported, and was~~
322 ~~eligible for services under s. 1003.21(1)(c); or~~

323 ~~(IV) Received a John M. McKay Scholarship for Students with~~
324 ~~Disabilities in the 2021-2022 school year.~~

325 2. For a student who has a Level I to Level III matrix of
326 services or a diagnosis by a physician or psychologist, the
327 calculated scholarship amount for a student participating in the
328 program must be based upon the grade level and school district
329 in which the student would have been enrolled as the total funds
330 per unweighted full-time equivalent in the Florida Education
331 Finance Program for a student in the basic exceptional student
332 education program pursuant to s. 1011.62(1)(c)1. and (e)1.c.,
333 plus a per full-time equivalent share of funds for all
334 categorical programs, as funded in the General Appropriations
335 Act, except that for the exceptional student education
336 guaranteed allocation as provided in s. 1011.62(1)(e)1.c. and
337 2., the funds must be allocated based on the school district's
338 average exceptional student education guaranteed allocation
339 funds per exceptional student education full-time equivalent
340 student.

341 b.3. For a student with a Level IV or Level V matrix of
342 services, the calculated scholarship amount must be based upon
343 the school district to which the student would have been
344 assigned as the total funds per full-time equivalent for the
345 Level IV or Level V exceptional student education program
346 pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time
347 equivalent share of funds for all categorical programs, as
348 funded in the General Appropriations Act.

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349 ~~c.4.~~ For a student who received a Gardiner Scholarship
350 pursuant to s. 1002.385 in the 2020-2021 school year, the amount
351 shall be the greater of the amount calculated pursuant to sub-
352 subparagraph a. ~~subparagraph 2.~~ or the amount the student
353 received for the 2020-2021 school year.

354 ~~d.5.~~ For a student who received a John M. McKay Scholarship
355 pursuant to s. 1002.39 in the 2020-2021 school year, the amount
356 shall be the greater of the amount calculated pursuant to sub-
357 subparagraph a. ~~subparagraph 2.~~ or the amount the student
358 received for the 2020-2021 school year.

359 ~~2.6.~~ ~~Upon notification from an organization on July 1,~~
360 ~~September 1, December 1, and February 1 that an application has~~
361 ~~been approved for the program, the department shall verify that~~
362 ~~the student is not prohibited from receiving a scholarship~~
363 ~~pursuant to subsection (6).~~ The organization must provide the
364 department with the documentation necessary to verify the
365 student's participation.

366 ~~3.7.~~ Upon receiving the documentation ~~verification~~, the
367 department shall release, from state funds only, the student's
368 scholarship funds to the organization, to be deposited into the
369 student's account in four equal amounts no later than September
370 1, November 1, February 1, and April 1 of each school year in
371 which the scholarship is in force.

372 ~~4.8.~~ Accrued interest in the student's account is in
373 addition to, and not part of, the awarded funds. Program funds
374 include both the awarded funds and accrued interest.

375 ~~5.9.~~ The organization may develop a system for payment of
376 benefits by funds transfer, including, but not limited to, debit
377 cards, electronic payment cards, or any other means of payment

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378 which the department deems to be commercially viable or cost-
379 effective. A student's scholarship award may not be reduced for
380 debit card or electronic payment fees. Commodities or services
381 related to the development of such a system must be procured by
382 competitive solicitation unless they are purchased from a state
383 term contract pursuant to s. 287.056.

384 ~~6.10.~~ Moneys received pursuant to this section do not
385 constitute taxable income to the qualified student or the parent
386 of the qualified student.

387 Section 2. Paragraphs (e), (f), and (n) of subsection (6),
388 paragraph (b) of subsection (8), paragraph (d) of subsection
389 (9), and paragraph (c) of subsection (11) of section 1002.395,
390 Florida Statutes, are amended to read:

391 1002.395 Florida Tax Credit Scholarship Program.—

392 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
393 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
394 organization:

395 (e) Must give first priority to eligible renewal students
396 who received a scholarship from an eligible nonprofit
397 scholarship-funding organization or from the State of Florida
398 during the previous school year. The eligible nonprofit
399 scholarship-funding organization must fully apply and exhaust
400 all funds available under this section and s. 1002.40(11)(h) ~~s.~~
401 ~~1002.40(11)(i)~~ for renewal scholarship awards before awarding
402 any initial scholarships.

403 (f) Must provide a renewal or initial scholarship to an
404 eligible student on a first-come, first-served basis unless the
405 student qualifies for priority pursuant to paragraph (e). Each
406 eligible nonprofit scholarship-funding organization must refer

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407 any student eligible for a scholarship pursuant to this section
408 who did not receive a renewal or initial scholarship based
409 solely on the lack of available funds under this section and s.
410 1002.40(11)(h) ~~s. 1002.40(11)(i)~~ to another eligible nonprofit
411 scholarship-funding organization that may have funds available.

412 (n) Must prepare and submit quarterly reports to the
413 Department of Education pursuant to paragraph (9)(h) ~~(9)(i)~~. In
414 addition, an eligible nonprofit scholarship-funding organization
415 must submit in a timely manner any information requested by the
416 Department of Education relating to the scholarship program.

417
418 Information and documentation provided to the Department of
419 Education and the Auditor General relating to the identity of a
420 taxpayer that provides an eligible contribution under this
421 section shall remain confidential at all times in accordance
422 with s. 213.053.

423 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
424 private school may be sectarian or nonsectarian and must:

425 (b)1. Annually administer or make provision for students
426 participating in the scholarship program in grades 3 through 10
427 to take one of the nationally norm-referenced tests identified
428 by the Department of Education or the statewide assessments
429 pursuant to s. 1008.22. Students with disabilities for whom
430 standardized testing is not appropriate are exempt from this
431 requirement. A participating private school must report a
432 student's scores to the parent. A participating private school
433 must annually report by August 15 the scores of all
434 participating students to a state university described in
435 paragraph (9)(e) ~~(9)(f)~~.

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436 2. Administer the statewide assessments pursuant to s.
437 1008.22 if a private school chooses to offer the statewide
438 assessments. A participating private school may choose to offer
439 and administer the statewide assessments to all students who
440 attend the private school in grades 3 through 10 and must submit
441 a request in writing to the Department of Education by March 1
442 of each year in order to administer the statewide assessments in
443 the subsequent school year.

444

445 If a private school fails to meet the requirements of this
446 subsection or s. 1002.421, the commissioner may determine that
447 the private school is ineligible to participate in the
448 scholarship program.

449 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
450 Education shall:

451 ~~(d) Cross-check the list of participating scholarship~~
452 ~~students with the public school enrollment lists to avoid~~
453 ~~duplication.~~

454 (11) SCHOLARSHIP AMOUNT AND PAYMENT.—

455 ~~(c) An eligible nonprofit scholarship funding organization~~
456 ~~shall obtain verification from the private school of a student's~~
457 ~~continued attendance at the school for each period covered by a~~
458 ~~scholarship payment.~~

459 Section 3. Paragraph (a) of subsection (8), paragraph (e)
460 of subsection (10), and paragraph (e) of subsection (11) of
461 section 1002.40, Florida Statutes, are amended to read:

462 1002.40 The Hope Scholarship Program.—

463 (8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
464 shall:

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465 ~~(a) Cross check the list of participating scholarship~~
466 ~~students with the public school enrollment lists to avoid~~
467 ~~duplication.~~

468 (10) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
469 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
470 organization may establish scholarships for eligible students
471 by:

472 (e) Preparing and submitting quarterly reports to the
473 department pursuant to paragraph (8)(b) ~~(8)(e)~~. In addition, an
474 eligible nonprofit scholarship-funding organization must submit
475 in a timely manner any information requested by the department
476 relating to the program.

477 (11) FUNDING AND PAYMENT.—

478 ~~(c) An eligible nonprofit scholarship-funding organization~~
479 ~~shall obtain verification from the private school of a student's~~
480 ~~continued attendance at the school for each period covered by a~~
481 ~~scholarship payment.~~

482 Section 4. This act shall take effect July 1, 2022.