

Senate Bill 47

By: Senators Gooch of the 51st, Miller of the 49th, Dugan of the 30th, Kennedy of the 18th, Walker III of the 20th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
2 relating to the Georgia Special Needs Scholarship Act, so as to revise the prior school year
3 requirement; to expand eligibility for students; to revise the basis for calculating scholarship
4 amounts; to require annual parent surveys; to provide for a review procedure for scholarship
5 calculations; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the
9 Georgia Special Needs Scholarship Act, is amended by revising Code Section 20-2-2113,
10 relating to annual notification of options available to parents of special needs students, as
11 follows:

12 "20-2-2113.

13 (a) The resident school system shall provide specific written notice of the options available
14 under this article to the parent at the initial Individualized Education Program (IEP)
15 meeting in which a disability of the parent's child is identified or at the time the child is
16 determined to be eligible for accommodations or services under Section 504 of the federal

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17 Rehabilitation Act of 1973. Thereafter, the resident school system shall annually notify
18 prior to the beginning of each school year the parent of a student with a disability by letter,
19 electronic means, or by such other reasonable means in a timely manner of the options
20 available to the parent under this article.

21 (b)(1) The parent may choose for the student to attend another public school within the
22 resident school system which has available space and which has a program with the
23 services agreed to in the student's existing ~~individualized education program~~
24 Individualized Education Program or Section 504 Plan. If the parent chooses this option,
25 then the parent shall be responsible for transportation to such school. The student may
26 attend such public school pursuant to this paragraph until the student completes all grades
27 of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance
28 with federal and state requirements for disabled students;

29 (2) The parent may choose to enroll the student in and transport the student to a public
30 school outside of the student's resident school system which has available space and
31 which has a program with the services agreed to in the student's existing ~~individualized~~
32 ~~education program~~ Individualized Education Program or Section 504 Plan. The
33 nonresident public school system may accept the student, and if it does, such system shall
34 report the student for purposes of funding to the department;

35 (3) The parent may choose for the student to attend one of the state schools for the deaf
36 and blind operated by the State Board of Education, if appropriate for the student's needs.
37 Funding for such students shall be provided in accordance with Code Section 20-2-302;
38 or

39 (4) The parent may request and receive from the department a scholarship for the student
40 to enroll in and attend a participating private school in accordance with this article."

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SECTION 2.

42 Said article is further amended by revising subsections (a) and (f) of Code Section
 43 20-2-2114, relating to qualifications for scholarship, financial responsibility, state-wide
 44 assessments, exception, and compliance, as follows:

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

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

50 ~~(2) The student has one or more of the following disabilities:~~

51 ~~(A) Autism;~~

52 ~~(B) Deaf/blind;~~

53 ~~(C) Deaf/hard of hearing;~~

54 ~~(D) Emotional and behavioral disorder;~~

55 ~~(E) Intellectual disability;~~

56 ~~(F) Orthopedic impairment;~~

57 ~~(G) Other health impairment;~~

58 ~~(H) Specific learning disability;~~

59 ~~(I) Speech-language impairment;~~

60 ~~(J) Traumatic brain injury; or~~

61 ~~(K) Visual impairment;~~

62 ~~(3) The student:~~

63 ~~(A) Has spent the prior school year in attendance at a Georgia public school; provided,~~
 64 ~~however, that this requirement shall not apply if the student's parent is an active duty~~
 65 ~~military service member stationed in Georgia within the previous year; and~~

66 (2) The student has spent the prior school year in attendance at a Georgia public school
 67 or received preschool special education or related services pursuant to Section 619 of

68 Part B of the federal Individuals with Disabilities Education Act; provided, however, that
 69 this requirement shall not apply if:

70 (A) The student's parent is an active duty military service member stationed in Georgia
 71 within the previous year;

72 (B) The student has been adopted or placed in a permanent guardianship from foster
 73 care pursuant to an order issued by a court of competent jurisdiction within the previous
 74 year;

75 (C) The student previously qualified for a scholarship pursuant to this article; or

76 (D) The scholarship application is made for the 2021-2022 school year on behalf of a
 77 student who was enrolled in a Georgia public school at the time of at least one count
 78 provided for in Code Section 20-2-160 during either the 2019-2020 or 2020-2021
 79 school years;

80 ~~(B)(3)(A)~~ The student has ~~Has~~ an Individualized Education Program (IEP) written in
 81 accordance with federal and state laws and regulations; provided, however, that the
 82 State Board of Education shall be authorized to require a local board of education to
 83 expedite the development of an Individualized Education Program and to waive the
 84 prior school year requirement contained in subparagraph (A) of this paragraph (2) of
 85 this subsection, in its sole discretion, on a case-by-case basis for specific medical or
 86 behavioral needs of the student upon the request of a parent or guardian in accordance
 87 with state board procedures. If an expedited Individualized Education Program is
 88 required by the state board pursuant to this subparagraph, the state board may
 89 additionally require such expedited process to be completed prior to the beginning of
 90 the school year. The State Board of Education shall provide an annual report by
 91 December 31 of each year through December 31, 2015, regarding the number of
 92 waivers approved pursuant to this paragraph to the General Assembly; or

93 (B) The student has a formal diagnosis from a physician or psychologist licensed in
 94 this state or a Section 504 Plan relating to one or more conditions that are included

95 among the conditions which shall be identified by the State Board of Education for the
96 purposes of this Code section and which shall, at a minimum, include the following:

- 97 (i) Attention deficit hyperactivity disorder (ADHD);
98 (ii) Autism spectrum disorder;
99 (iii) Bipolar disorder;
100 (iv) Cancer;
101 (v) Cerebral palsy;
102 (vi) Cystic fibrosis;
103 (vii) Deafness;
104 (viii) Down syndrome;
105 (ix) Drug or alcohol abuse;
106 (x) Dual sensory impairment;
107 (xi) Dyslexia;
108 (xii) Emotional or behavioral disorder;
109 (xiii) Epilepsy;
110 (xiv) Hearing impairment;
111 (xv) Intellectual disability;
112 (xvi) Muscular dystrophy;
113 (xvii) Specific learning disability;
114 (xviii) Spina bifida;
115 (xix) Traumatic brain injury;
116 (xx) Visual impairment; or
117 (xxi) Any rare disease identified by the National Institutes of Health's Genetic and
118 Rare Diseases Information Center's list of rare disease disorders.

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

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

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

131 **SECTION 3.**

132 Said article is further amended by revising subsections (a) and (b) of Code Section
 133 20-2-2116, relating to amount of scholarship and method of payments, as follows:

134 "(a) The maximum scholarship granted a scholarship student pursuant to this article shall
 135 be an amount equivalent to the costs of the educational program that would have been
 136 provided for the student in the resident school system as calculated under Code Section
 137 20-2-161 and, if a scholarship student has an Individualized Education Program (IEP),
 138 based upon services specified in the Individualized Education Program in place at the time
 139 of the most recent enrollment count, as described in Code Section 20-2-160. This shall not
 140 include any federal funds.

141 (b) The amount of the scholarship shall be the lesser of the amount calculated in
 142 subsection (a) of this Code section or the amount of the participating school's tuition and
 143 fees, if applicable; including, but not limited to, fees for:

144 (1) Student assessment;

145 (2) Uniforms;

146 (3) Physical therapy, speech therapy, or occupational therapy;

- 147 (4) Athletics;
148 (5) Before or after-school care;
149 (6) Books and school supplies;
150 (7) Meals;
151 (8) Summer school programs;
152 (9) Tutoring;
153 (10) Field trips; and
154 (11) Other materials, services, or activities as authorized by the department. The amount
155 of any assessment fee required by the participating school may be paid from the total
156 amount of the scholarship."

157 **SECTION 4.**

158 Said article is further amended by revising Code Section 20-2-2117, relating to adoption and
159 promulgation of rules, immunity from liability for scholarship decisions, and schools barred
160 from program participation for certain actions, as follows:

161 "20-2-2117.

162 (a) The board shall adopt rules to administer the program regarding eligibility and
163 participation of participating schools, including, but not limited to, timelines that will
164 maximize student and public and private school participation, the calculation and
165 distribution of scholarships to eligible students and participating schools, and the
166 application and approval procedures for eligible students and participating schools. The
167 department shall develop and utilize a compliance form for completion by participating
168 schools. The department shall be authorized to require any pertinent information as it
169 deems necessary from participating schools for the purpose of implementing the program.
170 Participating schools shall be required to complete such forms and certify their accuracy.

171 (b) The board shall adopt rules to administer the program regarding student eligibility,
172 transparency, and awareness of the impact of the program, including, but not limited to, the
173 following:

174 (1) The department shall conduct an annual survey of participating parents' satisfaction
175 with the program, their satisfaction with the private school, and their likelihood of
176 recommending the program. Survey results shall be collected using only numerical
177 measures and made publicly available in the annual report provided for in Code Section
178 20-2-2118; and

179 (2) The department shall post on its publicly accessible website the basic unit cost for
180 general instructional programs as a minimum estimate for scholarship amounts. The
181 department shall provide parents of scholarship students the actual scholarship amounts
182 upon appropriation of state funds to the department for disbursement. Within 30 calendar
183 days of receipt of the actual scholarship amount, a parent of a scholarship student who
184 believes that such student's program weights have been incorrectly reported by the local
185 school system may make a request in writing to the department for a review of the
186 accuracy of the local school system's reported program weights. The department shall
187 provide a written response within 30 days of receipt of the parent's written request.

188 (c) No liability shall arise on the part of the department or the state or of any local board
189 of education based on the award or use of a scholarship awarded pursuant to this article.

190 ~~(c)~~(d) The department may bar a school from participation in the program if the
191 department determines that the school has intentionally and substantially misrepresented
192 information or failed to refund to the state any scholarship overpayments in a timely
193 manner."

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SECTION 5.

195 All laws and parts of laws in conflict with this Act are repealed.