

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 564

INTRODUCER: Senator Young

SUBJECT: John M. McKay Scholarships for Students with Disabilities Program

DATE: January 17, 2018      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Favorable</b>
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>
4.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 564 modifies the John M. McKay Scholarships for Students with Disabilities Program to:

- Specify that a parent who seeks a reevaluation of an existing individual education plan (IEP) may request an IEP meeting and evaluation from the school district to obtain or revise a matrix of services for an eligible student.
- Authorize a school district to change a matrix of services based on the result of an IEP reevaluation.

The bill has no impact on state revenues and an indeterminate impact on state expenditures relating to the McKay Scholarships. A student whose parent requests an IEP reevaluation may obtain a revised matrix of services, which may result in the student receiving a higher or lower McKay Scholarship amount. Because the McKay Scholarship funds pass through the district to the parent and private school, there is no fiscal impact on the school district. The change to the McKay Scholarship award amounts is indeterminate.

The bill takes effect July 1, 2018.

**II. Present Situation:**

The Legislature has established scholarship programs to provide school choice options to parents of students with a disability.

**McKay Scholarship for Students with Disabilities Program**

The John M. McKay Scholarship Program For Students With Disabilities Program (McKay Program) is established to provide the option to attend an eligible public or private school for

students with a disability who have an individual education plan<sup>1</sup> or an accommodation plan that has been issued under section 504 of the Rehabilitation Act of 1973 (504 accommodation plan).<sup>2</sup>

A student with a disability, for purposes of the McKay Program, includes a K-12 student who is documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.<sup>3</sup>

A student must meet specified eligibility requirements for the McKay Program,<sup>4</sup> and the scholarship award remains in place until the student recipient returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first.<sup>5</sup>

### **Individual Education Plan**

An individual education plan (IEP) is a written plan for the special education of a student with a disability that provides a clear statement of the expected outcomes and the special education services and supports to be provided to the student.<sup>6</sup> The IEP must include specified information such as:<sup>7</sup>

- A child's academic achievement and functional performance,
- How the child will be included in the general education curriculum,
- Annual goals for the child and how those goals will be measured,
- The special education and related services to be provided to the student,
- How the child will be appropriately assessed, including the use of alternate assessments, and
- The appropriate accommodations that are necessary for the student's instruction and assessment.

An IEP must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district or other state agency that provides special education and related services either directly, by contract, or through other arrangements.<sup>8</sup>

An IEP team must meet to develop a plan for the student's needs within 30 days after determining a student's eligibility for special education and related services and must be in effect

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<sup>1</sup> The Individualized Education Plan is written in accordance with the rules of the State Board of Education. Section 1002.39(1)(a), F.S.

<sup>2</sup> Section 1002.39(1), F.S.

<sup>3</sup> Section 1002.39(1), F.S.

<sup>4</sup> *Id.* at (2) and (9).

<sup>5</sup> *Id.* at (4)(a).

<sup>6</sup> See Florida Department of Education, Bureau of Exceptional Education and Student Services, *Developing Quality Individual Educational Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>; Florida Department of Education, Bureau of Exceptional Education and Student Services, *Getting Ready for Your Student's Individual Educational Plan (IEP) Meeting* (2016), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070119-iep-card.pdf>.

<sup>7</sup> See Rules 6A-6.03028(3)(h), 6A-6.03029(3), and 6A-6.03019(4), F.A.C.

<sup>8</sup> Rule 6A-6.03028(3), F.A.C.

prior to the provision of these services.<sup>9</sup> A meeting must be held, at least annually, to develop, review and revise the IEP in accordance with all aspects of the State Board of Education rule.<sup>10</sup> The multidisciplinary IEP team includes the student's parent, at least one regular education teacher of the student, at least one special education teacher of the student, a qualified school district representative, and additional individuals as appropriate and necessary.<sup>11</sup> An IEP must be in effect at the beginning of each school year for each eligible student with a disability within the school district's jurisdiction.<sup>12</sup>

Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their students.<sup>13</sup> The school district must obtain informed consent from the parent before providing exceptional student education services to a student.<sup>14</sup> Each school district must establish procedures that provide the opportunity for one or both of the student's parents to participate in meetings and decisions concerning the IEP for the student.<sup>15</sup> The role of a parent in developing the IEP includes:<sup>16</sup>

- Providing critical information regarding the strengths of the student;
- Expressing any concerns for enhancing the education of the student so that the student can receive a free appropriate public education;
- Participating in discussions about the student's need for special education and related services;
- Participating in the determination of how the student will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments;
- Participating in the determination of what services the school district will provide to the student and in what setting; and
- Participating in the determination of which course of study leading towards a standard diploma the student will pursue.

State Board of Education rule provides that a parent is not limited from asking for revisions of the child's IEP or invoking due process procedures.<sup>17</sup>

### **Matrix of Services**

The Commissioner of Education must specify a Matrix of Services and Intensity Levels (matrix) to be used by districts in the determination of the two weighted cost factors for exceptional students with the highest levels of need.<sup>18</sup> The Florida Department of Education (DOE) has developed the Matrix of Services Handbook to provide districts, schools, and teachers with

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<sup>9</sup> *Id.* at (3)(f)2.

<sup>10</sup> *Id.* at (3)(f)3.

<sup>11</sup> *Id.* at (3)(c).

<sup>12</sup> Rule 6A-6.03028(3)(f)1., F.A.C.

<sup>13</sup> Rule 6A-6.03028(3), F.A.C.

<sup>14</sup> Rule 6A-6.0331(9)(a), F.A.C.

<sup>15</sup> Rule 6A-6.03028(3)(b), F.A.C.

<sup>16</sup> *Id.* at (a).

<sup>17</sup> *Id.* at (m)4.

<sup>18</sup> Section 1011.62(1)(c), F.S.

information about the matrix required for selected students with exceptionalities.<sup>19</sup> The matrix is designed with five levels in each of the following five domain areas:<sup>20</sup>

- Curriculum and Learning Environment: This domain addresses services provided to the student in the areas of curriculum, instructional strategies, and learning environment.
- Social or Emotional Behavior: This domain includes services provided to meet identified social and emotional needs of students with exceptionalities, such as positive behavioral supports, behavioral interventions, social skills development, socialization, and counseling as a related service.
- Independent Functioning: This domain includes services that are necessary for the independent functioning of students with exceptionalities, such as instruction in organizational strategies, assistance for activities of daily living and self-care, physical therapy, occupational therapy, orientation and mobility training, and supervision of students to ensure physical safety.
- Health Care: This domain addresses services provided to students with exceptionalities who have health care needs. Included in this domain are services related to monitoring and assessment of health conditions, provision of related health care services, and interagency collaboration.
- Communication: This domain includes services provided to support the communication needs of students with exceptionalities. Services included in this domain are personal assistance, instructional interventions, speech or language therapy, and the use of alternative and augmentative communication systems.

A student is evaluated within each of these five domains to determine the appropriate level of service the student requires: Level 1 represents the lowest level of service, and Level 5 represents the highest level of service.<sup>21</sup> The frequency and intensity of the service and the qualifications of personnel required to provide the service are critical factors that impact the determination of the appropriate level of service for the student.<sup>22</sup>

### **School District Obligations**

By April 1 of each year, and within 10 days after an IEP meeting or a 504-accommodation plan is issued, a school district is required to notify the parent of the student of all options available in the McKay Scholarship Program, inform the parent of the DOE's telephone hotline and internet website for additional information on the McKay Scholarships, and offer the student's parent an opportunity to enroll the student in another public school in the district.<sup>23</sup>

Within 10 school days after the school district receives notification of a parent's request for a McKay Scholarship, the school district must notify the student's parent if a matrix of services has not been completed and inform the parent that the district is required to complete the matrix

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<sup>19</sup> Florida Department of Education, *Exceptional Student Education Matrix of Services Handbook* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/2015MatrixServices.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> Florida Department of Education, *Exceptional Student Education Matrix of Services Handbook* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/2015MatrixServices.pdf>.

<sup>22</sup> *Id.*

<sup>23</sup> Section 1002.39(5)(a)1., F.S.

within 30 days after receiving notice of the parent's request for a McKay Scholarship.<sup>24</sup> The school district must complete the matrix of services for any student who is participating in the McKay Scholarship and must notify the DOE of the student's matrix level within 30 days after receiving notification of a request to participate in the program.<sup>25</sup> The school district must provide the student's matrix level to the student's parent within 10 school days after the matrix of services is completed.<sup>26</sup>

Under the McKay Program, a school district may change a matrix of services only if the change is to correct a technical, typographical, or calculation error.<sup>27</sup> A school district must notify parents of the availability of a reevaluation at least every three years of each student who receives a McKay Scholarship.<sup>28</sup>

### III. Effect of Proposed Changes:

SB 564 modifies the John M. McKay Scholarships for Students with Disabilities Program to:

- Specify that a parent who seeks a reevaluation of an existing individual education plan (IEP) may request an IEP meeting and evaluation from the school district to obtain or revise a matrix of services for an eligible student.
- Authorize a school district to change a matrix of services based on the result of an IEP reevaluation.

The bill modifies the basis for changing the matrix of services by a school district as a result of a request for a reevaluation of an existing IEP by the student's parent. This modification is consistent with a similar provision regarding a school district's authority to change a student's matrix of services under the Gardiner Scholarship Program.<sup>29</sup> The bill may allow an IEP team to consider the student's most recent circumstances, which may help the team in revising the IEP and adjusting the student's matrix of services to effectively meet the student's current needs.

The bill takes effect July 1, 2018.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

<sup>24</sup> *Id.* at (b)2.a., F.S. This notice should include the required completion date for the matrix. *Id.*

<sup>25</sup> *Id.* at (b)2.b.

<sup>26</sup> *Id.*

<sup>27</sup> Section 1002.39(5)(b)2.d., F.S.

<sup>28</sup> *Id.* at (c).

<sup>29</sup> Section 1002.385(7)(a)2.c., F.S.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Florida Department of Education (DOE), a change in a student's matrix of services may result in the student receiving a higher or lower McKay Scholarship amount, which may affect the total funds the district receives through the Florida Education Finance Program (FEFP).<sup>30</sup> Because the McKay Scholarship funds pass through the district to the parent and private school, there is no fiscal impact on the school district. The change to the McKay Scholarship award amounts is indeterminate.<sup>31</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1002.39 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>30</sup> Florida Department of Education, *SB 564 Analysis* (2018), at 3.

<sup>31</sup> *Id.*