

**1002.421 Accountability of private schools participating in state school choice scholarship programs.—**

(1) A Florida private school participating in the Florida Tax Credit Scholarship Program established pursuant to s. [1002.395](#) or an educational scholarship program established pursuant to this chapter must comply with all requirements of this section in addition to private school requirements outlined in s. [1002.42](#), specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools.

(2) A private school participating in a scholarship program must be a Florida private school as defined in s. [1002.01](#)(2), must be registered in accordance with s. [1002.42](#), and must:

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

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

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

(d) Complete student enrollment and attendance verification requirements, including use of an online attendance verification form, prior to scholarship payment.

(e) Annually complete and submit to the department a notarized scholarship compliance statement certifying that all school employees and contracted personnel with direct student contact have undergone background screening pursuant to s. [943.0542](#).

(f) Demonstrate fiscal soundness and accountability by:

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

2. Requiring the parent of each scholarship student to personally restrictively endorse the scholarship warrant to the school. The school may not act as attorney in fact for the parent of a scholarship student under the authority of a power of attorney executed by such parent, or under any other authority, to endorse scholarship warrants on behalf of such parent.

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

1. Firesafety.

2. Building safety.

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

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

1. An “employee or contracted personnel with direct student contact” means any employee or contracted personnel who has unsupervised access to a scholarship student for whom the private school is responsible.

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

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

4. An employee or contracted personnel holding a valid Florida teaching certificate who has been fingerprinted pursuant to s. [1012.32](#) is not required to comply with the provisions of this paragraph.

(3)(a) All fingerprints submitted to the Department of Law Enforcement as required by this section shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated biometric identification system authorized by s. [943.05\(2\)\(b\)](#). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. [943.051](#).

(b) The Department of Law Enforcement shall search all arrest fingerprints received under s. [943.051](#) against the fingerprints retained in the statewide automated biometric identification system under paragraph (a). Any arrest record that is identified with the retained fingerprints of a person subject to the background screening under this section shall be reported to the employing school with which the person is affiliated. Each private school participating in a scholarship program is required to participate in this search process by informing the Department of Law Enforcement of any change in the employment or contractual status of its personnel whose fingerprints are retained under paragraph (a). The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each private school for performing these searches and establishing the procedures for the retention of private school employee and contracted personnel fingerprints and the dissemination of search results. The fee may be borne by the private school or the person fingerprinted.

(c) Employees and contracted personnel whose fingerprints are not retained by the Department of Law Enforcement under paragraphs (a) and (b) are required to be refingerprinted and must meet state and national background screening requirements upon reemployment or reengagement to provide services in order to comply with the requirements of this section.

(d) Every 5 years following employment or engagement to provide services with a private school, employees or contracted personnel required to be screened under this section must meet screening standards under s. [435.04](#), at which time the private school shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for national processing. If the fingerprints of employees or contracted personnel are not retained by the Department of Law Enforcement under paragraph (a), employees and contracted personnel must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the private school shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for national processing, and the fingerprints shall be retained by the Department of Law Enforcement under paragraph (a).

(4) A private school that accepts scholarship students under s. [1002.39](#) or s. [1002.395](#) must:

(a) Disqualify instructional personnel and school administrators, as defined in s. [1012.01](#), from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment under s. [1012.315](#).

(b) Adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. [1012.01](#), to complete training on the standards; establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. [39.203](#) and [768.095](#). A private school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide the instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

(c) Before employing instructional personnel or school administrators in any position that

requires direct contact with students, conduct employment history checks of each of the personnel's or administrators' previous employers, screen the personnel or administrators through use of the educator screening tools described in s. [1001.10\(5\)](#), and document the findings. If unable to contact a previous employer, the private school must document efforts to contact the employer.

The department shall suspend the payment of funds under ss. [1002.39](#) and [1002.395](#) to a private school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies.

(5) The inability of a private school to meet the requirements of this section shall constitute a basis for the ineligibility of the private school to participate in a scholarship program as determined by the department.

(6) The inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(7) The State Board of Education shall adopt rules pursuant to ss. [120.536\(1\)](#) and [120.54](#) to administer this section.

**History.**—s. 3, ch. 2006-75; s. 16, ch. 2008-108; s. 7, ch. 2009-108; s. 16, ch. 2010-24; s. 68, ch. 2013-116.