

# FLORIDA DEPARTMENT OF EDUCATION



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**Pam Stewart**  
**Commissioner of Education**

February 28, 2014

Pam Stewart  
Commissioner of Education  
325 West Gaines Street, Suite 1514  
Tallahassee, Florida 32399-0400

Dear Commissioner Stewart:

Attached is our report for our audit of The McKay Scholarship. This audit was conducted as part of the department's fiscal year 2013-2014 audit plan.

During this audit we noted that, in general, the department has sufficient controls in place to govern the program. However, there were instances where improvements could be made to strengthen some of these controls. For example, we cited occurrences where affidavit forms were not on file prior to the issuance of scholarship payments. We also found insufficient endorsing of warrants and a lack of supporting documentation for 12<sup>th</sup> grade re-enrollment. The attached report includes our findings, recommendations, and management's response for your review.

If you have any questions or comments regarding this report, please let me know.

Respectfully submitted,

Mike Blackburn  
Inspector General

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MIKE BLACKBURN, INSPECTOR GENERAL

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Commissioner Pam Stewart

February 28, 2014

Page Two

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Enclosure

cc: Kathy Hebda, Chief of Staff

Adam Miller, Executive Director, Office of Independent Education & Parental Choice

Office of the Auditor General

Office of Chief Inspector General



# FLORIDA DEPARTMENT OF EDUCATION

## Office of Inspector General

### McKay Scholarship Program



**Report #A-1314-007**

**February 2014**

#### **EXECUTIVE SUMMARY**

In accordance with the Department of Education's fiscal year (FY) 2013-14 audit plan, the Office of Inspector General (OIG) conducted an audit of the John M. McKay Scholarships for Students with Disabilities Program (program). The purpose of this audit was to determine if there were sufficient controls in place to govern the program.

During this audit we noted that, in general, the department has sufficient controls in place to govern the program. However, there were instances where improvements could be made to strengthen some of these controls. For example, we cited occurrences where affidavit forms were not on file prior to the issuance of scholarship payments. We also found insufficient endorsing of warrants and a lack of supporting documentation for 12<sup>th</sup> grade re-enrollment. The Findings and Recommendations section below provides details of the instances noted during our audit.

#### **SCOPE, OBJECTIVES, AND METHODOLOGY**

The scope of this audit included students and private schools participating in the program during the 2012-13 school year (SY). We established the following objectives for our audit:

1. Determine the accuracy of the payment process;
2. Ensure students enrolled in the program meet eligibility requirements; and
3. Determine if program accountability aligns with the department's mission.

To accomplish our objectives we reviewed applicable laws, rules, and regulations; interviewed appropriate department staff; reviewed policies, procedures, and related documentation; reviewed program monitoring documentation; evaluated the payment/refund process; and sampled eligibility and payment documentation. The information and documents used to evaluate the project were obtained from the McKay database; the Office of Independent Education and Parental Choice (IEPC Office); the Division of Accountability, Research, and Management (ARM); and the Department of Financial Services (DFS).

## BACKGROUND

The John M. McKay Scholarships for Students with Disabilities Program was established in 2000 to provide the option for eligible students with disabilities to attend a public school other than the one to which they are assigned, or to provide a scholarship to attend a private school of their choice. The program allows parents of students with disabilities to choose the best academic environment for their children. Eligible students include students who have been issued an Individualized Education Plan (IEP) or a 504 Accommodation Plan that is effective for more than 6 months. During the 2012-13 SY, \$168.9 million was paid into the program, with an average annual scholarship amount of \$7,019 for students with an IEP plan and \$3,977 for students with a 504 plan. During the same SY, 26,611 students participated in the program (participants), attending 1,163 private schools.

To be eligible for the scholarship a student must have a valid matrix code on file. The matrix must be developed to reflect the services listed on the student's IEP. The resulting matrix code determines the level of scholarship funding to be applied toward the scholarship tuition and fees at the private school of choice. However, the private schools are not required to provide their students with the services listed on the IEP.

## FINDINGS AND RECOMMENDATIONS

### Eligibility

We reviewed information in the Florida School Choice Website (website) and McKay database to determine if the students participating in the program were eligible to receive scholarship funds. Specifically, we confirmed that a notice of intent was filed 60 days prior to the date of the first scholarship payment for each student new to the program during the 2012-13 SY. During our audit we noted that the school districts play a major role in determining student eligibility. The districts are responsible for confirming a student's attendance at a public school and for completing the matrix, which assigns the student to a level of service. The district then notifies the department of the student's matrix level, thereby confirming the student's eligibility to participate in the program. We verified a matrix was completed and submitted by the district within the required 30 days for each of the sampled participants, thereby confirming eligibility.

### Finding 1: Department site visits are thorough and timely

Section 1002.39(6)(f)1, F.S., states, the department shall "conduct random site visits to private schools participating in the John M. McKay Scholarships for Students with Disabilities Program. The purpose of the site visits is solely to verify the information reported by the schools

concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results, which information is required by rules of the State Board of Education, subsection (8), and s. 1002.421. The Department of Education may not make more than three random site visits each year and may not make more than one random site visit each year to the same private school.”

The IEPC Office conducts three site visits each year, usually during the month of October. We reviewed the department's documentation pertaining to the three private schools participating in the program that were selected for a site visit during the 2012-13 SY.

When conducting these site visits the IEPC Office specifically reviews student attendance, report cards, immunizations, student records, staff background screenings, fingerprinting, teacher qualifications, and facility requirements. The IEPC Office documents their review on a site visit review form, which is essentially a checklist that is used at the site visits. The document is signed by both parties and provided to the private school at the conclusion of the site visit. Upon returning from the site visit, the IEPC Office completes a site visit review report, which is then sent to the private school. This report includes a summary of deficiencies and proposed corrective action.

All three private schools required corrective action to be taken to bring them into compliance. The IEPC Office completed the necessary follow up with all three schools to ensure the department received the required documentation in a timely fashion. The IEPC Office conducted all three site visits thoroughly and efficiently.

### ***Recommendation***

We recommend the department continue their monitoring efforts and consider seeking a legislative change to increase the number of site visits the department can conduct each year. There are currently more than 1,000 private schools participating in the program. Increasing the maximum number of schools visited each year beyond three schools would allow for a more effective program and provide greater assurance that the private schools are operating in accordance with applicable laws and rules.

### ***Management's Response***

We appreciate the noted improvement in our site visit procedures since the 2011 audit. We would like to add that we also have authority in Rule 6A-6.0970 (9)(c)2., FAC as well as Section 1002.395, F.S., which increases the conditions under which additional site visits may occur. As a result, during the October 2012 site visits, we were able to visit a total of 14 schools that had both McKay Scholarship and Florida Tax Credit Scholarship students.

***OIG Response***

Section 1002.395, F.S., applies to private schools participating in the Florida Tax Credit Scholarship and was therefore not within the parameters of this audit. There were only three site visits conducted for the McKay Scholarship Program during the 2012-13 SY. The remaining 11 site visits were conducted on behalf of the Florida Tax Credit Scholarship Program.

**Finding 2: Affidavit forms were not received prior to payment**

According to section 6A-6.0970, Florida Administrative Code (F.A.C.), “Prior to receiving a scholarship payment, all parents of participating students must have on file with the Department Form IEPC-AFF1, Affidavit, signed and notarized affirming the validity of the parent’s signature.”

We selected a sample of 118 students and retrieved affidavit documentation for these students to determine if the department received a notarized affidavit from the authorized legal guardian prior to issuing a scholarship payment. Only 26 of the 118 sampled students (22.03%) had an affidavit on file in the website at the time of our review. Of these 26 affidavits, only four were received by the department prior to the issuance of payment. Therefore, the department has a 3.39% rate of compliance with the rule requirement. A total of \$469,316.53 was paid to private schools for these students who did not have an affidavit on file prior to receiving a scholarship payment during the 2012-13 SY. For those affidavits on file, we confirmed the individual completing the affidavit was the individual listed as the authorized legal guardian in the website.

Per the department’s *McKay Scholarship Processes*, “The Payment Specialist will run a query to determine what percentage of students in each participating school has a parent affidavit on file with IEPC. Those schools with a percentage lower than 10 will receive a letter explaining the parent affidavit requirement and requesting the school submit affidavits for all their McKay Scholarship students.” The department’s policies and procedures do not comply with the F.A.C.

Absent a signed and notarized affidavit on file, the department is unable to verify that the person endorsing the scholarship warrants is the parent or guardian of the student. The inability to verify the guardian signatures on scholarship warrants increases the likelihood that payments will be made in error and increases the potential for fraud.

### ***Recommendation***

We recommend the department ensure compliance with applicable statutes and rules by revising policies and procedures to require an affidavit be on file with the department prior to the issuance of a scholarship payment. We also recommend the department explore the possibility of implementing a system edit to prevent improper payments.

### ***Management's Response***

Our office has developed a timetable for compliance as requested. IEPC will work to identify 2014-15 enrolled students whose parents have no affidavit on file with IEPC and send email notices to all appropriate schools of enrollment and parents.

IEPC will continue to monitor schools' submissions of affidavits and send reminder emails each month indicating continued deficiencies, and continue to take receipt of submissions and scan them to the web system.

Subsequent to the September 1, 2014 statutorily required payment and the supplemental payment distribution, IEPC will identify students who continue to have no corresponding Department Form IEPC-AFF1 on file, and issue letters of noncompliance to each affected school with enrolled students giving them 30 days to comply. IEPC will continue to scan and record affidavits to the web system. IEPC will follow up with schools still deficient by issuing regular suspension notices in an effort to withhold February 1<sup>st</sup> payment pending compliance.

Subsequent to our ongoing efforts to capture this information, we will work with our systems programmer to incorporate a payment system fix that will identify parent affidavits on file prior to scholarship payment distributions.

### **Finding 3: Scholarship payment warrants were not properly endorsed**

Section 1002.39(10)(f), F.S., requires the Department of Education, after each McKay Scholarship Program payment, to "request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements." According to the department's policies and procedures, the IEPC Office identifies private schools that are perceived to be at greater risk of non-compliance with restrictive endorsement requirements and then determines the sample set by selecting at least 10% of the warrants issued to each identified school. The endorsement is considered in violation of the restrictive endorsement requirement when the warrant: is not restrictively endorsed, is restrictively endorsed but not in the payee's name, was not stamped for deposit by the private school, or was stamped for deposit by an entity other than the private school.

Section 1002.39(9)(f), F.S., states, “Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. 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. A participant who fails to comply with this paragraph forfeits the scholarship.”

We requested copies of warrants issued on behalf of the same sample of 118 students during the 2012-13 SY. We received a total of 276 warrants from DFS and reviewed each warrant to confirm they were made payable to the guardian listed in the website. We confirmed the payment amounts were accurate in accordance with the *FEFP 2012-13 Funding per Student* documents based on each student’s grade, district, and matrix level. We also confirmed the warrants were issued timely. Last, we determined whether the warrants were endorsed correctly by the guardian listed in the website, and we compared the signatures on each student’s warrants to determine if the signatures were consistent and matched the signature on the affidavit, if one was received.

Forty-five of the 276 warrants reviewed (16.3%) did not meet the endorsement requirements of Florida Statute. Using the 26 affidavits on file we identified two warrant signatures, for the same student, which appeared to differ from the affidavit signature. We also identified 34 warrants, for 10 students, in which the signatures were inconsistent between warrants. Last, we identified 14 warrants, for 10 students, that were not endorsed correctly (one did not contain a signature, one did not contain a signature or a restrictive endorsement, and 12 were signed but not restrictively endorsed with a stamp of deposit). The department paid a total of \$69,395.50 for these warrants not processed/endorsed in accordance with Florida Statute.

As required in statute, the department reviews a sample of warrants after each payment period to confirm compliance with endorsement requirements. However, as noted in Finding 2, the limited number of affidavits on file greatly restricts the department’s ability to fully review each warrant. This increases the possibility that fraud, due to forged warrant signatures, could occur and go undetected. Without the affidavit on file, the department does not have a way of determining if the parent to whom the warrant is written endorsed the warrant.

### ***Recommendation***

We recommend the department enhance policies and procedures to better ensure proper warrant endorsement. This should include comparing warrant signatures with their corresponding affidavits to ensure the signatures are that of the appropriate parent or guardian.



### ***Management's Response***

We have no evidence that the specific warrants reviewed by the IG audit team for this report were previously reviewed by IEPC staff.

Based on recommendations from the 2011 Inspector General Audit Findings, the Choice Office implemented risk-based and targeted sampling models in addition to random sampling required by s. 1002.39(10)(f), F.S. which specifically requires that each warrant be restrictively endorsed by the parent for deposit into the account of the private school. During the 2012 school year, those schools determined as failing to meet restrictive endorsement requirements were reminded of the requirements by mail, and a follow-up review was carried out after the April 1, 2013 payment. Following the second review, five schools were issued notices of non-compliance; and a final review of November 2013 warrants for these schools is forthcoming.

Given the inevitable fluctuations of any parent's signature across the duration of a student's participation in the McKay Scholarship Program, Choice Office staff are not qualified to conclusively determine the identity of the individual who has signed any particular warrant. The variance of signatures duly noted by this audit does not indicate that services were not provided by the private school to these students nor that the students were not otherwise eligible to receive scholarship payments.

However, IEPC will enhance our policies to include a review of the signature on the warrant against the signature on the form IEPC-AFF1 during the course of our sample reviews noted above. In instances where the signatures on the warrant and the IEPC-AFF1 are conclusively dissimilar, IEPC staff will contact the parent to verify current attendance.

### **Finding 4: 12<sup>th</sup> grade re-enrollment documents were incomplete**

According to the department's *Process Manual for Scholarship Programs*, a private school administrator must obtain approval from the IEPC Office to re-enroll any 9<sup>th</sup> thru 12<sup>th</sup> grade program participants in the same grade. The administrator must send a Scholarship Issue Form, a letter explaining the situation and the student's progress, a copy of the most recent report card or similar document, and additional documentation such as evaluations, transcripts, and/or standardized test results that validate the grade retention request.

When a program participant is re-enrolling in the 12<sup>th</sup> grade, the Scholarship Issue Form requires the private school to provide the previous year's report card/transcripts showing credits received and credits needed to graduate, and a letter from the school explaining what the student will be working towards during the next SY (i.e. regular diploma, special diploma, etc).

Data retrieved from the McKay database reflects 299 of the 1,558 12<sup>th</sup> grade participants in attendance at a participating McKay private school during the 2011-12 SY re-enrolled in the 12<sup>th</sup> grade for SY 2012-13. We randomly sampled 43 of the 299 participants and reviewed the Scholarship Issue Form and associated documents for these students. Eleven of the 43 (25.58%) were not fully compliant with the documentation requirements. The previous year's report card/transcripts were not provided for three participants, the previous year's report card/transcript and the letter indicating the reason for re-enrollment was not provided for one participant, and the letter indicating the reasoning for re-enrollment was not provided for seven participants.

Absent a thorough review of re-enrollment documentation by the IEPC Office, scholarships could be awarded to students no longer eligible to participate in the program.

### ***Recommendation***

We recommend the department enhance procedures to ensure the scholarship issue form and all required documentation are received and approved prior to re-enrollment of a program participant into the 12<sup>th</sup> grade.

### ***Management's Response***

As discussed in the meeting prior to issuance of the report, our office goes beyond both what is required in Sections 1002.39(12) and 1002.421(6), F.S. as well as above what is required in traditional public schools for reenrollment of students. Additionally, within our guiding statutes it states that 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 these sections.

Therefore, IEPC will seek an opinion from the Office of General Counsel as to whether we have the authority to require additional documentation for re-enrollment of 12<sup>th</sup> grade students. Based upon the opinion offered by the office of General Counsel, IEPC will take one of the following actions:

1. Discontinue the practice of requiring additional documentation for 12<sup>th</sup> grade re-enrollment.
2. Revise the rule to explicitly address the requirement.
3. Revise our policy to require a parent signature on the IEPC scholarship issue form for any 12<sup>th</sup> grade re-enrollment.

## MCKAY SCHOLARSHIP PROGRAM STATISTICS

### *Postsecondary Enrollment*

According to the IEPC Office, 1,558 12<sup>th</sup> grade students attended a private school through the program during SY 2011-12. The student population data supplied by the IEPC Office was tested against the Florida K-20 Education Data Warehouse for postsecondary information.

Approximately 30% of the 12<sup>th</sup> grade program participants were enrolled in a Florida postsecondary institution for SY 2012-13. This percentage is similar to the post-school outcome data reported in the *2013 SEA Profile* by the department's Bureau of Exceptional Education and Student Services. The *2013 SEA Profile* reported 27% of students with disabilities who exited Florida public schools during SY 2010-11 were enrolled in higher education.

For SY 2012-13, no information was found for half of the 1,558 12<sup>th</sup> grade students that attended a private school through the program during SY 2011-12. This may include students still attending grade school, but no longer receiving a McKay scholarship. This may also include program participants that have graduated and attend a college or university outside the state of Florida, attend adult education courses, or are in the workforce. Exhibit 1 displays the SY 2012-13 status for the 1,558 12<sup>th</sup> grade students.

Exhibit 1: Postsecondary Enrollment

<b>12th grade program participants for SY 2011-12</b>		
<b>SY 2012-13 status</b>	<b># students</b>	<b>%</b>
Community/State Colleges and Universities (Florida)	446	28.6%
Independent Colleges & Universities (Florida)	30	1.9%
Repeated 12th grade	299	19.2%
No information found	783	50.3%
<b>Total 12th grade program participants for SY2011-12</b>	<b>1,558</b>	<b>--</b>

Source: IEPC Office data & Florida K-20 Education Data Warehouse

**Please note:** This table does not include postsecondary information for other states or adult education enrollment.

### *Grade Promotion*

According to student data provided by the IEPC Office, 18,809 students attended a private school participating in the program during both SY 2011-12 and 2012-13. Overall, 5.0% of these program participants did not promote to the next grade between SY 2011-12 and SY 2012-13. This percentage is similar to the 4.0% overall non-promotion rate for public schools. The OIG noted a significantly higher non-promotion rate for the 12<sup>th</sup> grade, at 19.2% for program

participants compared to 6.2% for public school students. The higher rate for program participants is partially due to students attending transitional services programs. The website offers grades K-12 as a grade option, therefore, program participants receiving transitional services are re-entered as the 12<sup>th</sup> grade year after year, until they have graduated or are no longer eligible for the program. Exhibit 2 displays grade promotion data.

Exhibit 2: Grade Promotions

<b>Grade</b> SY 2011-12	<b># students enrolled in McKay</b> SY 2011-12	<b># students re-enrolled in McKay</b> SY 2012-13	<b># students promoted</b> SY 2011-12 to SY 2012-13	<b># students not promoted<sup>1</sup></b> SY 2011-12 to SY 2012-13	<b>McKay non-promotion rate<sup>2</sup></b> SY 2011-12	<b>Public School non-promotion rate<sup>3</sup></b> SY 2011-12
<b>KG</b>	642	532	493	39	7.3%	4.1%
<b>1</b>	953	810	778	32	4.0%	4.7%
<b>2</b>	1,189	1,003	944	59	5.9%	3.3%
<b>3</b>	1,644	1,382	1,319	63	4.6%	7.4%
<b>4</b>	1,977	1,687	1,625	62	3.7%	1.2%
<b>5</b>	2,099	1,738	1,667	71	4.1%	0.7%
<b>6</b>	2,741	2,298	2,229	69	3.0%	1.8%
<b>7</b>	2,742	2,297	2,210	87	3.8%	2.3%
<b>8</b>	2,557	1,863	1,780	83	4.5%	2.9%
<b>9</b>	2,247	1,777	1,745	32	1.8%	6.7%
<b>10</b>	2,095	1,660	1,633	27	1.6%	6.9%
<b>11</b>	1,843	1,463	1,391	72	4.9%	6.2%
<b>12</b>	1,558	299	-- <sup>4</sup>	299 <sup>5</sup>	19.2% <sup>6</sup>	6.2%
<b>Totals</b>	<b>24,287</b>	<b>18,809</b>	<b>17,814</b>	<b>995</b>	<b>5.0%</b> <sup>7</sup>	<b>4.0%</b>

Source: IEPC Office data

<sup>1</sup> McKay students enrolled both school years (SY) 2011-12 and 2012-13 and not promoted to the next grade level.

<sup>2</sup> This rate is the # students not promoted divided by the # students re-enrolled in a participating McKay school.

<sup>3</sup> This rate is for all public school students. Students with disabilities could not be isolated.

<sup>4</sup> 12th grade is the final grade level option for McKay Scholarship students.

<sup>5</sup> This number may include students in transitional services programs and not necessarily repeating the 12th grade.

<sup>6</sup> School year 2011-12 was used to calculate the 12th grade McKay non-promotion rate.

<sup>7</sup> School year 2011-12 was used for 12th grade students to calculate the overall McKay non-promotion rate.

**CLOSING COMMENTS**

The Office of the Inspector General would like to recognize and acknowledge the Office of Independent Education and Parental Choice and staff for their assistance during the course of this audit. Our fieldwork was facilitated by the cooperation and assistance extended by all personnel involved.

*To promote accountability, integrity and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of section 20.055, F.S., and in accordance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Rachele Gouthro and Kelly Kilker and supervised by Janet Snyder, CIA, CGAP, Audit Director.*

*Please address inquiries regarding this report to the OIG's Audit Director by telephone at 850-245-0403. Copies of final reports may be viewed and downloaded via the internet at <http://www.fldoe.org/ig/auditreports.asp#F>. Copies may also be requested by telephone 850-245-0403, by fax 850-245-9419, and in person or by mail at Department of Education, Office of the Inspector General, 325 West Gaines Street, Suite 1201, Tallahassee, FL 32399.*