

(Current through the 2021 Legislative Session)

This article shall be known and may be cited as the "Georgia Special Needs Scholarship Act."

The General Assembly finds that:

- (1) Students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;
- (2) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;
- (3) Children, parents, and families are the primary beneficiaries of the scholarship program authorized in this article and any benefit to private schools, sectarian or otherwise, is purely incidental;
- (4) The scholarship program established in this article is for the valid secular purpose of tailoring a student's education to that student's specific needs and enabling families to make genuine and independent private choices to direct their resources to appropriate schools; and
- (5) Nothing in this article shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

As used in this article, the term:

- (1) "Board" means the State Board of Education.
- (2) "Department" means the Department of Education.
- (3) "Parent" means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a child.
- (4) "Participating school" means a private school that has notified the department of its intention to participate in the program, and that complies with the department's requirements.
- (5) "Prior school year in attendance" means that the student was enrolled and reported by a public school system or school systems for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160.
- (6) "Private school" means a nonpublic school, sectarian or nonsectarian, which is accredited or in the process of becoming accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- (7) "Program" means the scholarship program established pursuant to this article.

(Current through the 2021 Legislative Session)

(a) A student shall qualify for a scholarship under this article if:

(1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one year; provided, however, that the one-year requirement shall not apply if the student's parent is an active duty military service member stationed in Georgia within the previous year;

(2) The student has spent the prior school year in attendance at a Georgia public school or received preschool special education or related services pursuant to Section 619 of Part B of the federal Individuals with Disabilities Education Act; provided, however, that this requirement shall not apply if:

(A) The student's parent is an active duty military service member st is an active duty military9(if t)-3(h)14(e)9(st) 11.04

(Current through the 2021 Legislative Session)

(VII) Deafness;

(VIII) Down syndrome;

(IX) Drug or alcohol abuse;

(X) Dual sensory impairment;

(XI) Dyslexia;

(XII) Emotional or behavioral disorder;

(XIII) Epilepsy;

(XIV) Hearing impairment;

(XV) Intellectual disability;

(XVI) Muscular dystrophy;

(XVII) Specific learning disability;

(XVIII) Spina bifida;

(XIX) Traumatic brain injury;

(XX) Visual impairment; or

(XXI) Any rare disease identified by the National Institutes of Health's Genetic and Rare Diseases Information Center's list of rare disease disorders.

(ii) The State Board of Education shall adopt rules to provide for the verification that a student who qualifies for this scholarship through a Section 504 Plan has met the eligibility requirements.

(4) The parent obtains acceptance for admission of the student to a participating school; and

(5) The parent submits an application for a scholarship to the department no later than the deadline established by the department; provided, however, that the department shall establish periodic application deadlines during the school year, which shall occur no less frequently than on September 15, December 15, and February 15 of each school year, for a student to transfer.

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student, including transportation to and from the participating school.

(c) For a student who participates in the program whose parents request that the student take the state-wide assessments pursuant to Code Section 20-2-281, the resident school system shall make available to the student locations and times to take all state-wide assessments. Test scores of private school students participating in the state-wide assessments shall not be applied to the system averages of the resident school system for data reported for federal and state requirements.

(d) Students enrolled in a school operated by the Department of Juvenile Justice or operated by a state charter school on behalf of the Department of Juvenile Justice pursuant to Code Section 20-2-2084.1 are not eligible for the scholarship.

(Current through the 2021 Legislative Session)

(e) The scholarship shall remain in force until the student returns to his or her assigned school in the resident public school system, graduates from high school, or reaches the age of 21, whichever occurs first. However, at any time, the student's parent may remove the student from the participating school and place the student in another participating school or public school as provided for in Code Section 20-2-2113.

(f) With respect to local school systems, the acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq., and a parental waiver of rights to educational accommodations under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C.A. Section 701, et seq.

(g) The creation of the program or the granting of a scholarship pursuant to this article shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state.

(h) Any scholarship directed to a participating school is so directed wholly as a result of the genuine and independent private choice of the parent.

(i) The parent of each student participating in the scholarship program shall comply fully with the participating school's rules and policies.

(j) Any parent who fails to comply with the provisions of this article and department regulations relating to the scholarship shall forfeit the scholarship.

(a) To be eligible to enroll a scholarship student, a participating school shall:

(1) Have a physical location in Georgia where the scholarship students attend classes and have direct contact with the school's teachers;

(2) Demonstrate fiscal soundness by having been in operation for one school year or by submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant. The report must confirm that the school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming school year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. The report shall be limited in scope to those records that are necessary for the department to make a determination on fiscal soundness and to make payments to schools for scholarships;

(3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;

(4) Comply with all health and safety laws or codes that apply to private schools;

(5) Comply with all provisions of Code Section 20-2-690 and any other state law applicable to private schools;

(Current through the 2021 Legislative Session)

(6) Regularly report to the parent and the department on the student's academic progress, including the results of pre-academic assessments and post-academic assessments given to the student, in accordance with department guidelines; and

(7) Employ or contract with teachers who hold a bachelor's degree or higher degree or have at least three years of experience in education or health and annually provide to the parents the relevant credentials of the teachers who will be teaching their students.

(b) A home school operating under the provisions of Code Section 20-2-690 shall not be eligible to enroll scholarship students.

(c) Residential treatment facilities licensed or approved by the state shall not be eligible to enroll scholarship students.

(d) The creation of the program shall not be construed to expand the regulatory authority of the state,

(Current through the 2021 Legislative Session)

(4) Transportation provided by the participating school;

(5) Meals;

(6) Summer school programs;

(7) Tutoring; and

(8) Other materials, services, or activities as authorized by the department.

(c) Scholarship students shall be counted in the enrollment of their resident school system; provided, however, that this count shall only be for purposes of determining the amount of the scholarship and the scholarship students shall not be included as enrolled for purposes of state or federal accountability requirements, including, but not limited to, the federal Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship shall be subtracted from the allotment payable to the resident school system.

(d) Each local school system shall submit quarterly reports to the department on dates established by the department stating the number of scholarship students in the resident school system. Following each notification, the department shall transfer from the state allotment to each school system the amount calculated under subsection (b) of this Code section to a separate account for the scholarship program for quarterly disbursement to the parents of scholarship students. When a student enters the program, the department must receive all documentation required for the student's participation, including the participating school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The department may not make any retroactive payments.

(e) Upon proper documentation received by the department, the department shall make quarterly scholarship payments to the parents of scholarship students on or before October 15, December 15, February 15, and May 15 for quarterly periods corresponding, respectively, to August 1 through September 30, October 1 through November 30, December 1 through the last day of February, and March 1 through May 31 during each academic year in which the scholarship is in force. As nearly as

(Current through the 2021 Legislative Session)

The Office of Student Achievement, in conjunction with the department, shall provide the General Assembly not later than December 1 of each year with a report regarding the scholarship program for the previous fiscal year. The report shall include, but not be limited to, numbers and demographics of students participating and numbers of participating schools. Such report shall also be posted on the Office of Student Achievement's website.