

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 203

By: Daniels

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5
6 AS INTRODUCED

7 An Act relating to the Lindsey Nicole Henry
8 Scholarships for Students with Disabilities Program;
9 amending 70 O.S. 2011, Section 13-101.2, as last
10 amended by Section 1, Chapter 1, O.S.L. 2020 (70 O.S.
11 Supp. 2020, Section 13-101.2), which relates to
12 eligibility for the program; allowing a student who
13 has at least one parent who is incarcerated to be
14 eligible for the program; directing certain
15 requesting parent or legal guardian to submit certain
16 documentation to verify the status of certain parent;
17 updating statutory reference; requiring report to
18 include certain information; and providing an
19 effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 70 O.S. 2011, Section 13-101.2, as
22 last amended by Section 1, Chapter 1, O.S.L. 2020 (70 O.S. Supp.
23 2020, Section 13-101.2), is amended to read as follows:

24 Section 13-101.2. A. There is hereby created the Lindsey
25 Nicole Henry Scholarships for Students with Disabilities Program.
26 The Lindsey Nicole Henry Scholarships for Students with Disabilities
27 Program is established to provide a scholarship to a private school
28 of choice for students with disabilities for whom an individualized

1 education program (IEP) in accordance with the Individuals with
2 Disabilities Education Act (IDEA) or an individualized service plan
3 pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes
4 has been developed at any time prior to notifying the State
5 Department of Education of the intent to participate in the Program
6 and the IEP is in effect at the time the request for a scholarship
7 is received by the State Department of Education or for students who
8 have at least one parent who is incarcerated pursuant to subsection
9 L of this section. Scholarships shall be awarded beginning with the
10 2010-2011 school year.

11 B. The parent or legal guardian of a public school student with
12 a disability or with at least one parent who is incarcerated
13 pursuant to subsection L of this section may exercise their parental
14 option and request to have a Lindsey Nicole Henry Scholarship
15 awarded for the child to enroll in and attend a private school in
16 accordance with this section and the scholarship shall be awarded
17 if:

18 1. The student has spent the prior school year in attendance at
19 a public school in this state. For purposes of this section, "prior
20 school year in attendance" means that the student was enrolled in
21 and reported by a school district for funding purposes during the
22 preceding school year regardless of whether or not the student had
23 an IEP at the time the student was counted for funding purposes. A
24 student who is a child of a member of the United States Armed Forces

1 who transfers to a school in this state from out of state or from a
2 foreign country pursuant to a permanent change of station orders of
3 the parent shall be exempt from the requirements of this paragraph
4 but shall be required to meet all other eligibility requirements to
5 participate as provided for in this section. A student who has been
6 provided services under an Individual Family Service Plan through
7 the SoonerStart program and during transition was evaluated and
8 determined to be eligible for school district services shall be
9 exempt from the requirements of this paragraph but shall be required
10 to meet all other eligibility requirements to participate as
11 provided for in this section. A student who was in out-of-home
12 placement with the Department of Human Services, who was adopted
13 while in the permanent custody of the Department of Human Services
14 ~~or~~, who was in out-of-home placement with the Office of Juvenile
15 Affairs or who has at least one parent who is incarcerated pursuant
16 to subsection L of this section shall be exempt from the
17 requirements of this paragraph but shall be required to meet all
18 other eligibility requirements to participate as provided for in
19 this section; and

20 2. The parent or legal guardian has obtained acceptance for
21 admission of the student to a private school that is eligible for
22 the program as provided in subsection H of this section and has
23 notified the State Department of Education of the request for a
24 scholarship. Requests to participate in the program made after

1 December 1 shall be granted, but funding for scholarships requested
2 after December 1 shall not be available until the beginning of the
3 next school year. The request shall be through a communication
4 directly to the Department in a manner that creates a written or
5 electronic record of the request and the date of receipt of the
6 request. The Department shall notify the school district upon
7 receipt of the request. For purposes of continuity of educational
8 choice, the scholarship shall remain in force until the student
9 returns to a public school, graduates from high school or reaches
10 the age of twenty-two (22), whichever occurs first. At any time,
11 the parent or legal guardian of the student may remove the student
12 from the private school and place the student in another private
13 school that is eligible for the program as provided in subsection H
14 of this section or place the student in a public school.

15 C. A student shall be eligible for a scholarship if the parent
16 or legal guardian of the student made a request for a scholarship
17 for the 2010-2011 school year and the student transferred to an
18 eligible private school but was subsequently denied a scholarship
19 because the student did not have an IEP in effect on October 1,
20 2009, but did meet all other eligibility requirements as set forth
21 in the Lindsey Nicole Henry Scholarships for Students with
22 Disabilities Program Act.

23 D. A student shall not be eligible for a Lindsey Nicole Henry
24 Scholarship if the student is not having regular and direct contact
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1 with the private school teachers at the physical location of the
2 private school.

3 E. School districts shall notify the parent or legal guardian
4 of a public school student with a disability or a public school
5 student who has at least one parent who is incarcerated pursuant to
6 subsection L of this section of all options available pursuant to
7 this section and inform the parent or legal guardian of the
8 availability of information about the program from the State
9 Department of Education through the toll-free telephone number or
10 website. The notification shall be provided with or included in the
11 copy of the "Parents Rights in Special Education: Notice of
12 Procedural Safeguards" document given to parents at least annually
13 or as otherwise required by law.

14 F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall
15 have the same effect as a parental revocation of consent to service
16 pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the
17 IDEA.

18 2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the
19 parent or legal guardian shall assume full financial responsibility
20 for the education of the student, including but not limited to
21 transportation to and from the private school.

22 G. If the parent or legal guardian requests a Lindsey Nicole
23 Henry Scholarship and the student is accepted by the private school
24 pending the availability of a space for the student, the parent or

1 legal guardian of the student shall notify the State Department of
2 Education before entering the private school and before December 1
3 in order to be eligible for the scholarship during the school year
4 when a space becomes available for the student in the private
5 school. If notification is made after December 1, payment of the
6 scholarship shall not begin until the next school year.

7 H. 1. To be eligible to participate in the Lindsey Nicole
8 Henry Scholarships for Students with Disabilities Program, a private
9 school shall notify the State Department of Education of its intent
10 to participate. The notice shall specify the grade levels and
11 services that the private school has available for students with
12 disabilities who are participating in the scholarship program. The
13 State Department of Education shall approve a private school as
14 eligible to participate in the scholarship program upon
15 determination that the private school:

16 a. meets the accreditation requirements set by the State
17 Board of Education or another accrediting association
18 approved by the State Board of Education. The State
19 Department of Education shall list on its website all
20 accrediting associations approved by the Board,

21 b. demonstrates fiscal soundness by having been in
22 operation for one (1) school year or providing the
23 State Department of Education with a statement by a
24 certified public accountant confirming that the

1 private school desiring to participate is insured and
2 the owner or owners have sufficient capital or credit
3 to operate the school for the upcoming year by serving
4 the number of students anticipated with expected
5 revenues from tuition and other sources that may be
6 reasonably expected. In lieu of a statement, a surety
7 bond or letter of credit for the amount equal to the
8 scholarship funds for any quarter may be filed with
9 the Department,

10 c. complies with the antidiscrimination provisions of 42
11 U.S.C., Section 2000d,

12 d. meets state and local health and safety laws and
13 codes,

14 e. will be academically accountable to the parent or
15 legal guardian for meeting the educational needs of
16 the student,

17 f. employs or contracts with teachers who hold
18 baccalaureate or higher degrees, or have at least
19 three (3) years of teaching experience in public or
20 private schools, or have special skills, knowledge, or
21 expertise that qualifies them to provide instruction
22 in subjects taught,

23 g. complies with all state laws relating to general
24 regulation of private schools, and

1 h. adheres to the tenets of its published disciplinary
2 procedures prior to the expulsion of a scholarship
3 student.

4 2. Upon approval of a private school, the State Department of
5 Education shall provide on its website all information and material
6 submitted by the private school with its application.

7 I. 1. Lindsey Nicole Henry Scholarship Program participants
8 shall comply with the following:

9 a. the parent or legal guardian shall select the private
10 school from the schools approved for eligibility
11 pursuant to subsection H of this section and apply for
12 the admission of the child,

13 b. the parent or legal guardian shall request the
14 scholarship no later than December 1 of the school
15 year during which the scholarship is requested,

16 c. any student participating in the scholarship program
17 shall attend throughout the school year, unless
18 excused by the school for illness or other good cause,
19 and shall comply fully with the code of conduct for
20 the school,

21 d. the parent or legal guardian shall fully comply with
22 the parental involvement requirements of the private
23 school, unless excused by the school for illness or
24 other good cause, and

1 e. upon issuance of a scholarship warrant, the parent or
2 legal guardian to whom the warrant is made shall
3 restrictively endorse the warrant to the private
4 school for deposit into the account of the private
5 school. The parent or legal guardian may not
6 designate any entity or individual associated with the
7 private school as the attorney in fact for the parent
8 or legal guardian to endorse a warrant. A parent or
9 legal guardian who fails to comply with this
10 subparagraph shall forfeit the scholarship.

11 2. A participant who fails to comply with this subsection
12 forfeits the scholarship.

13 J. Provisions governing payment of a Lindsey Nicole Henry
14 Scholarship shall be as follows:

15 1. The State Department of Education shall calculate the total
16 cost of all scholarships for all eligible students in the state.
17 The State Department of Education shall then reserve or retain from
18 the total amount appropriated to the State Board of Education for
19 State Aid purposes and any other revenue available for allocation
20 for State Aid purposes the total cost for all scholarship payments;

21 2. The maximum scholarship granted for an eligible student with
22 disabilities shall be a calculated amount equivalent to the total
23 State Aid factors for the applicable school year multiplied by the
24 grade and disability weights generated by that student for the

1 applicable school year. The disability weights used in calculating
2 the scholarship amount shall include all disability weights which
3 correspond to the disabilities included in the multidisciplinary
4 evaluation and eligibility group summary for the student at the time
5 the request for a scholarship is made by the parent or legal
6 guardian. The maximum scholarship amount shall be calculated by the
7 State Board of Education for each year the student is participating
8 in the scholarship program;

9 3. The amount of the scholarship shall be the amount calculated
10 in paragraph 2 of this subsection or the amount of tuition and fees
11 for the private school, whichever is less, minus up to two and one-
12 half percent (2 1/2%) of the scholarship amount which may be
13 retained by the State Department of Education as a fee for
14 administrative services rendered. The amount of any assessment fee
15 required by the private school and the amount associated with
16 providing services and therapies to address the disabilities of the
17 student may be paid from the total amount of the scholarship. The
18 amount of the scholarship shall be prorated to reflect the number of
19 days remaining in the current school year, if the scholarship
20 request is granted after the beginning of the school year;

21 4. The State Department of Education shall notify the private
22 school of the amount of the scholarship within ten (10) days after
23 receiving the request for a scholarship, when the total State Aid
24 factors have been determined for the current fiscal year. The

1 initial payment shall be made after the Department verifies
2 admission acceptance and enrollment. Quarterly payments shall be
3 made upon verification of continued enrollment and attendance at the
4 private school. Payment shall be made by the Department with an
5 individual warrant made payable to the parent or legal guardian of
6 the student and mailed by the Department to the private school that
7 the parent or legal guardian chooses. The parent or legal guardian
8 shall restrictively endorse the warrant to the private school for
9 deposit into the account of the private school;

10 5. The State Department of Education shall not be responsible
11 for any additional costs associated with special education and
12 related services incurred by the private school for the student
13 including the cost of teachers, equipment, material, and special
14 costs associated with the special education class;

15 6. The State Department of Education shall establish a toll-
16 free telephone number or website that provides parents or legal
17 guardians and private schools with information about the program;

18 7. The State Department of Education shall require an annual,
19 notarized, sworn compliance statement by participating private
20 schools certifying compliance with state laws and shall retain all
21 records received from a participating private school. The State
22 Department of Education shall post on its website the annual
23 compliance statement for each participating private school; and
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1 8. The State Department of Education shall cross-check the list
2 of participating scholarship students with the public school
3 enrollments prior to each scholarship payment to avoid duplication.

4 K. 1. The State Superintendent of Public Instruction shall
5 deny, suspend~~r~~ or revoke the participation of a private school in
6 the scholarship program if it is determined that the private school
7 has failed to comply with the provisions of this section. However,
8 in instances in which the noncompliance is correctable within a
9 reasonable amount of time and in which the health, safety~~r~~ or
10 welfare of the students is not threatened, the Superintendent may
11 issue a notice of noncompliance which shall provide the private
12 school with a time frame within which to provide evidence of
13 compliance prior to taking action to suspend or revoke participation
14 in the scholarship program.

15 2. If the Superintendent intends to deny, suspend~~r~~ or revoke
16 the participation of a private school in the scholarship program,
17 the Department shall notify the private school of the proposed
18 action in writing by certified mail and regular mail to the private
19 school's address of record with the Department. The Department
20 shall also notify any parents or legal guardians of scholarship
21 students attending the private school. The notification shall
22 include the reasons for the proposed action and notice of the
23 timelines and procedures set forth in this subsection.

1 3. The private school that is adversely affected by the
2 proposed action shall have fifteen (15) days from receipt of the
3 notice of proposed action to file with the Department a request for
4 an administrative hearing proceeding pursuant to the Administrative
5 Procedures Act.

6 4. Upon receipt of a request for a hearing, the State Board of
7 Education shall commence a hearing within sixty (60) days after the
8 receipt of the formal written request and enter an order within
9 thirty (30) days after the hearing.

10 5. The Board may immediately suspend payment of scholarship
11 funds if it is determined that there is probable cause to believe
12 that there is an imminent threat to the health, safety, or welfare
13 of the students or fraudulent activity on the part of the private
14 school.

15 L. A parent or legal guardian who requests a Lindsey Nicole
16 Henry Scholarship for a public school student who has at least one
17 parent who is incarcerated shall provide to the State Board of
18 Education documentation verifying a parent is incarcerated in the
19 custody of the Department of Corrections, another state's prison
20 system or the Federal Bureau of Prisons including but not limited to
21 the Department of Corrections inmate number.

22 M. No liability shall arise on the part of the state, the State
23 Board of Education, the State Department of Education or a school
24 district based on the award or use of any scholarship provided

1 through the Lindsey Nicole Henry Scholarships for Students with
2 Disabilities Program.

3 ~~M.~~ N. The inclusion of private schools within options available
4 to public school students in Oklahoma shall not expand the
5 regulatory authority of the state or any school district to impose
6 any additional regulation of private schools beyond those reasonably
7 necessary to enforce the requirements expressly set forth in this
8 section.

9 ~~N.~~ O. If the State Department of Education determines that a
10 school district prior to ~~the effective date of this act~~ August 26,
11 2011, has failed to comply with the provisions of the Lindsey Nicole
12 Henry Scholarships for Students with Disabilities Program Act and
13 has failed to make full or partial scholarship payments for eligible
14 students, the Department shall have authority to reduce the amount
15 of State Aid allocated to the school district or require the school
16 district to make repayment to the Department of State Aid
17 allocations in an amount equal to the amount of scholarship payments
18 the school district failed to make. The Department shall make
19 payment to the parent or legal guardian in the amount the school
20 district failed to make in the manner as provided for in subsection
21 J of this section.

22 ~~O.~~ P. The State Department of Education shall annually prepare
23 and post on its website a report of Lindsey Nicole Henry
24 Scholarships for Students with Disabilities Program. The annual

1 report shall include, but not be limited to, the following
2 information:

3 1. The total number and amount of scholarships awarded and
4 reported for each participating private school;

5 2. The total number of scholarships denied;

6 3. The total number and amount of scholarship payments
7 suspended for each participating private school; and

8 4. Data on participating students, disaggregated by years of
9 participation in the program, grade level, economically
10 disadvantaged status, racial and ethnic groups and disability
11 category or eligibility due to subsection L of this section.

12 SECTION 2. This act shall become effective September 1, 2021.

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