



## Florida Tax Credit Scholarship Accountability

Since its creation in 2001, the Florida Tax Credit Scholarship has undergone a continuing series of revisions that have expanded the program and strengthened accountability measures. The sweep of those changes may well be reflected in a simple computation of length. In 2001, the main law was 1,332 words. In 2019, it was 11,833. (They are codified in two sections: F.S. 1002.395 and 1002.421.)

### Academic

- All scholarship students in grades 3 through 10 must take a nationally norm-referenced test approved by DOE or the statewide assessment.
- Most students, 55 percent, take the Stanford Achievement, another 25 percent take the Iowa Test of Basic Skills, and 13 percent take the Terra Nova.
- Schools must submit test results to an independent research organization, contracted by DOE.
- The research organization, which is currently the Learning Systems Institute at Florida State University, must report on the “student performance” of participating students.
- Statewide learning gains for reading and math are reported publicly for students who are in grades 3-10 with a prior-year test score from the same school.
- Learning gains or losses are reported for participating school with at least 30 students meeting the criteria.
- Schools must provide parents quarterly progress reports and publish qualifications of teachers.

### Financial

- To participate in the FTC program, private schools must be in operation for at least three years or obtain a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter.
- Any FTC school receiving more than \$250,000 from any scholarship source in a school year must submit a financial report completed by an independent certified accountant. Material exceptions found in financial reports must be forwarded to the DOE for further review.
- Schools must provide Scholarship Funding Organizations (SFOs), upon request, all documentation required for the student's participation, including the private school's and student's fee schedules.
- Parent must restrictively endorse the scholarship check to the school each quarter.
- SFOs “must provide to the Auditor General and the Department of Education an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and in accordance with rules adopted by the Auditor General.”
- SFOs must complete an operational audit by the Auditor General annually.
- SFOs must obtain a surety bond or letter of credit.
- SFOs cannot carry forward more than 25 percent of net eligible contributions from one year to the next.

### Regulatory (schools)

- Schools cannot discriminate on the basis of race, color or national origin.
- School owners and operators must submit to a Level 2 criminal background check. “It shall be unlawful for a person who has been convicted of a crime involving moral turpitude to own or operate a private school.”
- Schools must assure that “each employee and contracted personnel with direct student contact” is submitted to a criminal background check and fired if any of a lengthy list of crimes is discovered.
- School owners and operators, cannot be arrested for, awaiting final disposition for, plead nolo contendere to or convicted of certain felonies including Medicaid fraud, bank fraud, mail or wire fraud, check fraud, credit card fraud, insurance fraud, forgery and more.

## **Regulatory (schools continued)**

- School owners, operators and employees with student contact must pass a Level 2 background check and cannot be arrested for, awaiting final disposition for, plead nolo contendere to or convicted of certain felonies listed in [435.04](#).
- Schools must meet all applicable state and local health, safety, and welfare laws, codes, and rules, and fire and building safety codes.
- Requires state Fire Marshall to send school fire inspection reports to DOE
- Requires DOE to receive school health safety reports directly from inspecting agency.
- Schools must “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.”
- Schools must keep a register of enrollment and attendance and report the information to DOE.
- Schools must adopt and adhere to “standards of ethical conduct” to guard against misconduct with students. A school may not sign any confidentiality agreement with a staff member that hides alleged misconduct.
- DOE will conduct site visits of all schools participating in a scholarship program for the first time. In 2019-20, schools which will be participating in a scholarship program for the first time must have a satisfactory site visit before the school can receive scholarship funds.
- DOE may visit any school that has received complaint of violation of state law or a notice of noncompliance during the previous two years.
- Owners or operators deemed ineligible may not transfer ownership to a relative and may not open a new school under a new name or location to avoid revocation.

## **Regulatory (SFOs)**

- SFOs must allow students to attend any eligible private school.
- SFOs may not restrict or reserve scholarships for use at a particular private school.
- SFOs must allow students to transfer scholarships to any eligible private school.
- SFOs must comply with Federal antidiscrimination provisions of 42 U.S.C. s. 2000d and must provide scholarships to any eligible student when funds are available.
- SFOs must document each student’s eligibility each year.
- SFO owners cannot have filed for bankruptcy in the previous seven years.
- SFO owners and operators cannot own or operate an eligible school.
- SFO owners and operators must submit to a Level 2 criminal background check.
- SFOs receive 3 percent administrative allowance only if they can first produce three years of clean audits. The covered expenses must be “reasonable and necessary,” and no more than one-third can be spent for fundraising.

## **Continuous Improvement – regulatory changes and additions since 2010:**

### **2010: SB 2126**

- Require schools receiving more than \$250,000 in scholarship funds to submit a financial report completed by a certified accountant.
- Publicly disclose the standardized test score gains of any school with at least 30 students who have current and prior-year scores from the same school.
- Allow the state education commissioner to deny scholarship participation to any whose owner or operator “has operated an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety and welfare of the public.”

### **2012: HB 859**

- Allow the Department of Education to visit any scholarship school at any time if the school has received a notice for regulatory violations in the previous two years.
- Allow the education commissioner to revoke scholarship participation to any school that has “exhibited a pattern” of violating regulatory standards.

## **Continuous Improvement (continued)**

### **2014: SB 850**

- Require Auditor General to annually audit all active Scholarship Funding Organizations. This is in addition to the requirement that each SFO submit to the state each year an independent audit by a private firm.
- Require SFOs to re-apply annually to the state Board of Education and to post surety bonds. Expand the list of criminal offenses for which SFO operators would be disqualified from participation.

### **2016: SB 672**

- SFOs must not have material weakness or material noncompliance during the previous three years in order to receive a 3 percent allowance for administrative expenses.
- SFOs may not charge application fees.

### **2017: HB 15**

- Private schools may become ineligible to receive scholarships if consecutive years of material exceptions are found in their annual financial reports.

### **2018: HB 7055**

- Strikes DOE school visitation limits from statutes. Requires DOE to conduct site visits of all schools participating in a scholarship program for the first time. In 2019-20, schools which will be participating in a scholarship program for the first time must have a satisfactory site visit before the school can receive scholarship funds.
- Requires state Fire Marshall to send school fire inspection reports to DOE.
- Requires DOE to receive health safety reports directly from inspecting agency.
- Schools must notify parents of ownership changes, provide quarterly progress reports, and publish the qualifications of teachers.
- Owners or operators deemed ineligible may not transfer ownership to a relative and may not open a new school under a new name or location to avoid revocation.
- Revises list of felony accusations and convictions that prohibit employment as private school owner or operator, adding Medicaid fraud, forgery, credit card fraud, bank fraud, insurance fraud and more.