

**STATE BOARD OF EDUCATION**

**Action Item**

July 18, 2018

**SUBJECT:** Amendment to Rule 6A-6.03315, Private School Scholarship Compliance

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**PROPOSED BOARD ACTION**

For Approval

**AUTHORITY FOR STATE BOARD ACTION**

Section 1002.421, Florida Statutes

**EXECUTIVE SUMMARY**

House Bill 7055, which was passed during the 2018 legislative session, revised and strengthened the compliance and accountability requirements for private schools participating in the state K12 scholarship programs authorized under Chapter 1002, Florida Statutes. The proposed rule incorporates the new requirements and is aligned with section 1002.421, Florida Statutes. Specifically, the proposed rule:

1. Updates the Scholarship Compliance Form (IEPC SCF-1) to include additional accountability provisions pursuant to section 1002.421, Florida Statutes.
2. Updates and revises the eligibility requirements and process for a private school's initial application to participate in the state scholarship programs, including the requirement that the department must conduct a site visit to all newly participating private schools.
3. Updates and revises the eligibility renewal requirements and process for private schools participating in the state scholarship programs.
4. Implements deadlines for schools to apply to participate in the state scholarship programs.
5. Specifies a formal complaint and inquiry process and incorporates the Complainant Statement form (IEPC-CS1).

A rule development workshop was held on June 14, 2018.

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**Supporting Documentation Included:** Proposed Rule 6A-6.03315, F.A.C.; IEPC SCF-1; and IEPC-CS1

**Facilitator/Presenter:** Adam Miller, Executive Director, Office of Independent Education and Parental Choice



**6A-6.03315 Private School Scholarship Compliance.**

~~Compliance reporting requirements for the participation of a Florida private school registered with the Department of Education to be determined eligible to participate in one or more state scholarship program(s) are specified in Form IEPC SCF-1, Scholarship Program Compliance Form for Private School Participants in State Scholarship Programs (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06293>), hereinafter Scholarship Compliance Form, which is hereby incorporated by reference to become a part of this rule effective August 2018 ~~February 2016~~.~~

(1) Definitions related to this rule and the Scholarship Compliance Form:

(a) Scholarship Programs: State school choice scholarship programs authorized in Chapter 1002, F.S.

~~(b)(a)~~ Renewing school – A school ~~Schools~~ that had scholarship students during the current or previous school year.

~~(c)(b)~~ New school – A school ~~Schools~~ that did not have scholarship students during the current or previous school year. A school removed from the program pursuant to a Notice of Proposed Action from the Commissioner may not reapply during the same school year it was removed from the program. In addition, a school that had scholarship students during the current or previous school year but is opening an additional location may apply as a new school for that location only.

~~(d)(e)~~ Regular and direct contact – A program of instruction that provides for a minimum of one hundred seventy (170) actual school instruction days with the required instructional hours (determined by grade level per state board Rule 6A-1.09512, F.A.C.) under the direct instruction of the private school teacher at the school's approved physical location. This may include with occasional off-site activities including the McKay Scholarship Program transition-to-work plan under the supervision of the private school teacher.

~~(e)(d)~~ School's physical location – The location where regular and direct contact with the private school teacher occurs which has met and must meet applicable state and local health, safety, and welfare laws, codes, and rules.

(2) Renewing schools: must comply with the following process to renew eligibility for the upcoming school year.

(a) Complete and submit a signed and notarized annual survey, pursuant to section 1002.42, F.S., by May 1.

(b) Annually complete and submit a signed and notarized Scholarship Compliance Form. The signed, notarized Scholarship Compliance Form must be postmarked by March 1 of each year for participation in the subsequent

school year. Following the timely submission of the Scholarship Compliance Form, any outstanding compliance issues, ~~including submission of the annual survey required by section 1002.42, F.S.,~~ must be resolved by the private school on or before May 1 of each year or within forty-five (45) days of ~~initial receipt~~ of notification from the Department of any noncompliance issue, whichever is later, for the school to remain eligible to participate in the scholarship programs. ~~Renewing schools as a part of the renewal process are required to have a review of compliance documentation every third year. The Department shall mail notice to renewing schools subject to the compliance documentation review by December 1 of each year.~~ This does not limit the Department's ability to request compliance related documentation at other times.

(c) Ensure physical location has a current satisfactory health inspection and current satisfactory fire inspection and submit the inspections to the Department.

(d) Every third consecutive year of participation, a renewing private school must also submit the following:

1. Documentation from the Florida Division of Corporations establishing ownership of the private school.

2. Documentation demonstrating the school has a satisfactory Radon inspection, if applicable.

3. School policies establishing standards of ethical conduct from instructional personnel and school

administrators.

4. Surety bond or letter of credit, if required by section 1002.421, F.S.

5. Copy of the results of state and national criminal history check for each owner or operator of the school, as defined by section 1002.421, F.S.

(3) New schools.

(a) New schools, as defined in this rule, must submit the following documentation to the Department to establish eligibility for participation in the scholarship programs.

1. Current notarized annual survey, pursuant to section 1002.42, F.S.

2. Signed and notarized Scholarship Compliance Form. ~~When the signed, notarized Scholarship Compliance Form is submitted by a new school, the school shall have sixty (60) days to resolve any outstanding compliance issues, including submission of the annual survey required by section 1002.42, F.S., to become eligible to participate in the scholarship programs. If the outstanding issues have not been resolved after sixty (60) days, the application shall be administratively closed. The application can be reopened, at any time during the same school year, by request of the private school. At no time can a new private school that has not met and adequately demonstrated~~

~~compliance with all requirements, register or enroll scholarship students.~~

3. Copy of the results of state and national criminal history check for each owner or operator of the school, as defined by section 1002.421, F.S.

4. Documentation from the Florida Division of Corporations establishing ownership of the private school.

5. Current satisfactory health inspection report.

6. Current satisfactory fire inspection report.

7. Documentation demonstrating the school has a satisfactory Radon inspection, if applicable.

8. Surety bond or letter of credit, if required by section 1002.421, F.S.

9. School policies establishing standards of ethical conduct for instructional personnel and school administrators.

10. School fee schedule, if applicable.

(b) Upon review and approval of the documentation identified in paragraph (3)(a) of this rule, the Department will schedule and conduct a site visit at the school's physical location. Beginning in the 2019-2020 school year, a private school is ineligible to receive scholarship payments until a satisfactory site visit has been conducted by the Department.

(c) The following deadlines are established for schools entering a scholarship program in the 2019-2020 school year and each year thereafter. To be eligible to participate in a scholarship program a school must submit a signed and notarized Scholarship Compliance Form no later than October 1 and all outstanding compliance issues pertaining to documentation identified in paragraph (3)(a) of this rule are to be resolved by December 1. A school that fails to meet either of these deadlines may not participate in the scholarship program until the subsequent school year.

(4) The Department may administratively close an application for participation in the state scholarship programs if a school fails to submit all the required documentation within sixty (60) days of submission of the Scholarship Compliance Form. The Scholarship Compliance Form delineates private school reporting requirements specified pursuant to Section 1002.42, F.S., and statutory and regulatory requirements related to the areas of school location and contact information; school ownership; affiliation; financial solvency; school administration; school staffing; school program; student health, safety, and welfare; student records; school facility; and submission of the scholarship compliance form.

(5) No change.

(6) Complaint process. The following process is established to allow individuals to notify the Department of any alleged violation by a parent, a student, a private school, a public school or a school district, an organization, a provider, or another appropriate party of state laws or rules related to scholarship program participation.

(a) Persons interested in filing a complaint should contact the Department through the toll-free hotline, 800-447-1636, established pursuant to section 1002.421, F.S., or through the Department's website, [www.floridaschoolchoice.org](http://www.floridaschoolchoice.org), to receive a copy of the Complainant Statement form, Form IEPC-CS1. Form IEPC-CS1 (DOE link) is hereby incorporated by reference, effective August 2018.

(b) The complainant must complete the Complainant Statement form, sign it and submit to the Department.

(c) Upon receipt of a completed and signed Complainant Statement form, the Department shall review to determine if reasonable cause exists to believe that a violation of law or rule has occurred.

(d) If the Department determines that reasonable cause exists, it shall conduct an inquiry, as described in subsection (7) of this rule, or refer the matter to the appropriate agency for investigation. If the Department determines that the information provided by the complainant does not establish reasonable cause, the Department may close the complaint.

(7) Inquiry process.

(a) A letter of inquiry will be delivered using regular and certified mail to provide notification to the individual or entity that an inquiry has been opened and provide the opportunity to respond. The letter of inquiry shall detail alleged violations of program rules or law, the response required, any documentation requested, and the deadline for responding to the Department.

(b) Failure to respond to a letter of inquiry in a timely manner may result in the Department initiating any of the actions as authorized by sections 1002.421(3), or 1002.385(10), F.S, as applicable.

(c) Upon review of the documentation requested pursuant to paragraph (7)(a) of this rule, the Department may take one of the following actions:

1. If the Department cannot establish that a violation of laws or rules related to scholarship program participation occurred, the Department shall notify the parent, student, private school, public school or school district, organization, provider, or other party and complainant that the inquiry will be closed.

2. If more information is needed, the Department may request additional information related to the inquiry from

the complainant, parent, student, private school, public school or school district, organization, provider, or other party, or conduct a site visit as appropriate.

3. If the Department establishes that a violation of laws or rules related to scholarship program participation has occurred, the Department may initiate any of the actions permitted by sections 1002.421(3), or 1002.385(10), F.S., as applicable.

(d) The Department may at any point in the process set forth in this rule, refer an inquiry to the Department's Office of Inspector General or another appropriate agency for full investigation.

(e) Notwithstanding any other provision of this rule, the Commissioner may at any point before or during the inquiry process exercise the authority given under sections 1002.421(3), 1002.385(10), F.S., and this rule.

*Rulemaking Authority 1001.02, 1002.385, 1002.39, 1002.395, 1002.40, 1002.411, 1002.42, 1002.421 FS. Law*

*Implemented 1002.385, 1002.39, 1002.395, 1002.40, 1002.421, 1002.42, 1002.421, 1003.22, 1003.23 FS. History–*

*New 10-13-04, Amended 9-20-05, 1-18-07, 1-5-09, 10-25-10, 2-9-16, 4-9-18.*

# Scholarship Program Compliance Form for Private School Participants in State Scholarship Programs - Form IEPC SCF-1

Effective August 2018  
Rule 6A-6.03315, F.A.C.

<b>Section 1: Program Participation</b>	
Participating school year:	
School is a new participant or a renewing participant:	
Current scholarship program(s):	

<b>Section 2: School Ownership, Affiliation, and Licensing</b>	
A)	* School is owned by:
B)	* The school is:
C)	If the answer to A is "Corporation", does your school have a current Certificate of Status* as required by section 607.0128 and 617.0128, Florida Statutes or an approved charter as required by section 623.03, Florida Statutes? *(Document issued by the Department of State when the school applies to become a corporation)

<b>Section 3: Financial Solvency</b>	
A)	* Pursuant to section 1002.421(1)(f)1., Florida Statutes, has the school been in operation for at least 3 years?
B)	* If you answered "No" to Item A, has a letter of credit or surety bond been supplied to the Department of Education for an amount equal to the scholarship funding amount for any quarter?
C)	* If your school receives more than \$250,000 in funds from scholarships awarded under Chapter 1002, Florida Statutes, in a state fiscal year, does your school contract with an independent certified accountant to perform the agreed upon procedures developed under section 1002.395(6)(o), Florida Statutes, and produce and submit a report in accordance with section 1002.421(1)(q), Florida Statutes?

<b>Section 4: School Administration</b>	
A)	* Has each Owner, Operator, and Chief Administrative Officer undergone a Level 2 background screening through the Florida Department of Law Enforcement and submitted the results to the Florida Department of Education in accordance with section 1002.421(1)(m), Florida Statutes? <b>(Reports must be filed with the private school and made available for public inspection)</b>
B)	* In accordance with section 1002.421(1)(p)6., Florida Statutes, does your school have a process for notifying the parent of each scholarship recipient at least 30 days before a transfer of private school ownership occurs?
C)	* Have all employees and contracted personnel with direct student contact submitted their fingerprints to the Florida Department of Law Enforcement for state and national background screening in accordance with section 1002.421(1)(m), Florida Statutes?
D)	* In accordance with section 1002.421(1)(m), Florida Statutes, does the school deny employment to or terminate an employee or contracted personnel with direct student contact if he or she fails to meet the background screening standards under section 435.04, Florida Statutes?

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E)	* In accordance with section 1002.421(1)(m), Florida Statutes, does the school disqualify instructional personnel and school administrators from employment in any position that allows direct contact with students if the personnel or administrators are ineligible under section 435.40, Florida Statutes?	
F)	* As required by section 1002.421(1)(n), Florida Statutes, has the school adopted policies establishing standards of ethical conduct for instructional personnel and school administrators that include the following? <ul style="list-style-type: none"> <li>• A requirement to complete training on the standards</li> <li>• A duty 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</li> <li>• An explanation of the liability protections provided under sections 39.203 and 768.095, Florida Statutes</li> </ul>	
G)	* Before employing instructional personnel or school administrators in any position that allows direct contact with students, does the school conduct employment history checks of each of the personnel's or administrators' previous employer, screen the personnel or administrators through use of the educator screening tools, and document the findings in accordance with section 1002.421(1)(p), Florida Statutes?	
H)	* In accordance with section 1002.421(1)(n), Florida Statutes, does the school prohibit confidentiality agreements regarding instructional personnel or school administrators who are terminated, dismissed, or resign based on misconduct and prohibit the provision of employment references without disclosing the misconduct?	

### Section 5: School Staffing

A)	* In compliance with section 1002.421(1)(h), Florida Statutes, do all of the teachers that your school employs or contracts with meet one of the following requirements: <ul style="list-style-type: none"> <li>• 3 or more years of public or private school teaching</li> <li>• Special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught</li> <li>• Baccalaureate Degree or higher</li> </ul>	
B)	* Does the school have an Unemployment Compensation account with the Department of Revenue, in accordance with Chapter 443, Florida Statutes?	<input type="checkbox"/>
C)	* Does the school employ 4 or more persons (instructional and non-instructional)?	
D)	* If the school employs 4 or more persons, does the school have a policy for Workers' Compensation, in accordance with section 440.10, Florida Statutes?	
	Workers' Compensation Policy Number:	
	Workers' Compensation Carrier:	
E)	* If the answer to D is "No", does the school have a DWC 250 Exemption Form?	

### Section 6: School Program

A)	* Does the school comply with anti-discrimination provisions of 42 U.S.C. section 2000d that prohibit discrimination on the basis of race, color, or national origin in accordance with section 1002.421(1)(a), Florida Statutes?	
B)	* Does the school demonstrate academic accountability pursuant to section 1002.421(1)(j), Florida Statutes, by publishing on the school's website, or provide in written format, information for parents regarding the school, including, but not limited to, programs, services, and the qualifications of classroom teachers?	
C)	* Does the school demonstrate academic accountability to the parent in accordance with section 1002.421(1)(l), Florida Statutes, by providing the parent a written explanation of the student's progress on a quarterly basis and cooperating with the scholarship student whose parent chooses to have the student participate in the statewide assessments pursuant to section 1008.22, Florida Statutes?	

D)	* Does the school demonstrate academic accountability pursuant to sections 1002.395(8)(b)1. and 1002.385(8)(b)1., Florida Statutes, by administering or making provisions for scholarship students to take a state assessment pursuant to section 1008.22, Florida Statutes, or a nationally norm-referenced test identified by the Department of Education and report scores to the student’s parent and, pursuant to section 1002.395(8)(c)2., Florida Statutes, the independent research organization selected in section 1002.395(9)(f), Florida Statutes?
E)	* In accordance with section 1002.421(1)(f), Florida Statutes, does your school require the parent to restrictively endorse the scholarship warrant or approve a funds transfer before any funds are deposited for a student, whichever may apply?
F)	* Does the school have a physical location where each scholarship students regularly attend classes in accordance with section 1002.421(1)(i), Florida Statutes?
G)	* Does the school employ or contract with teachers who have regular and direct contact with scholarship students at the school’s physical location as required by section 1002.421(1)(i), Florida Statutes?
H)	* Does the school offer a program of instruction sufficient to allow students who maintain regular attendance to meet the minimum compulsory attendance requirements in State Board of Education Rule 6A-1.09512 of at least 170 actual school days and 540 net instructional hours for students in kindergarten, 720 net instructional hours for students in grades 1-3, and 900 net instructional hours for students in grades 4-12?

### **Section 7: Student Health, Safety, and Welfare**

A)	* Does the school complete and maintain Student Health Examination documentation (Department of Health Form DH 3040 , other certification or valid exemption) for each child upon admittance to kindergarten or initial entrance into school in Florida, in accordance with section 1003.22(1), Florida Statutes, and State Board of Education Rule 6A–6.024, Florida Administrative Code?
B)	* Does the school complete and maintain a Florida Certification of Immunization (Department of Health Form DH 680) or valid Exemption from Immunization documentation for each child, in accordance with section 1003.22(4), Florida Statutes, and State Department of Health Rule 64D–3.046, Florida Administrative Code?
C)	* If the school enrolls kindergarten or 7th grade students, does the school complete an Immunization Annual Report of Compliance for Kindergarten and Seventh Grades (Department of Health Form DH 684), in accordance with section 1003.22(8), Florida Statutes, and State Department of Health Rule 64D-3.046(3), Florida Administrative Code?
D)	* If the school enrolls 6th grade students, does the school provide for appropriate screening of students for scoliosis, in accordance with section 1003.22(4), Florida Statutes, and State Department of Health Rule 64F–6.003, Florida Administrative Code?
E)	* In accordance with section 1006.061(1), Florida Statutes, has the school posted a notice that all employees have a duty to report all actual or suspected cases of child abuse, abandonment, or neglect; have immunity from liability if they report; and have a duty to comply with child protective investigations?
F)	* In accordance with section 1006.061(2), Florida Statutes, has the school posted the policies and procedures for reporting misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties for failure to report?

### **Section 8: Student Records**

A)	* Does the school maintain student records containing permanent information as defined in section 1002.42(3)(a)2.a., Florida Statutes, to include: student’s full name; authenticated birth date, place of birth, race, and sex; last known address of student; names of student’s parents; name and location of last school attended; number of days present and absent; date enrolled; date withdrawn; courses taken and record of achievement; and date of graduation or program achievement?
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B)	* Does the school maintain student records containing temporary information as defined in section 1002.42(3)(a)2.b., Florida Statutes, to include at minimum: health information, standardized test scores, honors and activities, personal attributes, work experience, teacher and counselor comments, and special reports?
C)	* Does the school maintain a register of student enrollment and daily attendance, open for the inspection by the designated school representative or the district school superintendent of the district in which the school is located, as required in section 1003.23(2), Florida Statutes?

## Section 9: School Facility

[View the Florida Department of Health standards for School Facilities](#)

A)	* Does the school facility meet the prescribed minimum requirements and standards of sanitation and safety for K-12 private schools, in accordance with section 381.006(6), Florida Statutes, and State Department of Education Rule 6A-2.0040, Florida Administrative Code?
B)	* If the school facility possesses a well, is it licensed or permitted pursuant to the Florida Safe Drinking Water Act or section 381.0062, F.S., as applicable?
C)	* If the school facility stores, prepares, or serves food to students, does the school possess a current, food service establishment sanitation certificate in accordance with State Department of Health Rule 64E-11.013, Florida Administrative Code, and section 381.0072, Florida Statutes?
D)	* If the school facility is located in a <b>non-exempt county</b> , does the school possess a current and acceptable Mandatory Measurements Nonresidential Radon Measurement Report (Department of Health Form DH 1777), in accordance with section 404.056, Florida Statutes, and State Department of Health Rule 64E-5.1208, Florida Administrative Code?
E)	* Does the school facility possess a current, violation free or satisfactory Fire Code inspection and compliance report in accordance with section 1002.421(1)(g)1., Florida Statutes, Chapter 69A-60, Florida Administrative Code, and county and/or municipal ordinance?
F)	* If students are transported to and from the school facility by a school-owned vehicle or vehicles, does the school possess a current policy for Auto Liability in accordance with section 316.615, Florida Statutes?
	Auto Liability Policy Number:
	Auto Liability Carrier:

## Submission of Scholarship Compliance Form

**(The signed, notarized form must be postmarked by March 1 of each year for the upcoming school year for renewing schools)**

I have read the applicable scholarship program rules and understand that by signing this form I am certifying that the school is currently in compliance and agrees to remain in compliance with all scholarship program rules and reporting requirements. If at any point, the school is not in compliance with scholarship rules, or if there is a change in the status of any reporting requirement, the school will have 15 days to notify the Department of Education and will provide all information necessary to document its continued compliance with program rules and requirements.

I understand that in answering "No" to any requirement in Section 9: School Facility, the provision of a reason for answering "No" shall not make the school compliant with the reporting requirement and will be considered an outstanding compliance issue for resolution as described in State Board of Education Rules 6A-6.03315, 6A-6.0960, 6A-6.0961, and 6A-6.0970, Florida Administrative Code.

By signing below, I hereby certify compliance with all relevant state laws including the requirement for all private school employees and contracted personnel with direct student contact to have undergone a background screening pursuant to section 943.0542, Florida Statutes.

* School Name	
* School Director/Principal	
* Signature	
* Name (Print)	
<p>Sworn and subscribed before me this _____ day of _____, 20_____.</p>	
* Notary Public, State of Florida	
* Notary's Name (Print)	
* Personally Known	
* Produced Identification	
* Type	
<p>Notary Public State of Florida at large. My commission expires: _____</p> <p>Notary Seal:</p>	

OFFICE OF INDEPENDENT EDUCATION AND PARENTAL CHOICE

COMPLAINANT STATEMENT

DATE OF COMPLAINT: \_\_\_\_\_
NAME OF COMPLAINANT: \_\_\_\_\_
TELEPHONE NUMBER: \_\_\_\_\_
STREET: \_\_\_\_\_
CITY & ZIP: \_\_\_\_\_
COUNTY: \_\_\_\_\_
EMAIL: \_\_\_\_\_
STUDENT NAME: \_\_\_\_\_

THIS IS A COMPLAINT AGAINST:

NAME OF PERSON: \_\_\_\_\_
SCHOOL/AGENCY NAME: \_\_\_\_\_
ADDRESS: \_\_\_\_\_
CITY & ZIP: \_\_\_\_\_
DISTRICT/COUNTY: \_\_\_\_\_
TELEPHONE NUMBER: \_\_\_\_\_

DETAILS OF COMPLAINT (who, what, where, when, why):

Multiple horizontal lines for writing details of the complaint.

(Use additional paper if necessary.)

**COMPLAINANT INSTRUCTIONS:**

1. Fill in completely all information on the first page.
2. If you have further comments or supporting documents that substantiate the information you have given to us or may otherwise assist us in understanding the details of your complaint, please attach that information to this form.
3. Sign in the signature block below to affirm that your statement is true and complete to the best of your knowledge.
4. Return this form and all attached pages by mail to:

Executive Director  
 Office of Independent Education and Parental Choice  
 Florida Department of Education  
 325 W. Gaines St., Suite 1044  
 Tallahassee FL 32399

5. If you have any questions or concerns about completing this form, please contact the Office of Independent Education and Parental Choice at (850) 245-0502.

**COMPLAINANT SIGNATURE:**

\_\_\_\_\_ *Printed Name*

\_\_\_\_\_ *Signature*

\_\_\_\_\_ *Date*

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***This section to be completed by IEPC designee:***

DATE RECEIVED BY IEPC OFFICE: \_\_\_\_\_

IEPC DESIGNEE: \_\_\_\_\_  
*Printed Name* *Signature*

**ADAM MILLER**  
*Executive Director*  
 Office of Independent Education and Parental Choice

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325 W. GAINES STREET • SUITE 1044 • TALLAHASSEE, FL 32399-0400 • (850) 245-0502 • Fax (850) 245-0875

