

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 3393

By: Nelson, Pittman, Shumate
and Kern of the House

7 and

8 Anderson of the Senate

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to special education; creating the
11 Lindsey Nicole Henry Special Education Scholarship
12 Act; amending 70 O.S. 2001, Section 13-101, which
13 relates to special education services for children
14 with disabilities; authorizing districts to provide
15 scholarship for certain students to attend certain
16 institutions; creating the Scholarships for Students
17 with Disabilities Program; stating intent; specifying
18 procedures; establishing eligibility requirements for
19 students; requiring certain notice; establishing
20 eligibility requirement for a private school;
21 specifying certain compliance requirements; requiring
22 forfeiture for failure to comply; establishing
23 formula for maximum scholarship amount; providing for
24 payments; clarifying responsibility for certain
additional costs; precluding liability; providing for
noncodification; providing for codification;
providing an effective date; and declaring an
emergency.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Lindsey Nicole
2 Henry Special Education Scholarship Act".

3 SECTION 2. AMENDATORY 70 O.S. 2001, Section 13-101, is
4 amended to read as follows:

5 Section 13-101. A. The several school districts of Oklahoma
6 are hereby authorized to provide special education and related
7 services necessary for children with disabilities as hereinafter
8 defined. Two or more school districts may establish cooperative
9 programs of special education for children with disabilities when
10 such arrangement is approved by the State Board of Education. Funds
11 may be expended for school services for an additional period during
12 the summer months for approved programs for qualified children with
13 disabilities, provided their individualized education program
14 (I.E.P.) states the need for extended school year special education
15 and related services. Children with disabilities shall mean
16 children, as defined in the Individuals with Disabilities Education
17 Act (IDEA), P.L. No. 105-17, who are three (3) years of age.

18 Provided, on and after July 1, 1991, children from age birth
19 through two (2) years (0-36 months) of age who meet the eligibility
20 criteria specified in Section 13-123 of this title, shall be served
21 pursuant to the provisions of the Oklahoma Early Intervention Act.
22 The attendance of said children in special education classes shall
23 be included in the average daily membership computations for State
24 Aid purposes.

1 B. The State Board of Education is authorized to modify and
2 redefine by regulation the eligibility definitions whenever such
3 modification is required to receive federal assistance under the
4 Individuals with Disabilities Education Act (IDEA), P.L. No. 105-17.
5 Rules developed pursuant to Section 18-109.5 of this title shall
6 provide for such modification and revised definitions.

7 C. It shall be the duty of each school district to provide
8 special education and related services for all children with
9 disabilities as herein defined who reside in that school district in
10 accordance with the Individuals with Disabilities Education Act
11 (IDEA), ~~P.L. No. 105-17. This duty may be satisfied~~ The district
12 may satisfy this duty by:

13 1. ~~The district directly~~ Directly providing special education
14 for such children;

15 2. ~~The district joining~~ Joining in a cooperative program with
16 another district or districts to provide special education for such
17 children;

18 3. ~~The district joining~~ Joining in a written agreement with a
19 private or public institution, licensed residential child care and
20 treatment facility or day treatment facility within such district to
21 provide special education for children who are deaf or
22 hard-of-hearing, children who are blind or partially blind or other
23 eligible children with disabilities; ~~or~~

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1 4. Transferring eligible children and youth with disabilities
2 to other school districts which accept them and provide special
3 education and related services for ~~such~~ the children, with the
4 district in which the child resides paying tuition ~~therefor~~ as
5 ~~hereinafter~~ otherwise provided. For those students who transfer
6 pursuant to the provisions of the Education Open Transfer Act, the
7 receiving school district shall assume all responsibility for
8 education and shall count the student for federal and state funding
9 purposes according to the provisions of subsection B of Section 13-
10 103 of this title; or

11 5. Beginning with the 2010-2011 school year, providing a
12 scholarship at the request of a parent for a student to attend a
13 private institution pursuant to Section 3 of this act.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 13-101.1 of Title 70, unless
16 there is created a duplication in numbering, reads as follows:

17 A. There is hereby created the Scholarships for Students with
18 Disabilities Program. The Scholarships for Students with
19 Disabilities Program is established to provide a scholarship to a
20 private school of choice for students with disabilities for whom an
21 individualized education program (IEP) in accordance with the
22 Individuals with Disabilities Education Act (IDEA) has been
23 developed.

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1 B. The parent of a public school student with a disability may
2 exercise their parental option and request and receive a scholarship
3 for the child to enroll in and attend a private school in accordance
4 with this section if:

5 1. The student has spent the prior school year in attendance at
6 a public school in this state. For purposes of this section, "prior
7 school year in attendance" means that the student was enrolled in
8 and reported by a school district for funding purposes during the
9 preceding school year; and

10 2. The parent has obtained acceptance for admission of the
11 student to a private school that is eligible for the program as
12 provided in subsection D of this section and has notified, in
13 writing, the school district of the request for a scholarship at
14 least sixty (60) days prior to the date of the first scholarship
15 payment. For purposes of continuity of educational choice, the
16 scholarship shall remain in force until the student returns to a
17 public school or graduates from high school. If the residence of
18 the student changes, the district of residence shall assume
19 responsibility for the scholarship. At any time, the parent of the
20 student may remove the student from the private school and place the
21 student in another private school that is eligible for the program
22 as provided in subsection D of this section.

23 C. If the parent requests a scholarship and the student is
24 accepted by the private school pending the availability of a space

1 for the student, the parent of the student shall notify the school
2 district sixty (60) days prior to the first scholarship payment and
3 before entering the private school in order to be eligible for the
4 scholarship when a space becomes available for the student in the
5 private school.

6 D. To be eligible to participate in the Scholarships for
7 Students with Disabilities Program, a private school shall notify
8 the State Department of Education of its intent to participate by
9 May 1 of the school year preceding the school year in which it
10 intends to participate. The notice shall specify the grade levels
11 and 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 Scholarships for Students with
15 Disabilities Program upon determination that the private school:

16 1. Meets the accreditation requirements set by the State Board
17 of Education or another accrediting association approved by the
18 State Board of Education;

19 2. Demonstrates fiscal soundness by having been in operation
20 for one (1) school year or providing the State Department of
21 Education with a statement by a certified public accountant
22 confirming that the private school desiring to participate is
23 insured and the owner or owners have sufficient capital or credit to
24 operate the school for the upcoming year by serving the number of

1 students anticipated with expected revenues from tuition and other
2 sources that may be reasonably expected. In lieu of a statement, a
3 surety bond or letter of credit for the amount equal to the
4 scholarship funds for any quarter may be filed with the Department;

5 3. Complies with the antidiscrimination provisions of 42
6 U.S.C., Section 2000d;

7 4. Meets state and local health and safety laws and codes;

8 5. Will be academically accountable to the parent for meeting
9 the educational needs of the student;

10 6. Employs or contracts with teachers who hold baccalaureate or
11 higher degrees, or have at least three (3) years of teaching
12 experience in public or private schools, or have special skills,
13 knowledge, or expertise that qualifies them to provide instruction
14 in subjects taught;

15 7. Complies with all state laws relating to general regulation
16 of private schools; and

17 8. Adheres to the tenets of its published disciplinary
18 procedures prior to the expulsion of a scholarship student.

19 E. 1. Scholarship program participants shall comply with the
20 following:

21 a. the parent shall select the private school from the
22 schools approved for eligibility pursuant to
23 subsection D of this section and apply for the
24 admission of the child,

1 b. the parent shall request the scholarship at least
2 sixty (60) days prior to the date of the first
3 scholarship payment,

4 c. any student participating in the scholarship program
5 shall attend throughout the school year, unless
6 excused by the school for illness or other good cause,
7 and shall comply fully with the code of conduct for
8 the school,

9 d. the parent shall fully comply with the parental
10 involvement requirements of the private school, unless
11 excused by the school for illness or other good cause,
12 and

13 e. upon receipt of a scholarship warrant, the parent to
14 whom the warrant is made shall restrictively endorse
15 the warrant to the private school for deposit into the
16 account of the private school.

17 2. A participant who fails to comply with this subsection
18 forfeits the scholarship.

19 F. Provisions governing payment of scholarships shall be as
20 follows:

21 1. The maximum scholarship granted for an eligible student with
22 disabilities shall be a calculated amount equivalent to the local
23 and county revenue for the school district which is chargeable in
24 the State Aid formula, state-dedicated revenue, and state-

1 appropriated funds per weighted average daily membership generated
2 by that student for the applicable school year;

3 2. The amount of the scholarship shall be the amount calculated
4 in paragraph 1 of this subsection or the amount of tuition and fees
5 for the private school, whichever is less;

6 3. The school district shall report all students who are
7 attending a private school under this program to the State
8 Department of Education;

9 4. The initial payment shall be made after the school district
10 verifies admission acceptance and enrollment. Quarterly payments
11 shall be made upon verification of continued enrollment and
12 attendance at the private school. Payment shall be by individual
13 warrant made payable to the parent of the student and mailed to the
14 private school that the parent chooses. The parent shall
15 restrictively endorse the warrant to the private school for deposit
16 into the account of the private school; and

17 5. A school district shall not be responsible for any
18 additional costs associated with special education and related
19 services incurred by the private school for the student including
20 the cost of teachers, equipment, material, and special costs
21 associated with the special education class.

22 G. No liability shall arise on the part of the state or a
23 school district based on the award or use of any scholarship

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1 provided through the Scholarships for Students with Disabilities
2 Program.

3 SECTION 4. This act shall become effective July 1, 2010.

4 SECTION 5. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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