

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/CS/HB 1403 School Choice

**SPONSOR(S):** Education & Employment Committee and Choice & Innovation Subcommittee, Tomkow and others

**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 7048

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**FINAL HOUSE FLOOR ACTION:** 89 Y's

18 N's

**GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/CS/HB 1403 passed the House on February 1, 2024. The bill was amended in the Senate on March 6, 2024, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on March 7, 2024.

The bill expands eligibility for the Family Empowerment Scholarship (FES) and Florida Tax Credit Scholarship (FTC) programs to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida or whose home of record or state of residence, at the time of renewal, is Florida. The bill provides that enrollment at a private school at least 2 days a week under a Personalized Education Program student learning plan does not constitute full-time enrollment for eligibility purposes. Additionally, the bill increases the growth rate of the Family Empowerment Scholarship for students with disabilities (FES-UA) scholarship program cap from 3 percent to 5 percent, while providing an automatic increase of 1 percent based on demand.

The bill establishes scholarship application and renewal deadlines for Scholarship Funding Organizations (SFO) and parents. The deadlines prioritize disbursing scholarship funds to renewal students prior to new students, and authorizes FTC funds to be used for full-time private school scholarships year-round, as long as funds remain. The bill codifies deadlines for the disbursement of funds for the FES scholarship program and requires a SFO to make payment for tuition and fees for full-time enrollment within specified time frames.

The bill updates the quarterly reporting requirements for SFOs to include information on applications received, application review timeframes, reimbursements received, and reimbursement processing timeframes. Additionally, the bill requires a SFO to establish a process to collect input and feedback from parents, private schools, and providers before implementing substantial modifications or enhancements to the reimbursement process. The bill requires a SFO to develop a purchasing handbook, specifying prohibited items and items requiring preauthorization, for submission to the Department of Education (DOE) and authorizes DOE to fine a SFO for noncompliance. The bill requires the Center for Students with Unique Abilities to develop appropriate purchasing guidelines for recipients of the FES-UA scholarship. The bill also clarifies several authorized uses of scholarship funds, including, transition services for the FES-UA.

The bill repeals the scholarship portion of the Hope Scholarship Program, but maintains requirements for parental notification of the opportunity to enroll at another public school and scholarship eligibility to attend an eligible private school under the FES and FTC scholarship programs for students subjected to a specified incident, such as bullying or harassment, and shifts the tax credits to the FTC scholarship program. The bill clarifies that public school students receiving the New Worlds Scholarship remain eligible for transportation scholarships under the FES and FTC scholarship programs.

There is no fiscal impact on state government expenditures beyond what is accounted for in the Fiscal Year 2024-2025 General Appropriations Act. See Fiscal Comments.

The bill was approved by the Governor on May 9, 2024, ch. 2024-163, L.O.F., and will become effective on July 1, 2024, except as expressly provided in the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME:

DATE:

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Background

For decades, Florida has been a national leader in providing high quality education options for its parents and students. In addition to a myriad of public options, Florida offers scholarship programs that allow parents of eligible students to register and attend private schools that may better serve a student's particular needs or to provide educational options for students with disabilities or receiving parent-directed instruction. The three scholarship programs, include:

- The Family Empowerment Scholarship Program, consisting of a scholarship for students attending private school (FES-EO) and a scholarship for students with a disability (FES-UA);<sup>1</sup>
- The Florida Tax Credit Scholarship Program (FTC),<sup>2</sup> consisting of a scholarship for students attending private school and a scholarship for students in a PEP;<sup>3</sup>
- The Hope Scholarship Program (HSP).<sup>4</sup>

Private schools must meet specific criteria in order to be eligible to participate in Florida's scholarship programs<sup>5</sup> and the Department of Education (DOE)<sup>6</sup> and Commissioner of Education (commissioner)<sup>7</sup> are tasked with implementation and oversight responsibilities. Florida's scholarship programs are administered by SFOs approved by the DOE.<sup>8</sup>

### Private School Participation in Scholarship Programs

#### Present Situation

While each scholarship program has unique requirements for private schools, there are common criteria that each private school must meet in order to participate in any of the state's scholarship programs.<sup>9</sup> A private school may be sectarian or nonsectarian, must meet Florida's definition of a private school,<sup>10</sup> be registered with the state, and be in compliance with all the requirements of a private school.<sup>11</sup> Additionally, a private school must:<sup>12</sup>

- comply with 42 U.S.C. s. 2000d which prohibits excluding a person from participation in federally assisted programs on the grounds of race, color, or national origin;
- notify the DOE of its intent to participate in a scholarship program;
- notify the DOE of any changes in the school's name, director, mailing address, or physical location within 15 days of the change;
- provide the DOE or the SFO all required documentation for student registration and payment;
- annually complete and submit to the DOE a notarized scholarship compliance statement that includes certification that all school employees and contracted personnel with direct student contact have undergone required background screening and met the screening standards;
- demonstrate fiscal soundness in accordance with statutory requirements;
- meet applicable state and local health, safety, and welfare laws, codes, and rules;

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<sup>1</sup> Section 1002.394, F.S.; *see also* r. 6A-6.0952, F.A.C.

<sup>2</sup> Section 1002.395, F.S.; *see also* r. 6A-6.0960, F.A.C.

<sup>3</sup> Section 1002.395(7)(b), F.S.

<sup>4</sup> Section 1002.40, F.S.; *see also* r. 6A-6.0951, F.A.C.

<sup>5</sup> Section 1002.421(1), F.S.

<sup>6</sup> Section 1002.421(2), F.S.

<sup>7</sup> Section 1002.421(3), F.S.

<sup>8</sup> *See* ss. 1002.394(11) and 1002.395(6) and (15), F.S.

<sup>9</sup> *See* s. 1002.421, F.S.

<sup>10</sup> *See* s. 1002.01(3), F.S.

<sup>11</sup> Section 1002.421(1), F.S.

<sup>12</sup> Section 1002.421(1)(a)-(s), F.S.; *see also* r. 6A-6.03315, F.A.C.

- employ or contract with teachers that meet specified requirements;
- maintain a physical location in the state at which each student has regular and direct contact with teachers;
- provide to parents, either on a website or in other written form, information regarding the school's programs, services, classroom teacher qualifications, and a statement that a parentally placed private school student with a disability does not have an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school under the Individuals with Disabilities Education Act (IDEA), as amended;
- provide the parent, at least on a quarterly basis, a written report of the student's progress;
- cooperate with a parent who wants a student to participate in Florida's statewide, standardized assessments;
- adopt policies establishing standards of ethical conduct for educational support employees, instructional personnel, and school administrators;
- not be owned or operated by a person or an entity domiciled in, owned by, or in any way controlled by a foreign country of concern or foreign principal, as identified in law.

Regular and direct contact with a teacher for a scholarship student at an eligible private school is defined as a program of instruction that provides for a minimum of 170 actual school instruction days with the required instructional hours under the direct instruction of the private school teacher at the school's approved physical location. This may include occasional off-site activities including the FES-UA transition-to-work plan under the supervision of the private school teacher.<sup>13</sup>

In addition to the requirements above, if a private school receives more than \$250,000 in scholarship funds in one year, the school must hire an independent certified public accountant (CPA) who must verify that the school meets the requirements outlined in the agreed-upon procedures.<sup>14</sup> The procedures are developed jointly with the SFOs, accrediting associations that are members of the Florida Association of Academic Nonpublic Schools, and the DOE,<sup>15</sup> and are reviewed biennially.<sup>16</sup> The procedures must determine whether the school:

- has been verified as eligible by the DOE;
- has an adequate accounting system, financial controls, and a process for deposits and classification of scholarship funds; and
- has properly expended scholarship funds.<sup>17</sup>

A school must submit the CPA's report annually to the SFO that awarded the majority of the scholarship funds by September 15.<sup>18</sup>

If a school fails to meet any of the above requirements, or has consecutive years of material exceptions listed in the CPA's report, the commissioner may determine that the private school is ineligible to participate in a scholarship program.<sup>19</sup>

The commissioner is authorized to permanently deny or revoke the authority of an owner, officer or director to establish or operate a private school in the state and include such individual on the disqualification list<sup>20</sup>, if the commissioner decides that the owner, officer, or director:<sup>21</sup>

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<sup>13</sup> Rule 6A-6.03315, F.A.C.

<sup>14</sup> Section 1002.421(1)(q), F.S.; *see also* Step Up for Students, Agreed Upon Procedures, School Financial Report Requirement, Florida School Choice Programs, *available at* <https://www.stepupforstudents.org/wp-content/uploads/Agreed-Upon-Procedures-2022-2023.pdf>.

<sup>15</sup> Section 1002.395(6)(q)2., F.S.

<sup>16</sup> Section 1002.395(6)(q)1.b., F.S.

<sup>17</sup> Section 1002.395(6)(q), F.S.

<sup>18</sup> Section 1002.421(1)(q), F.S.

<sup>19</sup> Section 1002.421(1), F.S. (flush left provisions and the end of the paragraph).

<sup>20</sup> *See s.* 1001.10(4)(b), F.S.

<sup>21</sup> Section 1002.421(3)(c), F.S.

- is operating or has operated an educational institution in the state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public; or
- has operated an educational institution that closed during the school year.

An individual may be removed from the disqualification list, following the closure of an educational institution, if the individual reimburses the department or SFO the amount of scholarship funds received by the educational institution during the school year in which it closed.<sup>22</sup>

### *Transition-to-work Program*

A transition-to-work program consists of academic instruction, work skills training, and a volunteer or paid work experience.<sup>23</sup> A FES-UA scholarship recipient who has not received a high school diploma or certificate of completion and who is at least 17 years old, but not older than 22 years old, may enroll in a private school's transition-to-work program.<sup>24</sup> A student enrolled in the program must, at a minimum, receive 15 instructional hours at the private school, including both academic and work skills training, and participate in 10 hours of work at a volunteer or paid work experience.<sup>25</sup>

To offer the program, a participating private school must:

- develop a program plan, which includes a description of the academic instruction and work skills training a student will receive and goals for students in the program;
- submit the program plan to the DOE;
- develop a personalized transition-to-work program plan for each student enrolled, ensuring the student, his or her parent and the school principal sign the plan, and submit the plan to the DOE;
- provide a release of liability form signed by the student, his or her parent and a representative of the business offering the volunteer or paid work experience;
- assign a case manager or job coach to visit the student's job site weekly and provide any necessary support and guidance to the student;
- provide quarterly reports explaining the student's progress and performance in the program to the student and his or her parent; and
- maintain accurate attendance and performance records for the student.<sup>26</sup>

### Effect of the Bill

The bill expands the scope of the requirements that participating private schools provide "regular and direct" contact with teachers for students participating in PEP. Current requirements for "regular and direct contact" do not contemplate the instruction of a PEP student directed by his or her parent. Under the bill, regular and direct contact may be satisfied for a PEP student by maintaining contact with teachers at the private school's physical location at least two school days per week and the student learning plan must address the remaining instructional time. The bill provides that enrollment at a private school at least 2 days a week under a Personalized Education Program student learning plan does not constitute full-time enrollment for eligibility purposes.

The bill standardizes the requirements for private schools participating in the state's scholarship programs by requiring participating schools to provide to the SFO all documentation required for a student's participation, including confirmation of the student's admission to the private school, the private school's and student's fee schedules, and any other information required by the SFO to process scholarship payment. Private schools must provide such information by the deadlines established by

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<sup>22</sup> Section 1002.421(3)(c)2., F.S.

<sup>23</sup> Section 1002.394(16), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 1002.394(16)(b), F.S.

<sup>26</sup> Section 1002.394(16)(a), F.S.

the SFO. The bill makes clear that a student is not eligible to receive a quarterly scholarship payment under any of the state's choice scholarship programs if the private school fails to meet the deadlines.

The bill authorizes the DOE to provide guidance to a private school submitting a proposed transition-to-work program plan and provides that the school must consider any guidance provided by the DOE regarding the school's plan.

## **Florida Tax Credit Scholarship Program**

### Present Situation

The FTC was created in 2001 and enables taxpayers to make private, voluntary contributions to a SFO, to expand educational opportunities for families, to include those with limited financial resources, and enables Florida's children to achieve a greater level of excellence in their education.<sup>27</sup> The FTC is funded with contributions to SFOs from taxpayers who receive a tax credit for use against their liability for corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders or alcoholic beverage taxes on beer, wine, and spirits and rental or license fees.<sup>28</sup> The tax credit is equal to 100 percent of the eligible contributions made.<sup>29</sup> SFOs use these contributions to award scholarships for the cost of tuition and fees at an eligible private school or transportation expenses to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned.<sup>30</sup>

The DOE, the Department of Revenue (DOR), and the Division of Alcoholic Beverages and Taxes (DABT) cooperatively administer the FTC.<sup>31</sup>

In 2023, the Legislature expanded eligibility for a FTC scholarship for all Floridians eligible to attend public school in Florida while simultaneously turning the scholarship into an educational savings account by expanding the authorized uses for the FTC scholarship.<sup>32</sup> The expansion served to continue the Legislature's goal of providing Florida's families with the option to pursue the educational opportunities most appropriate for them while maintaining a strong system of public schools for all Floridians.

### *FTC Scholarship Eligibility*

The FTC provides scholarships to students, with priority given to children from low-income families and those who are in foster care or out-of-home care.<sup>33</sup> Contingent upon available funds, a student is initially eligible for a FTC scholarship if the student is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school in Florida.<sup>34</sup>

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<sup>27</sup> Section 1002.395(1)(b), F.S.

<sup>28</sup> Section 1002.395(1) and (5) and s. 212.099(2), F.S. Information and documentation provided to the DOE and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times. Section 1002.395(6), F.S. (flush left provision at end of subsection).

<sup>29</sup> Sections 220.1875(1), 212.099(2), and 1002.395(5), F.S.

<sup>30</sup> Section 1002.395(6)(1), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution. Section 1002.395(2)(e), F.S.

<sup>31</sup> Section 1002.395(5) and (12), F.S.

<sup>32</sup> Section 6, ch. 2023-16, L.O.F.

<sup>33</sup> Section 1002.395(3)(b), F.S. First priority for an initial FTC scholarship must be given to a student whose household income level does not exceed 185 percent of the federal poverty level (FPL) (\$55,500.00 for a family of four for the 2023-2024 school year) or who is in foster care or out-of-home care. Secondary priority for an initial FTC scholarship must be given to a student whose household income level does not exceed 400 percent of the FPL (\$120,000.00 for a family of four for the 2023-2024 school year). *See also* Step Up for Students, *Florida Choice Scholarships FES-EO and FTC*, at 4, available at

[https://go.stepupforstudents.org/hubfs/HANDBOOKS/Parent%20Handbooks/FTC-Parent-Handbook.pdf?\\_gl=1\\*eh7d6g\\*\\_ga\\*MTUxNTEyMDM3Mi4xNzAyODQ3NDAw\\*\\_ga\\_V4KB YBT1HD\\*MTcwMjg1Mjc2Mi4yLjEuMTcwMjg1Mjc2MS4xMS4wLjA](https://go.stepupforstudents.org/hubfs/HANDBOOKS/Parent%20Handbooks/FTC-Parent-Handbook.pdf?_gl=1*eh7d6g*_ga*MTUxNTEyMDM3Mi4xNzAyODQ3NDAw*_ga_V4KB YBT1HD*MTcwMjg1Mjc2Mi4yLjEuMTcwMjg1Mjc2MS4xMS4wLjA).

<sup>34</sup> Section 1002.395(3)(b)1., F.S.

A FTC scholarship may also be awarded to an eligible public school student enrolled in a Florida public school which is different from the school to which the student was assigned or in a lab school, if the school district does not provide the student with transportation to the school.<sup>35</sup> Such a scholarship shall be the greater of \$750 or an amount equal to the school district expenditure per student riding a bus.<sup>36</sup>

A FTC scholarship remains in force until the:<sup>37</sup>

- SFO determines that the student is not eligible for program renewal;
- Commissioner suspends or revokes program participation or use of funds;
- Student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities;
- Student enrolls in a public school, however, if a student enters a Department of Juvenile Justice (DJJ) detention center for a period of no more than 21 days, the student is not considered to have returned to a public school on a full-time basis for that purpose; or
- Student graduates from high school or attains 21 years of age, whichever occurs first.

A student is not eligible for a FTC scholarship while he or she is:

- Enrolled in a public school, including a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program (FEFP);
- Enrolled in a school operating for the purpose of providing educational services to youth in a DJJ commitment program;
- Receiving any other state-sponsored K-12 educational choice scholarship;
- Not having regular and direct contact with his or her private school teachers unless he or she is enrolled in a PEP;
- Participating in a home education program;
- Participating in a private tutoring program unless he or she is enrolled in a PEP; or
- Participating in virtual instruction that receives state-funding pursuant to the student's participation.<sup>38</sup>

### *FTC Scholarship Award Amount*

The scholarship amount awarded to a student who received a scholarship in the 2018-2019 school year, who remains eligible, and who is enrolled in an eligible private school is the greater of:<sup>39</sup>

- the calculated amount for a student to attend an eligible private school is 100 percent of the unweighted full-time equivalent (FTE) basic program funds<sup>40</sup> the student would generate in the school district in which the student resides based on grade level, plus a per-full-time equivalent share of funds for specified FEFP categorical programs;<sup>41</sup> or
- a percentage of the unweighted FTC funding amount for the 2018-2019 state fiscal year as follows:
  - eighty-eight percent of the unweighted FTE for grades K-5;
  - ninety-two percent of the unweighted FTE for grades 6-8; and
  - ninety-six percent of the unweighted FTE for grades 9-12.

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<sup>35</sup> Section 1002.395(6)(d) and (11)(a)3., F.S.

<sup>36</sup> *Id.* The district expenditure per student riding a school bus is the amount determined by the DOE.

<sup>37</sup> Section 1002.395(11)(f)., F.S.

<sup>38</sup> Section 1002.395(4), F.S.

<sup>39</sup> Section 1002.395(11)(a)1., F.S.

<sup>40</sup> Florida Department of Education, *2022-23 Funding for Florida School Districts, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>*. Basic program funds are used to fund kindergarten and grades 1-12.

<sup>41</sup> Section 1002.394(12)(a)1., F.S. Categorical program funds are state funding allocations earmarked for certain programs or initiatives that can only be spent for the specific purposes of those programs or initiatives. These funds comprise a portion of total state funds for public school operations and are in addition to base state FEFP funds. The categoricals included in this calculation are the Discretionary Millage Compression Supplement, the Educational Enrichment Allocation, and the State-Funded Discretionary Supplement. Section 1011.62(5), (7)(a), and (16), F.S.

For students initially eligible in the 2019-2020 and 2020-2021 school years, the calculated scholarship amount is 100 percent of the unweighted FTE basic program funds the student would generate in the school district in which the student resides based on grade level, plus a per-full-time equivalent share of funds for specified FEFP categorical programs.<sup>42</sup>

For the 2022-2023 school year, 100,025 students were funded a FTC private school scholarship<sup>43</sup> and 1,645 students were funded a FTC transportation scholarship.<sup>44</sup> As of February 9, 2024, 128,007 FTC scholarships for students attending private school have been funded for the 2023-2024 school year.<sup>45</sup>

### *Authorized Uses for a FTC Scholarship*

Authorized uses of FTC scholarship funds in an empowerment savings account include:<sup>46</sup>

- Tuition and fees for enrollment in an eligible private school.
- Instructional materials, including digital materials and Internet resources.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Tuition and fees associated with full-time or part-time enrollment in a home education instructional program, an eligible postsecondary educational institution or a program offered by the postsecondary educational institution,<sup>47</sup> an approved preapprenticeship program,<sup>48</sup> a private tutoring program, a virtual program offered by a department-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes but rather attending a public school on a part-time basis.
- Tuition and fees for part-time tutoring services or fees for services by a choice navigator.<sup>49</sup>

### *Personalized Education Program*

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<sup>42</sup> Section 1002.395(11)(a)2., F.S. The FEFP categoricals included in this calculation are the Discretionary Millage Compression Supplement, the Educational Enrichment Allocation, and the State-Funded Discretionary Supplement. Section 1011.62(5), (7)(a), and (16), F.S.

<sup>43</sup> Florida Department of Education, *Florida Tax Credit Scholarship Program: June 2023 Quarterly Report* (June 2023), available at <https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2023-Q-Report.pdf> [hereinafter *June Quarterly Report*].

<sup>44</sup> See email, Step Up for Students (January 8, 2024) and email from AAA (January 9, 2024), on file with the PreK-12 Appropriations Subcommittee.

<sup>45</sup> Department of Education, *FES Educational Options*, on file with the PreK-12 Appropriations Subcommittee.

<sup>46</sup> Section 1002.395(6)(d)2., F.S.

<sup>47</sup> Unless the program is subject to a statutory fee exemption or the dual enrollment scholarship. Additionally, eligible postsecondary educational institution includes approved higher education institutions which participate in distance education through reciprocity agreements. The National Council for State Authorization Reciprocity Agreements (NC-SARA) is a private nonprofit organization with the goal of improving student access to distance learning. NC-SARA helps states, institutions, policymakers, and students understand the purpose and benefits of participating in these reciprocity agreements. There are currently more than 2,200 institutions in 49 member states, including Florida, participating in such reciprocity agreements, greatly expanding access to educational options for Florida's students. NC-SARA, *About NC-SARA*, <https://www.nc-sara.org/about-nc-sara> (last visited Mar. 13, 2024).

<sup>48</sup> Unless the program is subject to a statutory fee exemption. The preapprenticeship program must also comply with all applicable requirements of the DOE pursuant to chapter 1005, F.S.

<sup>49</sup> A choice navigator is defined as an individual who assists parents with the selection, application, and enrollment in educational options that address the academic needs of their student. A choice navigator must be a person who holds a valid Florida educator's certificate, a person who holds an adjunct teaching certificate, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge, or a person certified by a nationally or internationally recognized research-based training program as approved by the DOE. Section 1002.95(2)(b), F.S.

In 2023 the Legislature expanded options for FTC scholarship participation by creating the PEP, a parent directed educational choice option, that must be registered with a SFO that administers FTC scholarships.<sup>50</sup> Students enrolled in a PEP are authorized to participate in the FTC scholarship program and the program satisfies mandatory school attendance requirements.<sup>51</sup> Students in PEP are provided access to the same programs and services as home education program students.<sup>52</sup>

Parents and students receiving a FTC scholarship while participating in PEP must comply with the following requirements:<sup>53</sup>

- Apply to an eligible SFO to participate in the program by a date set by the SFO. The request must be communicated directly to the SFO in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Sign an agreement with the SFO and annually submit a sworn compliance statement to the SFO to satisfy or maintain program eligibility, including eligibility to receive and spend program payments, by:
  - Affirming that the program funds are used only for authorized purposes serving the student's educational needs and that the parent will not receive a payment, refund, or rebate of any funds provided under this section.
  - Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student.
  - Submitting a student learning plan<sup>54</sup> to the SFO and revising the plan, at least annually before program renewal.
  - Requiring the student to take a nationally norm-referenced test identified by the DOE or a statewide, standardized assessment and provide assessment results to the SFO before renewal.
  - Renewing participation in the program each year.
  - Procuring the services necessary to educate the student. When the student receives a scholarship, the district school board is not obligated to provide the student with a free appropriate public education.

For a scholarship student participating in a PEP, a SFO must:<sup>55</sup>

- Maintain a signed agreement from the parent which constitutes compliance with the state's attendance requirements.
- Receive eligible student test scores, and beginning with the 2027-2028 school year, annually report the assessment data to the state university selected by the DOE to analyze such data.
- Provide parents with information, guidance, and support to create and annually update a customized student learning plan for their student. The SFO must maintain the plan and allow parents to electronically submit, access, and revise the plan continuously.
- Upon submission by the parent of an annual student learning plan, fund a scholarship for a student determined eligible.

With regard to a student participating in a PEP, the SFO is prohibited from further regulating, exercising control over, or requiring documentation beyond the requirements prescribed under the law.<sup>56</sup>

The law provides SFOs with the following schedule for funding FTC scholarships to eligible students that are enrolled in PEP:<sup>57</sup>

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<sup>50</sup> Section 1002.01(2), F.S.

<sup>51</sup> Sections 1002.395(7)(b) and 1003.01(13)(f), F.S.

<sup>52</sup> Section 1002.01(2), F.S.

<sup>53</sup> Section 1002.395(7)(b), F.S.

<sup>54</sup> A student learning plan is a customized learning plan developed by a parent, at least annually, to guide instruction for their student and identify the goods and services that are needed to address the academic needs of the student.

<sup>55</sup> Section 1002.395(6)(e), F.S.

<sup>56</sup> Section 1002.395(7)(b), F.S. (flush left provision at the end of the paragraph).

<sup>57</sup> Section 1002.395(6)(d)1., F.S.



- For the 2023-2024 school year, no more than 20,000 scholarships may be funded.
- For the 2024-2025 through 2026-2027 school years, the number of funded scholarships may increase by 40,000 each year.

Beginning with the 2027-2028 school year, and every school year thereafter, every eligible PEP student, contingent on available funds, will have access to an empowerment account to customize their education.<sup>58</sup>

For the 2023-2024 school year, as of February 9, 2024, 19,832 PEP scholarships have been funded.<sup>59</sup>

#### *Responsibilities of FTC Scholarship Recipients Enrolled Full-Time in Private School*

Participation in the FTC scholarship for a student enrolled full-time in a private school requires parents and students to fulfill the following responsibilities:

- Select an eligible private school,<sup>60</sup> apply for admission, and notify the school district when the student is withdrawn from a public school.
- Students must attend school (unless excused by the school for illness or good cause).
- Students and parents must comply with the private school's published policies.
- Meet with the private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before enrollment in the private school.
- Require that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school.<sup>61</sup>
- Parents must approve each payment before the scholarship funds may be deposited.
- Parents must authorize the SFO to access information necessary to determine income eligibility, including information held by state and federal agencies.
- Agree to have the SFO commit scholarship funds on behalf of his or her student for tuition and fees for which the parent is responsible for payment at the private school before using empowerment account funds for additional authorized uses. A parent is responsible for all eligible expenses in excess of the amount of the scholarship.<sup>62</sup>

#### *Disbursement of FTC Scholarship Award*

Each SFO must establish and maintain an empowerment savings account for each eligible student and must maintain records of accrued interest retained in the student's account.<sup>63</sup> The SFO must make a scholarship payment no less frequently than quarterly.<sup>64</sup> A SFO must make scholarship payments by funds transfer (including debit cards, electronic payment cards, or any other means the DOE deems commercially viable or cost-effective).<sup>65</sup> The parent of an eligible student must approve each payment prior to the SFO transferring funds to the account by funds transfer.<sup>66</sup>

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<sup>58</sup> Id.

<sup>59</sup> Department of Education, *FES Educational Options*, on file with the PreK-12 Appropriations Subcommittee.

<sup>60</sup> A private school is eligible to participate in the FTC if they meet statutory criteria for participation in state scholarship programs under s. 1002.421(1), F.S., annually administer or make provisions for students in grades 3 through 10 to participate in one of the nationally norm-referenced tests identified by the DOE or the statewide assessments and report the student's scores to a selected state university, and administer the statewide assessments if the private school chooses to offer the statewide assessments. Section 1002.395(8)(a)-(b), F.S.; *see also* r. 6A-6.03215, F.A.C.

<sup>61</sup> The parent and student may also elect to participate in the statewide, standardized assessment administered by the school district. The parent is responsible for transporting the student to the assessment. Section 1003.394(10)(a)6., F.S.

<sup>62</sup> Section 1002.395(7)(a)1.-8., F.S.

<sup>63</sup> Section 1002.395(6)(d)2., F.S.

<sup>64</sup> Section 1002.395(11)(d), F.S.

<sup>65</sup> Section 1002.395(11)(b), F.S.

<sup>66</sup> Section 1002.395(7)(a)6. and (11)(b), F.S.

The SFO may permit eligible students to use program funds by paying for the authorized use directly, then submitting a reimbursement request to the eligible SFO. However, a SFO is authorized to require the use of an online platform for direct purchases of products so long as this does not limit a parent's choice of curriculum or academic programs. Additionally, if a parent purchases a product identical to one offered by a SFO's online platform for a lower price, the SFO must reimburse the parent the cost of the product. Reimbursements are allowed for items not on the platform.<sup>67</sup>

Additionally, the SFO is required to verify a student's eligibility each fiscal year, prior to funding a scholarship for that fiscal year.<sup>68</sup> The law establishes \$24,000 as the maximum amount a SFO is permitted to maintain in an individual student's empowerment savings account for a FTC scholarship.<sup>69</sup>

A SFO must award for annual or partial-year scholarships an amount equal to or greater than 75 percent of all estimated net eligible contributions and all funds carried forward from the prior state fiscal year remaining after administrative expenses, before funding any scholarships to students determined eligible for a FES-EO scholarship.<sup>70</sup> The SFO is required to submit to the DOE quarterly reports that provide the estimated and actual amounts of the net eligible contributions and all funds carried forward from the prior state fiscal year.<sup>71</sup>

The law permits reimbursements for scholarship program expenditures to continue until the account balance is expended or remaining funds have reverted to the state.<sup>72</sup> However, a student's empowerment savings account must be closed, and any remaining funds will revert to the state, after:

- Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services; or
- Two consecutive fiscal years in which an account has been inactive.<sup>73</sup>

## Effect of the Bill

### *FTC Scholarship Eligibility*

The bill expands eligibility for FTC scholarships to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida or whose home of record or state of residence, at the time of renewal, is Florida. Additionally, any student that received a scholarship under the Hope Scholarship Program scholarship during the 2023-2024 school year is deemed eligible for a FTC scholarship.

The bill clarifies that "enrolled in a public school" for the purposes of scholarship eligibility includes enrollment in the Florida School for Competitive Academics,<sup>74</sup> the Florida Virtual School,<sup>75</sup> and the Florida Scholars Academy.<sup>76</sup> The bill also clarifies that a public school student receiving a scholarship under the New Worlds Scholarship program<sup>77</sup> is authorized to receive a transportation scholarship.

The bill provides that a student participating in FTC who uses scholarship funds to enroll full-time in a private school will have his or her scholarship account closed and remaining funds reverted to the state

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<sup>67</sup> Section 1002.395(6)(u), F.S.

<sup>68</sup> Section 1002.395(6)(l)3., F.S.

<sup>69</sup> Section 1002.395(11)(e), F.S.

<sup>70</sup> Section 1002.395(6)(l)2., F.S.

<sup>71</sup> Section 1002.395(6)(x), F.S.

<sup>72</sup> Section 1002.395(11)(g), F.S.

<sup>73</sup> Section 1002.395(11)(h), F.S.

<sup>74</sup> Section 1002.351, F.S.

<sup>75</sup> Section 1002.37, F.S.

<sup>76</sup> Section 985.619, F.S.

<sup>77</sup> Section 1002.411, F.S.

if the student remains unenrolled at an eligible private school for 30 days. Additionally, the bill clarifies that a student is no longer eligible for a scholarship award if a student enrolls full-time in public school.

### *FTC Scholarship Award*

The bill requires that a SFO establish a process for parents receiving a FTC scholarship for full time private school enrollment to renew their participation, beginning with the 2025-2026 school year, with a renewal timeline beginning February 1 and ending April 30 of the prior school year. Renewal must be contingent on confirmation of admission to an eligible private school. The process must require that parents confirm that the scholarship is being renewed or declined by May 31.

The SFO must establish a process for parents to apply for a new FTC scholarship for the purpose of full time private school enrollment. The process must require that parents confirm that the scholarship is being accepted or declined by a date set by the SFO.

Similarly, the bill requires a SFO to establish a process for parents of students participating in PEP to apply for a new scholarship or renew an existing scholarship. The process must require that renewals and new applications be made between February 1 and April 30, beginning with the school year prior to 2025-2026. The process must require that parents confirm that the scholarship is being accepted, renewed, or declined, as appropriate, by May 31.

The following table presents the new and renewal scholarship application process required under the bill:

<b>Type of Application</b>	<b>Scholarship Program</b>	<b>Application Window</b>	<b>Parent must Accept or Decline by</b>
<b>NEW</b>	FTC PEP	Feb 1 - April 30	May 31
	FTC-Full-time Private	None	Date set by the organization
<b>RENEWAL</b>	FTC PEP	Feb 1 - April 30	May 31
	FTC-Full-time Private		

### *Personalized Education Programs*

Similar to students transferring from out of state, a private school, or home education program, the bill provides that a middle grades student who transfers into the state's public school system from PEP after the beginning of the second term of grade 8 is not required to meet the civics education requirement for promotion from the middle grades if the student's transcript documents passage of three courses in social studies or two year-long courses in social studies that include coverage of civics education

Additionally, if a PEP student transfers to a Florida public high school and the student's transcript shows only course credit in Algebra I or high school reading or English Language Arts (ELA) II or III, the student must pass the statewide, standardized Algebra I end-of-course (EOC) assessment and grade 10 ELA assessment in order to earn a standard high school diploma unless the student earned a comparative or concordant score. If the student's transcript shows a final course grade and course credit in Algebra I, Geometry, Biology I, or United States History, the transferring course final grade and credit shall be honored without the student taking the requisite statewide, standardized EOC assessment and without the assessment results constituting 30 percent of the student's final course grade.

### *Responsibilities of FTC Scholarship Recipients*

A parent applying for, or renewing, a FTC scholarship for a student who will be enrolling in private school full time or for PEP participation must comply with the scholarship application or renewal

processes and requirements established by the SFO, including, but not limited to, application and acceptance deadlines as a part of the parent’s responsibilities for program participation. A parent forfeits participation in the scholarship program for failure to comply with these responsibilities.

The bill clarifies that a parent can only apply for one scholarship at a time, whether under the FTC or FES scholarship programs.

#### *Disbursement of FTC Scholarship Award*

The bill requires that the DOE notify the SFOs of the deadlines for submitting the verified list of eligible students. A SFO must submit the verified list of students and any information requested by the DOE in a timely manner.

The bill aligns the FTC program with the FES program by stating that funds received by parents under the FTC scholarship programs are not income for tax purposes.

### **Family Empowerment Scholarship Program**

#### Present Situation

The FES program provides children of families in Florida with educational options to achieve success in their education, including children of families with limited financial resources, children of law enforcement and military families, and children with disabilities.<sup>78</sup> The scholarship program includes two types of scholarships where one assists eligible students to pay for the tuition and fees associated with attendance at a private school or transportation to another public school (FES-EO), and the other provides access to additional education options for a student with a disability by covering the cost of a variety of approved items, including: contracted services, curriculum, instructional materials, tutoring, specified education programs, and specialized services (FES-UA).<sup>79</sup> Each scholarship has unique student eligibility requirements, program requirements, award calculation methodologies, and allowable expenditures.<sup>80</sup>

In 2023, the Legislature expanded eligibility for the FES-EO scholarship for all Floridians eligible to attend public school in Florida while simultaneously turning the scholarship into an educational savings account by expanding the authorized uses for the FES-EO scholarship.<sup>81</sup> Additionally, while convened in special session in November 2023, the Legislature amended the provisions of the FES-UA statute enabling all applicants determined eligible by the SFO and the DOE to receive a scholarship, notwithstanding any other provision of law, for the 2023-2024 school year.<sup>82</sup>

#### *FES-EO Eligibility*

A student is eligible for a scholarship to attend private school if the student is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a Florida public school.<sup>83</sup>

A FES-EO scholarship remains in force until the:

- SFO determines that the student is not eligible for program renewal;
- commissioner suspends or revokes program participation or use of funds;

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<sup>78</sup> Section 1002.394, F.S.; *see also* r. 6A-6.0952, F.A.C.

<sup>79</sup> Section 1002.394(3)(a) and (3)(b), F.S. The John M. McKay Scholarship for Students with Disabilities Program and the Gardiner Scholarship Program were previously offered as two separate scholarships for students with disabilities before the programs were consolidated under the FES-UA. The Gardiner Scholarship was repealed effective July 1, 2021, s. 2, ch. 2021-27 L.O.F. The McKay Scholarship was repealed effective July 1, 2022, s. 3, ch. 2021-27, L.O.F.

<sup>80</sup> Section 1002.394, F.S.

<sup>81</sup> Section 5, ch. 2023-16, L.O.F.

<sup>82</sup> Section 1, ch. 2023-350, L.O.F.

<sup>83</sup> Section 1002.394(3)(a)1., F.S.

- student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities;
- student enrolls in a public school, however, if a student enters a DJJ detention center for a period of no more than 21 days, the student is not considered to have returned to a public school on a full-time basis for that purpose; or
- student graduates from high school or attains 21 years of age, whichever occurs first.<sup>84</sup>

### *FES-UA Eligibility*

A student is eligible for a FES-UA scholarship if the student:

- is a resident of Florida;
- is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation or is eligible to enroll in kindergarten through grade 12 in a Florida public school;
- has a disability as provided for in law; and
- is the subject of an IEP written in accordance with rules of the State Board of Education (SBE) or with the applicable rules of another state or has received a diagnosis of a disability from a licensed physician, a licensed psychologist, or a physician who holds an active license issued by another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.<sup>85</sup>

A FES-UA scholarship remains in force until the:

- parent does not renew program eligibility;
- SFO determines that the student is not eligible for program renewal;
- commissioner suspends or revokes program participation or use of funds;
- student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities;
- student enrolls in a public school; or
- student graduates from high school or attains 22 years of age, whichever occurs first.<sup>86</sup>

### *Ineligibility for a FES-EO or FES-UA Scholarship*

A student is ineligible for a scholarship under the FES-EO or FES-UA if the student is:<sup>87</sup>

- enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school, or a charter school;
- enrolled in a DJJ commitment program;
- receiving any other state-sponsored K-12 educational choice scholarship;
- not having regular and direct contact with his or her private school teacher, unless the student has an eligible disability and is awarded a scholarship under the FES-UA and the student is enrolled in the private school's transition-to-work program or a home education program;
- participating in a private tutoring program, unless the student has an eligible disability and is awarded a scholarship under the FES-UA; or
- participating in a virtual instruction program that receives state funding pursuant to the student's participation.

### *Number of Available FES-EO and FES-UA Awards*

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<sup>84</sup> Section 1002.394(5)(a)1., F.S.

<sup>85</sup> Section 1002.394(3)(b)1., F.S.

<sup>86</sup> Section 1002.394(5)(b)1., F.S.

<sup>87</sup> Section 1002.394(6)(a)-(f), F.S.

In 2023, the Legislature removed the cap on FES-EO scholarship awards<sup>88</sup> and expanded eligibility for the FES-EO scholarship for all Floridians eligible to attend public school in Florida.

In the 2022-2023 school year, 88,010 FES-EO scholarships were funded to eligible students seeking a scholarship to attend private school<sup>89</sup> and 696 FES-EO transportation scholarships were funded.<sup>90</sup> In the 2023-2024 school year, as of February 9, 2024, 137,222 FES-private school scholarships have been funded<sup>91</sup> and 4,504 FES-EO transportation scholarships have been funded.<sup>92</sup>

In 2023, the Legislature increased the growth rate of the cap on FES-UA scholarship awards from 1 percent of the number of exceptional student education students, excluding gifted students, to 3 percent.<sup>93</sup> During special session in November 2023 the Legislature further expanded the cap on FES-UA scholarships to include all the students determined eligible by the SFO and the DOE for the 2023-2024 school year.<sup>94</sup> For the 2024-2025 school year, and subsequent years, the growth rate for the FES-US scholarships will return to the 3 percent established during the 2023 regular session.<sup>95</sup>

While eligible to participate in the FES-UA program, the following types of students are excluded from the maximum program capacity:<sup>96</sup>

- Students who received specialized instructional services under the VPK program during the previous school year;
- Students who are a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child; or
- Students who spent the prior school year in attendance at a Florida public school or received a McKay Scholarship in the 2021-2022 school year.

In the 2022-2023 school year, 67,326 FES-UA scholarships were funded to eligible students with a disability.<sup>97</sup> In the 2023-2024 school year, as of February 9, 2024, 92,627 FES-UA scholarships have been funded.<sup>98</sup>

#### *Priority for FES-EO Awards*

A participating SFO must award a FES-EO scholarship in accordance with the priorities established in law. For a student seeking a scholarship to attend private school, the award priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level (FPL) or who is in foster care or out-of-home care.<sup>99</sup> A secondary priority must be given to a student whose household income level does exceeds 185 percent of the FPL but is does not exceed 400 percent of the FPL.<sup>100</sup>

#### *Disbursement of FES-EO Scholarships*

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<sup>88</sup> Section 5, ch. 2023-16, L.O.F.

<sup>89</sup> Department of Education, *2022-23 FES EO by District*, on file with the PreK-12 Appropriations Subcommittee.

<sup>90</sup> Department of Education, *2022-23 Florida Education Finance Program Fourth Calculation, Transportation, 4/14/23*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/22-23FEFPFourthCalc.pdf>.

<sup>91</sup> Department of Education, *2023-24 FES Educational Options*, on file with the PreK-12 Appropriations Subcommittee.

<sup>92</sup> Department of Education, *FES Educational Options*, on file with the PreK-12 Appropriations Subcommittee.

<sup>93</sup> Section 1002.394(12)(b)1., F.S.

<sup>94</sup> Section 1, ch. 2023-350, L.O.F.

<sup>95</sup> *Id.*

<sup>96</sup> Section 1002.394(12)(b)1.a.-c., F.S.

<sup>97</sup> Department of Education, *2022-23 FES UA by Eligibility and Grade*, on file with the PreK-12 Appropriations Subcommittee.

<sup>98</sup> Department of Education, *2023-24 FES Unique Abilities*, on file with the PreK-12 Appropriations Subcommittee.

<sup>99</sup> Section 1002.394(3)(a)2.a., F.S.

<sup>100</sup> Section 1002.394(3)(a)2.b., F.S.

A SFO is required to establish and maintain an empowerment account for each eligible student and must maintain records of accrued interest retained in the student's account.<sup>101</sup> The parent of an eligible student must approve each payment prior to the SFO transferring funds to the account by funds transfer.<sup>102</sup>

A SFO may permit a FES-EO student to use program funds by paying for the authorized use directly, then submitting a reimbursement request to the eligible SFO. However, a SFO is authorized to require the use of an online platform for direct purchases of products so long as this does not limit a parent's choice of curriculum or academic programs. Additionally, if a parent purchases a product identical to one offered by a SFO's online platform for a lower price, the SFO must reimburse the parent the cost of the product. Reimbursements are allowed for items not on the platform.<sup>103</sup>

Reimbursements for program expenditures continue until the account balance is expended or remaining funds have reverted to the state.<sup>104</sup> A student's account must be closed, and any remaining funds will revert to the state, after:<sup>105</sup>

- Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services; or
- Two consecutive fiscal years in which an account has been inactive.

Additionally, the SFO is required to verify a student's eligibility each fiscal year, prior to granting a scholarship for that fiscal year.<sup>106</sup> The bill requires the DOE to transfer eligible student scholarship funds, beginning August 1, to an SFO.<sup>107</sup> The cap of \$24,000 is the maximum amount a SFO is permitted to maintain in an individual student's empowerment savings account for a FES-EO scholarship.<sup>108</sup>

#### *FES-EO Award Amount*

The FES-EO is funded through the Florida Education Finance Program (FEFP) with a scholarship awarded by a SFO.<sup>109</sup> A FES-EO scholarship award amount for a student to attend an eligible private school is calculated as 100 percent of the school districts funding per student, including specified categorical funds.<sup>110</sup> The DOE determines the appropriate student scholarship funding amount and cross-checks scholarship students with public school enrollment to avoid duplication.<sup>111</sup>

Upon receiving documentation which verifies a student's participation in the scholarship from the SFO, the DOE must transfer, beginning August 1, scholarship funds to the SFO for disbursement to parents of participating FES-EO students.<sup>112</sup> Initial scholarship payments are made after the SFO verifies the student's admission acceptance to an eligible private school, with all subsequent scholarship payments

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<sup>101</sup> Section 1002.394(11)(a)4., F.S.

<sup>102</sup> Section 1002.394(10)(a)7., F.S.

<sup>103</sup> Section 1002.394(11)(a)5., F.S.

<sup>104</sup> Section 1002.394(5)(a)2.b., F.S.

<sup>105</sup> Section 1002.394(5)(a)2.a., F.S.

<sup>106</sup> Section 1002.394(11)(a)9., F.S.

<sup>107</sup> Section 1002.394(12)(a)3., F.S.

<sup>108</sup> Section 1002.391(12)(a)5., F.S.

<sup>109</sup> Section 1002.394(8)(a), (11)(a), (11)(b), and (12)(a), F.S. The department must notify the SFO that scholarships may not be awarded in a school district in which the scholarship award will exceed 99 percent of the school district's share of the state FEFP funds as calculated by the department. Section 1002.394(8)(a)13., F.S.

<sup>110</sup> Section 1002.394(12)(a)1., F.S.; *see also* Step Up For Students, *Basic Scholarship Amounts for 2023-24*, available at <https://go.stepupforstudents.org/hubfs/Scholarship%20Info/FTC-FES-EO-Scholarship-Award-Amounts-2023-24.pdf>. The categoricals included in this calculation are the Discretionary Millage Compression Supplement, the Educational Enrichment Allocation, and the State-Funded Discretionary Supplement. Section 1011.62(5), (7)(a), and (16), F.S.

<sup>111</sup> Section 1002.394(12)(a)3., F.S.

<sup>112</sup> Section 1002.394(12)(a)4., F.S. Scholarship payments are made to the SFO on or before August 1, November 1, February 1, and April 1 of each year. Rule 6A-6.0952, F.A.C.

occurring upon verification of continued enrollment and attendance at the private school.<sup>113</sup> Parents must approve all payments before the SFO is authorized to transfer funds.<sup>114</sup>

For each FES-EO scholarship, the DOE must cross-check the list of participating scholarship students with public school enrollment and adjust payments to a SFO and school districts based upon these results when the FEFP is recalculated.<sup>115</sup>

### *Responsibilities of FES-EO Recipients*

Parents and students receiving a FES-EO scholarship must fulfill the following responsibilities:<sup>116</sup>

- Select the private school and apply for the admission of his or her student.
- Request the scholarship by a date established by the SFO, in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Inform the applicable school district when the parent withdraws his or her student from a public school to attend an eligible private school.
- Require his or her student participating in the program to remain in attendance throughout the school year unless excused by the school for illness or other good cause.
- Meet with the private school's principal or the principal's designee to review the school's academic programs and policies, customized educational programs, code of student conduct, and attendance policies prior to enrollment.
- Require that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school.<sup>117</sup>
- Approve each payment before the scholarship funds may be deposited by funds transfer. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant.
- Agree to have the organization commit scholarship funds on behalf of his or her student for tuition and fees for which the parent is responsible for payment at the private school before using empowerment account funds for additional authorized uses. A parent is responsible for all eligible expenses in excess of the amount of the scholarship.

### *FES-UA Award Amount*

The FES-UA is funded through the FEFP with a scholarship awarded by a SFO.<sup>118</sup> For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, a FES-UA scholarship award amount is calculated as 100 percent of the school districts funding per student in the basic exceptional student education program, including specified categorical funds.<sup>119</sup> For a student who has a Level IV or Level V matrix of services, a FES-UA scholarship award amount is calculated as

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<sup>113</sup> Section 1002.394(12)(a)4., F.S.

<sup>114</sup> Section 1002.394(10)(a)7. and (12)(a)4., F.S.

<sup>115</sup> Section 1002.394(8)(a)13., F.S. The FEFP is calculated five times throughout the year to arrive at each year's final appropriations. See Florida Department of Education, *2021-22 Funding for Florida School Districts*, at 25, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>.

<sup>116</sup> Section 1003.394(10)(a), F.S.

<sup>117</sup> The parent and student may also elect to participate in the statewide, standardized assessment administered by the school district. The parent is responsible for transporting the student to the assessment. Section 1003.394(10)(a)6., F.S.

<sup>118</sup> Section 1002.394(8)(a), (11)(a), (11)(b), and (12)(a), F.S. The department must notify the SFO that scholarships may not be awarded in a school district in which the scholarship award will exceed 99 percent of the school district's share of the state FEFP funds as calculated by the department. Section 1002.394(8)(a)13., F.S.

<sup>119</sup> Section 1002.394(12)(b)2., F.S.; see also Step Up For Students, *Basic Scholarship Amounts for 2023-24*, available at <https://go.stepupforstudents.org/hubfs/Scholarship%20Info/FES-UA-Scholarship-Award-Amounts-2023-24.pdf>. The FEFP categoricals included in this calculation are the Discretionary Millage Compression Supplement, the Educational Enrichment Allocation, the Exceptional Student Education Guaranteed Allocation, and the State-Funded Discretionary Supplement. Section 1011.62(5), (7)(a), (8), and (16), F.S.



100 percent of the school districts funding per student in the Level IV or Level V exceptional student education program, including specified categorical funds.<sup>120</sup>

For a student that received the Gardiner Scholarship or John M. McKay Scholarship in 2020-2021 school year, the award amount for a FES-UA scholarship must be the greater of the amount the student received in the 2020-2021 school year or the amount calculated for new FES-UA recipients.<sup>121</sup>

Upon receiving documentation which verifies a student's participation in the scholarship from the SFO, the DOE must transfer, beginning September 1, scholarship funds to the SFO for disbursement to parents of participating FES-UA students.<sup>122</sup> Initial scholarship payments are made after the SFO verifies the student's participation.<sup>123</sup>

### *Responsibilities of FES-UA Recipients*

Parents and students receiving a FES-UA scholarship must fulfill the following responsibilities:<sup>124</sup>

- Apply to an eligible SFO to participate in the program by a date set by the SFO in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Sign an agreement with the SFO and annually submit a sworn compliance statement to the SFO to satisfy or maintain program eligibility, including eligibility to receive and spend program payments by:
  - Affirming that the student is enrolled in a program that meets regular school attendance requirements.
  - Affirming that the program funds are used only for authorized purposes serving the student's educational needs; that any prepaid college plan or college savings plan funds contributed will not be transferred to another beneficiary while the plan contains funds contributed from the FES-UA scholarship; and that they will not receive a payment, refund, or rebate of any funds provided under this section.
  - Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education of his or her student by, as applicable:
    - Requiring the student to take a norm-referenced assessment or the statewide, standardized assessment;<sup>125</sup>
    - Providing an annual home education program evaluation; or
    - Requiring the child to take any preassessments and postassessments selected by the provider if the child is 4 years of age and is enrolled in a program provided by an eligible VPK program provider.<sup>126</sup>
  - Affirming that the student remains in good standing with the provider or school if those options are selected by the parent.
  - Enrolling his or her child in a program from a VPK program provider, a school readiness provider, or an eligible private school if either option is selected by the parent.
  - Renewing participation in the program each year.

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<sup>120</sup> Section 1002.394(12)(b)3., F.S.; *see also* Step Up For Students, *Basic Scholarship Amounts for 2023-24*, available at <https://go.stepupforstudents.org/hubfs/Scholarship%20Info/FES-UA-Scholarship-Award-Amounts-2023-24.pdf>. The categoricals included in this calculation are the Discretionary Millage Compression Supplement, the Educational Enrichment Allocation, and the State-Funded Discretionary Supplement. Section 1011.62(5), (7)(a), and (16), F.S.

<sup>121</sup> Section 1002.394(12)(b)4.-5., F.S.

<sup>122</sup> Section 1002.394(12)(b)7., F.S. Scholarship payments are made to the SFO on or before September 1, November 1, February 1, and April 1 of each year. Rule 6A-6.0952, F.A.C.

<sup>123</sup> Section 1002.394(12)(b)6., F.S.

<sup>124</sup> Section 1002.394(10)(b), F.S.

<sup>125</sup> However, students with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determine that standardized testing is not appropriate are exempt from this requirement. Section 1002.394(9)(c), F.S.

<sup>126</sup> A student with disabilities for whom the physician or psychologist who issued the diagnosis or the IEP team determines that a preassessment and postassessment is not appropriate is exempt from this requirement. Section 1003.394(10)(b)2.c.(III), F.S.

- Procuring the services necessary to educate the student.<sup>127</sup>

#### *Authorized uses for FES-EO Awards*

Authorized uses of FES-EO scholarship funds in an empowerment savings account include:<sup>128</sup>

- Tuition and fees at an eligible private school.
- Instructional materials, including digital materials and Internet resources.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Tuition and fees associated with full-time or part-time enrollment in an eligible postsecondary educational institution<sup>129</sup> or a program offered by the postsecondary educational institution,<sup>130</sup> an approved preapprenticeship program,<sup>131</sup> a private tutoring program, a virtual program offered by a department-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes but rather attending a public school on a part-time basis.
- Tuition and fees for part-time tutoring services or fees for services by a choice navigator.

A scholarship in the amount of \$750 or an amount equal to the school district expenditure per student riding a bus, whichever is greater, may also be awarded to an eligible public school student enrolled in a Florida public school which is different from the school to which the student was assigned or in a lab school, if the school district does not provide the student with transportation to the school.<sup>132</sup>

#### *Authorized uses for FES-UA Awards*

A FES-UA scholarship for an eligible student with a disability may be used to cover the following expenses:<sup>133</sup>

- Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices;
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction;
- Specialized services<sup>134</sup> by approved providers or by a hospital in this state which are selected by the parent;

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<sup>127</sup> If such services include enrollment in an eligible private school, the parent must meet with the private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies before his or her student is enrolled. Section 1002.394(10)(b)2.g., F.S.

<sup>128</sup> Section 1002.394(4)(a), F.S.

<sup>129</sup> "Eligible postsecondary educational institution" includes institutions that offer distance learning under a reciprocity agreement. *See, supra*, text accompanying note 47.

<sup>130</sup> Unless the program is subject to a statutory fee exemption or the dual enrollment scholarship.

<sup>131</sup> Unless the program is subject to a statutory fee exemption. The preapprenticeship program must also comply with all applicable requirements of the DOE pursuant to chapter 1005, F.S.

<sup>132</sup> Section 1002.394(12)(a)2., F.S. The district expenditure per student riding a school bus is the amount determined by the DOE.

<sup>133</sup> Section 1002.394(4)(b)1.-15., F.S.

<sup>134</sup> Specialized services may include, but are not limited to, applied behavior analysis services, services provided by speech-language pathologists, occupational therapy services, services provided by physical therapists, or services provided by listening and spoken language specialists.

- Tuition or fees associated with full-time or part-time enrollment in a home education program; an eligible private school; an eligible postsecondary educational institution<sup>135</sup> or a program offered by the postsecondary educational institution; an approved preapprenticeship program;<sup>136</sup> a private tutoring program; a virtual program offered by an approved private online provider; the Florida Virtual School as a private paying student; or an approved online course;
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments;
- Contributions to the Stanley G. Tate Florida Prepaid College Program or the Florida College Savings Program for the benefit of the eligible student;
- Contracted services provided by a public school or school district, including classes;<sup>137</sup>
- Tuition and fees for part-time tutoring services or fees for services provided by a choice navigator;
- Fees for specialized summer education programs or specialized after-school education programs;
- Transition services provided by job coaches;
- Fees for a home education student's annual evaluation of educational progress by a state-certified teacher;
- Tuition and fees for a VPK program or school readiness program offered by an eligible provider;
- Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International; or
- Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

The law establishes a cap of \$50,000 as the maximum amount a SFO is permitted to maintain in an individual student's empowerment savings account for a FES-UA scholarship.<sup>138</sup>

### Effect of the Bill

#### *Provisions Amending both FES-EO and FES-UA Scholarships*

The bill clarifies that the ineligibility of a student based on enrollment in a public school only applies if the student enrolls full-time and that "enrolled in a public school" for the purposes of scholarship eligibility includes enrollment in the Florida School for Competitive Academics,<sup>139</sup> the Florida Virtual School,<sup>140</sup> and the Florida Scholars Academy.<sup>141</sup> The bill also clarifies that a public school student receiving a scholarship under the New Worlds Scholarship program<sup>142</sup> is authorized to receive a transportation scholarship.

The bill requires that a SFO establish a process for parents receiving a FES scholarship to renew their participation, beginning with the 2025-2026 school year, with a renewal timeline beginning February 1 and ending April 30 of the prior school year. Renewal must be contingent on confirmation of admission to an eligible private school. The process must require that a parent confirm that the scholarship will be renewed or declined by May 31.

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<sup>135</sup> "Eligible postsecondary educational institution" includes institutions that offer distance learning under a reciprocity agreement. See, *supra*, text accompanying note 47.

<sup>136</sup> Unless the program is subject to a statutory fee exemption. The preapprenticeship program must also comply with all applicable requirements of the DOE pursuant to chapter 1005, F.S.

<sup>137</sup> While contracted services are considered part-time enrollment, a student who receives services under such a contract is not considered enrolled in a public school for scholarship eligibility purposes.

<sup>138</sup> Section 1002.394(12)(b)10., F.S.

<sup>139</sup> Section 1002.351, F.S.

<sup>140</sup> Section 1002.37, F.S.

<sup>141</sup> Section 985.619, F.S.

<sup>142</sup> Section 1002.411, F.S.

The SFO must establish a process for new FES scholarship applicants, beginning with the 2025-2026 school year, to submit their application beginning no earlier than February 1 of the prior school year until November 15. Applications received by the SFO after this date will be considered, on a first come first served basis, for the following fiscal year. The process must require that a parent confirm that the scholarship will be accepted or declined by December 15.

The bill requires that the SFO, for each renewing scholarship student, verify the student's continued eligibility to participate in the program at least 30 days prior to each quarterly payment. The SFO must submit a verified list of eligible scholarship students to the DOE, by a deadline set by the DOE. Upon receiving the verified list, the DOE must release to the SFO for deposit into the student's account in quarterly payments no later than August 1, November 1, February 1 and April 1.

Similarly, for new scholarship applicants, the SFO must verify a student's eligibility to participate in the program at least 30 days prior to each quarterly payment. The SFO must submit a verified list of eligible scholarship students to the DOE, by a deadline set by the DOE. Upon receiving the verified list, the DOE must release to the SFO for deposit into the student's account in quarterly payments no later than September 1, November 1, February 1, and April 1.

The following table presents the new and renewal scholarship application process and payment schedule required under the bill:

Type of Application	Scholarship Program	Application Window	Parent must Accept or Decline by	1st Quarterly Payment
<b>NEW</b>	FES-EO and FES-UA	Feb 1 - Nov 15	December 15	September 1st
<b>RENEWAL</b>	FES-EO and FES-UA	Feb 1-April 30	May 31	August 1st

The bill clarifies that a parent can only apply for one scholarship at a time, whether under the FES or FTC scholarship programs, and requires a parent applying for, or renewing, a FES-EO or FES-UA scholarship to comply with the scholarship application or renewal processes and requirements established by the SFO, including, but not limited to, application and acceptance deadlines as a part of the parents' responsibilities for program participation. A parent forfeits participation in the scholarship program for failure to comply with these responsibilities.

A participating private school must confirm a student's admission to the private school and provide any other information required by an SFO to process scholarship payments for full-time tuition and fees at the private school.

The DOE's release of state funds for any scholarship under FES by the DOE is contingent on verification that the SFO follows the spend down requirements for eligible contributions under the FTC scholarship program based upon the SFO's submitted verified list of eligible scholarship students.

The bill requires that the SFO make payment for tuition and fees for students enrolled full-time in eligible private schools within 7 days of approval by the parent and private school.

Within 30 days of the release of funds to the SFO, the bill requires the SFO to report to the DOE the amount of funds distributed for student scholarships. If the amount of funds distributed is less than the amount received by the SFO, the DOE is authorized to adjust the amount of subsequent quarterly payments to account for the overpayment.

*FES-EO Scholarship Specific Provisions*

The bill expands eligibility for a FES-EO scholarship to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida.

The bill provides that any student that received a HSP scholarship during the 2023-2024 school year is deemed eligible for a FES-EO scholarship.

The bill requires that a FES-EO scholarship account for a student attending private school full-time must be closed and remaining funds reverted to the state if the student is unenrolled from an eligible private school for 30 days.

### *FES-UA Scholarship Specific Provisions*

The bill establishes for the 2024-2025 school year, 72,615 as the maximum number of FES-UA scholarships.<sup>143</sup> Additionally, the bill expands future access to the FES-UA program, by increasing the growth rate of the cap on the number of eligible FES-UA scholarships to 5 percent of the state's total exceptional student education full-time equivalent student population, not including gifted students. Additionally, the bill provides an acceleration mechanism whereby the growth rate will increase by 1 percent for any year where more than 95 percent of the available FES-UA scholarships were funded the prior year.

The bill expands eligibility for a FES-UA scholarship to the dependent children of an active duty member of the United States Armed Forces who has received permanent change of station orders to Florida or whose home of record or state of residence, at the time of renewal, is Florida and clarifies that a student need only be 3 or 4 years of age during the year in which his or her parent applies for a FES-UA scholarship.

The bill removes the provision of law relating to FES-UA wait list as the newly created application and renewal deadlines and required SFO processes provide the framework for handling all FES-UA applications.

The bill expands the authorized uses for FES-UA scholarship funds to include prekindergarten programs offered by eligible private schools which participate in the state's scholarship programs and offers education to students in any grades K-12.

The bill requires a SFO to notify parents of students receiving a FES-UA scholarship of available state and local services, including, but not limited to, vocational rehabilitation and blind services and defines transition services as a coordinated set of activities which are focused on improving the academic and functional achievement of a student with a disability to facilitate the student's movement from school to post-school activities, based on the specific student's needs.

The bill requires that the parent of a student receiving a FES-UA scholarship that enrolls full-time in a private school, to approve each payment to the eligible private school before scholarship funds may be released to the school. The parent is prohibited from designating any entity or individual associated with the eligible private school as the parent's attorney in fact to approve the transfer. This change aligns the requirements of FES-UA with other scholarship requirements used to pay eligible private school tuition and fees.

## **The Hope Scholarship Program**

### Present Situation

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<sup>143</sup> This number does not include those students statutorily excluded from the FES-UA cap.

In 2018, the Legislature created the HSP to provide the parent of a public school student subjected to a specified incident<sup>144</sup> at school the opportunity to transfer the child to another public school or to request a scholarship for the child to enroll in and attend an eligible private school.<sup>145</sup> A parent may also choose to enroll their child in a public school located outside the district in which the student resides and request a transportation scholarship.<sup>146</sup> The scholarship program is funded by taxpayers who make eligible contributions to SFOs, and in turn, receive a credit against any tax due as a result of the purchase or acquisition of a motor vehicle.<sup>147</sup> Contingent upon available funds, scholarships are awarded on a first-come, first-served basis to eligible students in kindergarten through grade 12 who report an incident to the school principal.<sup>148</sup> Unallocated HSP funds beyond the authorized 5 percent carry forward may be used to fund the FTC Program under certain circumstances.<sup>149</sup>

The DOE is required to contract with an independent entity to provide an annual evaluation of the HSP by:

- reviewing the school bullying education program, climate, and code of student conduct of each public school from which 10 or more students transferred to another public or private school using the HSP to determine areas in the school or school district procedures involving reporting, investigating, and communicating a parent's and student's rights that need improvement;
- reviewing the school bullying prevention education program, climate, and code of student conduct of each public school to which a student transferred if the student was from a school identified above in order to identify best practices and make recommendations to a public school at which the incidents occurred;
- reviewing the performance of participating students enrolled in a private school in which at least 51 percent of the total enrolled students in the prior school year participated in the program and in which there are at least 10 participating students who have scores for tests administered; and
- surveying the parents of participating students to determine academic, safety, and school climate satisfaction and to identify any challenges to or obstacles in addressing the incident or relating to the use of the scholarship.<sup>150</sup>

As of January 8, 2024, 538 HSP scholarships have been funded for the 2023-2024.<sup>151</sup>

### Effect of the Bill

Given the expansion of eligibility under the FTC and FES-EO scholarship programs and the low utilization rate of the HSP, the bill repeals the scholarship funding portion of the Hope Scholarship Program, but maintains requirements for parental notification of the opportunity to enroll at another public school and scholarship eligibility to attend an eligible private school under the FES and FTC scholarship programs for students subjected to a specified incident, such as bullying or harassment.<sup>152</sup> The bill makes it clear that all students who received a HSP scholarship in the 2023-2024 school year are eligible for scholarships under the FTC and FES-EO scholarship programs.

Additionally, the bill maintains the tax credits created for the HSP and transfers the tax credit revenue to the FTC scholarship program to provide additional funding for scholarships under that program. The bill updates the provisions of law governing eligible contributions to the FTC scholarship program to include those eligible contributions previously allocated to the HSP.

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<sup>144</sup> Section 1002.40(3), F.S. A specified incident includes: battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school.

<sup>145</sup> Section 1002.40(1), F.S.

<sup>146</sup> Section 1002.40(6)(a), F.S.

<sup>147</sup> Section 1002.420(2)(d) and (13), F.S.

<sup>148</sup> Section 1002.420(3) and (6), F.S.

<sup>149</sup> See s. 1002.40(13), F.S.

<sup>150</sup> Section 1002.40(8)(d)1.-4., F.S.

<sup>151</sup> Email, Step Up for Students (January 8, 2024), on file with the PreK-12 Appropriations Subcommittee.

<sup>152</sup> A specified incident includes: battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school. Section 1002.40(3), F.S.

## DOE Scholarship Oversight and SFO Administration

### Present Situation

#### *DOE Oversight*

The DOE must fulfill the following responsibilities for all state scholarship programs:<sup>153</sup>

- Annually verify the private schools eligible to participate.
- Establish a toll-free hotline to provide parents and private schools with information about participating in the scholarship programs.
- Establish a process to allow individuals to notify the DOE of violations of state law relating to a scholarship program.
- Annually receive and retain from every participating private school a notarized, sworn compliance statement certifying compliance with state law.
- Coordinate with the entities conducting the health inspections and fire inspections for private schools to obtain copies of the inspection reports directly from the entities.
- Provide, at no cost to the school, the statewide, standardized assessments and any related materials for administering the assessments.
- Conduct site visits to schools entering a scholarship program for the first time. A school is not eligible to receive scholarship funds until a satisfactory site visit is completed and the school complies with all other requirements in law.
- Maintain, and annually publish, a list of nationally norm-referenced tests identified for purposes of satisfying scholarship program assessment requirements.<sup>154</sup>

The DOE is authorized to conduct site visits to any private school participating in a state scholarship program that has received a complaint about a violation of state law or SBE rule or has received a notice of noncompliance or a notice of proposed action within the previous two years.<sup>155</sup> The DOE must annually submit, by December 15, a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which describes its implementation of the accountability measures in the scholarship programs, any substantiated allegations or violations of law or rule by a private school, and the corrective action taken.<sup>156</sup>

The DOE is required to issue a project grant award to a state university, to which participating private schools and SFOs must report the scores of participating scholarship students and PEPs students, respectively, on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10.<sup>157</sup> The state university must annually report to the DOE on the student performance of participating students and, beginning with the 2027-2028 school year, on the performance of personalized education students:<sup>158</sup>

- On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program; and
- On an individual school basis. The annual report must include student performance for each participating private school with any enrolled students participating in the FTC, FES-EO, or HSP program in the prior school year.

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<sup>153</sup> Section 1002.421(2)(a), F.S.

<sup>154</sup> Sections 1002.394(8)(a)3. and 1002.395(9)(e), F.S.

<sup>155</sup> Section 1002.421(2)(b), F.S.

<sup>156</sup> Section 1002.421(2)(c), F.S.

<sup>157</sup> Section 1002.395(9)(f), F.S.

<sup>158</sup> Section 1002.395(9)(f)1., F.S.

The DOE must report, as part of the determination of full-time equivalent membership, all students who are receiving a FES scholarship program and are funded in the FEFP.<sup>159</sup> The DOE must inform SFOs that students may not be submitted for FES funding after February 1, each year.<sup>160</sup> To assist school districts in their budgeting processes, the DOE must report to school districts the consensus estimate of FTC and FES-EO enrollment in the subsequent school year.<sup>161</sup>

### *Scholarship Funding Organizations*

Florida's scholarship programs are administered by DOE-approved SFOs.<sup>162</sup> The DOE is required to have at least two application periods each year in which charitable organizations may apply to participate in the Florida's scholarship programs.<sup>163</sup> A SFO must be a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a Florida based charitable organization that complies with scholarship program requirements.<sup>164</sup> There are currently two SFOs approved to administer the FES-EO, the FES-UA, the FTC, the HSP, and the New Worlds Scholarship programs.<sup>165</sup>

Each SFO administering FES scholarships is required to submit a quarterly report to the DOE containing, at a minimum the following information:

- the number of students participating in the program;
- the demographics of program participants;
- the disability category of program participants;
- the matrix level of services, if known;
- the program award amount per student;
- the total expenditures for the FES-UA authorized purposes;
- the types of providers of services to students; and
- any other information deemed necessary by the department.<sup>166</sup>

Each SFO administering FTC scholarships is required to submit a quarterly report to the DOE containing, at a minimum the following information:

- the number of students participating in the program;
- the private schools at which participating students are enrolled; and
- any other information deemed necessary by the department.<sup>167</sup>

A SFO administering FTC and FES-EO scholarships is required to expend an amount equal to or greater than 75 percent of all estimated net eligible contributions, and all funds carried forward from the prior state fiscal year remaining after administrative expenses before funding any FES-EO

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<sup>159</sup> Section 1002.394(8)(a)2., F.S.

<sup>160</sup> Section 1002.394(8)(a)4., F.S.

<sup>161</sup> Section 1002.394(8)(c), F.S.

<sup>162</sup> Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Mar. 13, 2024).

<sup>163</sup> Section 1002.395(15), F.S.

<sup>164</sup> Section 1002.395(1)(f), F.S.

<sup>165</sup> Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Mar. 13, 2024). Specifically, the A.A.A. Scholarship Foundation administers FTC, FES-EO, PEP, and FES-UA scholarships while Step Up for Students administers FTC, PEP, FES-EO, FES-UA, HOPE, and New Worlds Scholarship Program scholarships. See A.A.A. Scholarship Foundation, *Florida Parents*, <https://www.aaascholarships.org/parents/florida/> (last visited Mar. 13, 2024 ) and Step Up For Students, *Scholarships to Give Florida Students Educational Options*, <https://www.stepupforstudents.org/scholarships/> (last visited Mar. 13, 2024).

<sup>166</sup> Section 1002.394(8)(a)11., F.S.

<sup>167</sup> Section 1002.395(9)(i), F.S.



scholarships. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year.<sup>168</sup>

As a part of their duties of management and distribution of scholarships, a SFO is authorized to use, from tax credit contributions received, up to 3 percent of the total amount of scholarships funded by the SFO for administrative expenses.<sup>169</sup>

To provide guidance to scholarship recipients on allowable expenditures under Florida's scholarship programs, SFOs must participate in a joint development of agreed-upon purchasing guidelines. The jointly developed purchasing guidelines must be provided to the commissioner and published to the SFO's website by December 31, 2023, and annually thereafter.<sup>170</sup> The guidelines remain in effect until there is unanimous agreement to revise the guidelines and the revisions must be provided to the commissioner and published within 30 days of any such revisions.<sup>171</sup>

## Effect of the Bill

### *DOE Oversight*

The bill requires that the DOE notify all SFOs of the deadlines for submitting the verified list of scholarship students and clarifies that in conducting its cross-check of the list of scholarship students provided by a SFO, the DOE must use the full-time equivalent student membership data to avoid duplication.

The bill updates the requirements for the annual report the DOE must require from SFOs to include the following information:

- the number of scholarship applications received, the number of applications processed within 30 days after receipt, and the number of incomplete applications received;
- data related to reimbursement submissions, including the average number of days for a reimbursement to be reviewed and the average number of days for a reimbursement to be approved; and
- any parent input and feedback collected regarding the program.

### *SFO Administration*

The bill requires that each SFO establish a process to collect input and feedback from parents, private schools, and providers before implementing substantial modifications or enhancements to the reimbursement process.

For an SFO administering the FTC scholarship program, the bill requires that a SFO annually expend 100 percent of any eligible contributions from the prior fiscal year and at least 75 percent of eligible contributions during the fiscal year in which they are received.

The bill requires that the calculation of the 25 percent authorized to be carried forward occur on June 30, rather than September 30, as previously authorized. Any funds that are in excess of the authorized 25 percent must be used to provide scholarships or transferred to other SFOs to provide scholarships. The early deadline provided for in the bill will assist in getting available funds to a SFO that can use them for scholarships earlier. These changes will maximize the number of FTC scholarships awarded prior to the award of FES-EO scholarships.

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<sup>168</sup> Section 1002.395(6)(1)2., F.S.

<sup>169</sup> Sections 1003.394(11)(a)4. and 1003.395(6)(j)1., F.S. For SFOs offering FTC scholarships, the organization may use eligible contributions for administrative expenses only if they have had no findings of material weakness or material noncompliance in its annual financial audit for the preceding 3 fiscal years. Section 1003.395(6)(j)1., F.S.

<sup>170</sup> Section 1002.395(6)(t), F.S.

<sup>171</sup> *Id.*

The bill clarifies that new scholarships are awarded on a first-come, first served basis unless income prioritization is selected. The SFO is only required to verify income of parents seeking a priority award.

The bill clarifies the prohibition on an SFO owner or operator also owning or operating a participating private school or for his or her child to receive a choice scholarship.

The bill requires each SFO to develop and submit to the Commissioner of Education, by August 1, 2024, a purchasing handbook that includes policies for the use of scholarship funds. The handbook must include prohibited items, and items or services which require preauthorization or additional documentation. The handbook must be submitted by July 1 annually, and an SFO may be assessed a financial penalty, up to \$10,000, for failure to comply. The bill clarifies that scholarship funds may be used for eligible expenses as authorized in each SFO's purchasing handbook. Additionally, the bill requires that all SFOs assist the Florida Center for Students with Unique Abilities<sup>172</sup> with the development of purchasing guidelines for FES-UA scholarships and to publish the guidelines on the SFO website.

The bill authorizes a charitable organization seeking to be an approved SFO to apply with the DOE at any time, rather than the previous requirement that DOE have at least two application periods.

## **Florida Center for Students with Unique Abilities**

### Present Situation

#### *Background*

In 2016, the Legislature passed the "Florida Postsecondary Comprehensive Transition Program Act" (Act) to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities. Specifically, the Act:

- established a process by which postsecondary institutions may voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- created the Florida Center for Students with Unique Abilities (center) at the University of Central Florida as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families.<sup>173</sup>

#### *Florida Center for Students with Unique Abilities*

The responsibilities of the center include, but are not limited to disseminating information regarding: education programs, services and resources available at eligible institutions; supports, accommodations, technical assistance or training provided by eligible institutions, the advisory council or regional autism centers; and mentoring, networking and employment opportunities; and coordinating, facilitating and overseeing statewide implementation of the FPCTP.<sup>174</sup>

The center provides technical assistance regarding programs and services for students with intellectual disabilities to administrators, instructors and staff at eligible institutions by holding meetings and annual workshops, facilitating collaboration between institutions and school districts, private schools, and parents of students enrolled in home education programs, assisting eligible institutions with applications, and monitoring federal and state law relating to the program.<sup>175</sup>

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<sup>172</sup> See text accompanying notes 172-176, *infra*.

<sup>173</sup> Section 1, ch. 2016-2, L.O.F., *codified at* s. 1004.6495, F.S.

<sup>174</sup> Section 1004.6495(5)(a)-(b), F.S.

<sup>175</sup> Section 1004.6495(5)(d), F.S.

The center, in collaboration with the Board of Governors and the SBE must identify indicators for satisfactory academic progress and performance of FPCTP programs.<sup>176</sup>

The center must report to the Governor, President of the Senate, Speaker of the House of Representatives, Chancellor of the State University System and commissioner, by October 1 of each year, the following:

- status of the statewide coordination and implementation of FPCTP's, including the number of applications approved and disapproved, reasons for each disapproval or no action taken by the Chancellor or Commissioner, number and value of all scholarships awarded and amount of all undisbursed funds;
- indicators identified and performance of each eligible institution;
- projected number of students with intellectual disabilities eligible to enroll within the next academic year; and
- education programs and services for students with intellectual disabilities available at an eligible institution.<sup>177</sup>

### Effect of the Bill

Effective upon becoming law, the bill requires that the center, in collaboration with SFOs and scholarship parents of a student with a disability, to develop the purchasing guidelines to be used by the SFOs administering FES-UA scholarships. The initial purchasing guidelines must be published by July 1, 2024, and, thereafter, revised guidelines must be published annually by July 1. The guidelines must include prohibited items and services as well as items that require preauthorization or additional documentation.

### **Virtual Instruction Programs**

#### Present Situation

Virtual instruction programs are programs of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time, space, or both.<sup>178</sup> Under Florida law<sup>179</sup>, a school district must establish multiple opportunities for student participation in part-time and full-time kindergarten through grade 12 virtual instruction. Options include, but are not limited to:

- School district operated part-time or full-time virtual instruction programs for kindergarten through grade 12 students enrolled in the school district. A full-time program must operate under its own Master School Identification Number.
- Florida Virtual School instructional services.
- Blended learning instruction provided by charter schools.
- Virtual charter school instruction.
- Courses delivered in the traditional school setting by personnel providing direct instruction through virtual instruction or through blended learning courses consisting of both traditional classroom and online instructional techniques.
- Virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state.<sup>180</sup>

School districts are required to provide at least one option for part-time and full-time virtual instruction for students residing within the school district.<sup>181</sup> School districts must also provide parents with timely

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<sup>176</sup> Section 1004.6495(8)(a), F.S.

<sup>177</sup> Section 1004.6495(8)(b), F.S.

<sup>178</sup> Section 1002.45(1)(a)3., F.S.

<sup>179</sup> Chapter 2011-137, L.O.F.

<sup>180</sup> Section 1002.321(3), F.S.

<sup>181</sup> Section 1002.45(1)(b)1., F.S.

written notification of at least one open enrollment period for full-time students of 90 days or more which ends 30 days before the first day of the school year.<sup>182</sup> The DOE must annually publish on its website a list of providers approved by the SBE to offer virtual instruction programs in this state.<sup>183</sup> To be approved, a virtual instruction program provider must document that it is nonsectarian in its programs, admission policies, employment practices, and operations.<sup>184</sup>

School district virtual instruction programs must meet the following requirements:<sup>185</sup>

- Align virtual course curriculum and course content to the state academic standards.
- Offer instruction that is designed to enable a student to gain proficiency in each virtual instruction course of study.
- Provide each student enrolled in the virtual instruction program with all the necessary instructional materials.
- Provide each full-time student enrolled in the virtual instruction program who qualifies for free or reduced-price school lunches under the National School Lunch Act, or who is on the direct certification list, and who does not have a computer or Internet access in his or her home with:
  - All equipment necessary for participants in the virtual instruction program, including, but not limited to, a computer, computer monitor, and printer, if a printer is necessary to participate in the virtual instruction program; and
  - Access to or reimbursement for all Internet services necessary for online delivery of instruction.

In 2023, the Legislature removed the requirement that a student take at least one online course in order to graduate with a standard high school diploma.<sup>186</sup>

#### Effect of the Bill

The bill removes the requirement for a virtual provider to document that it is nonsectarian in its programs, admission policies, employment practices, and operations.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

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<sup>182</sup> *Id.*

<sup>183</sup> Section 1002.45(2)(a), F.S.

<sup>184</sup> Section 1002.45(2)(a)1., F.S.

<sup>185</sup> Section 1002.45(3), F.S.

<sup>186</sup> Chapter 2023-16, L.O.F.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Education Estimating Conference for the PreK-12 Enrollment met on February 21, 2024, and adopted the forecast of full-time equivalent (FTE) student enrollments for Fiscal Year 2024-2025; this forecast includes both public school FTE students and FES FTE students. For the FES-UA scholarship, the forecast includes 98,932 scholarship students for Fiscal Year 2024-2025, of which 62,247 are included within the statutorily-calculated cap; this cap is based on the 3 percent annual increase provision. Changing the 3 percent annual increase to 5 percent allows for an additional 10,368 FES-UA scholarship students and adjusts the Fiscal Year 2024-2025 cap to 72,615.

However, based upon information provided by the Office of Economic and Demographic Research (EDR),<sup>187</sup> there is a gap between the FES-UA cap and actual participation which is expected to continue throughout the forecast; therefore, there is no fiscal impact on raising the annual increase to 5 percent.

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<sup>187</sup> Email, Office of Economic and Demographic Research, (February 22, 2024), on file in the PreK-12 Appropriations Subcommittee.