

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3327

By: Pittman

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5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Section 13-101, which relates to special education
9 services for children with disabilities; authorizing
10 districts to provide scholarship for certain students
11 to attend certain institutions; creating the
12 Scholarships for Students with Disabilities Program;
13 stating intent; specifying procedures; establishing
14 eligibility requirements; establishing formula for
15 maximum scholarship amount; clarifying school
16 districts not responsible for additional costs;
17 precluding liability; providing for codification;
18 providing an effective date; and declaring an
19 emergency.

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

21 SECTION 1. AMENDATORY 70 O.S. 2001, Section 13-101, is
22 amended to read as follows:

23 Section 13-101. A. The several school districts of Oklahoma
24 are hereby authorized to provide special education and related
25 services necessary for children with disabilities as hereinafter
26 defined. Two or more school districts may establish cooperative
27 programs of special education for children with disabilities when
28 such arrangement is approved by the State Board of Education. Funds

1 may be expended for school services for an additional period during
2 the summer months for approved programs for qualified children with
3 disabilities, provided their individualized education program
4 (I.E.P.) states the need for extended school year special education
5 and related services. Children with disabilities shall mean
6 children, as defined in the Individuals with Disabilities Education
7 Act (IDEA), P.L. No. 105-17, who are three (3) years of age.

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

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

21 C. It shall be the duty of each school district to provide
22 special education and related services for all children with
23 disabilities as herein defined who reside in that school district in
24 accordance with the Individuals with Disabilities Education Act

1 (IDEA), P.L. No. 105-17. ~~This duty~~ The district may ~~be satisfied~~
2 satisfy this duty by:

3 1. ~~The district directly~~ Directly providing special education
4 for such children;

5 2. ~~The district joining~~ Joining in a cooperative program with
6 another district or districts to provide special education for such
7 children;

8 3. ~~The district joining~~ Joining in a written agreement with a
9 private or public institution, licensed residential child care and
10 treatment facility or day treatment facility within such district to
11 provide special education for children who are deaf or
12 hard-of-hearing, children who are blind or partially blind or other
13 eligible children with disabilities; ~~or~~

14 4. Transferring eligible children and youth with disabilities
15 to other school districts which accept them and provide special
16 education and related services for such children, with the district
17 in which the child resides paying tuition therefor as hereinafter
18 provided. For those students who transfer pursuant to the
19 provisions of the Education Open Transfer Act, the receiving school
20 district shall assume all responsibility for education and shall
21 count the student for federal and state funding purposes according
22 to the provisions of subsection B of Section 13-103 of this title;

23 or

1 5. Beginning with the 2010-2011 school year, providing a
2 scholarship at the parent's request for a student to attend a
3 private institution pursuant to Section 2 of this act.

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 13-101.1 of Title 70, unless
6 there is created a duplication in numbering, reads as follows:

7 A. There is hereby created the Scholarships for Students with
8 Disabilities Program. The Scholarships for Students with
9 Disabilities Program is established to provide a scholarship to a
10 private school of choice for students with disabilities for whom an
11 individual education program has been developed.

12 B. The parent of a public school student with a disability may
13 request and receive a scholarship for the child to enroll in and
14 attend a private school in accordance with this section if:

15 1. The student has spent the prior school year in attendance at
16 a public school in this state. Prior school year in attendance
17 means that the student was enrolled and reported by a school
18 district for funding during the preceding school year; and

19 2. The parent has obtained acceptance for admission of the
20 student to a private school that is eligible for the program as
21 provided in subsection D of this section and has notified, in
22 writing, the school district of the request for a scholarship at
23 least sixty (60) days prior to the date of the first scholarship
24 payment. For purposes of continuity of educational choice, the

1 scholarship shall remain in force until the student returns to a
2 public school or graduates from high school. If the student's
3 residence changes, the district of residence shall assume
4 responsibility for the scholarship. At any time, the student's
5 parent may remove the student from the private school and place the
6 student in another private school that is eligible for the program
7 as provided in subsection D of this section.

8 C. If the parent requests a scholarship and the student is
9 accepted by the private school pending the availability of a space
10 for the student, the parent of the student must notify the school
11 district sixty (60) days prior to the first scholarship payment and
12 before entering the private school in order to be eligible for the
13 scholarship when a space becomes available for the student in the
14 private school.

15 D. To be eligible to participate in the Scholarships for
16 Students with Disabilities Program, a private school shall notify
17 the State Department of Education of its intent to participate by
18 May 1 of the school year preceding the school year in which it
19 intends to participate. The notice must specify the grade levels
20 and services that the private school has available for students with
21 disabilities who are participating in the scholarship program. The
22 State Department of Education shall approve a private school as
23 eligible to participate in the Scholarships for Students with
24 Disabilities Program upon determination that such private school:

1 1. Meets the accreditation requirements set by the State Board
2 of Education or another accrediting association approved by the
3 State Board of Education;

4 2. Demonstrates fiscal soundness by having been in operation
5 for one school year or providing the State Department of Education
6 with a statement by a certified public accountant confirming that
7 the private school desiring to participate is insured and the owner
8 or owners have sufficient capital or credit to operate the school
9 for the upcoming year by serving the number of students anticipated
10 with expected revenues from tuition and other sources that may be
11 reasonably expected. In lieu of such statement, a surety bond or
12 letter of credit for the amount equal to the scholarship funds for
13 any quarter may be filed with the Department;

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

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

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

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

24

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

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

5 E. Scholarship program participants shall comply with the
6 following:

7 1. The parent shall select the private school from the schools
8 approved for eligibility pursuant to subsection D of this section
9 and apply for the admission of the child;

10 2. The parent shall request the scholarship at least sixty (60)
11 days prior to the date of the first scholarship payment;

12 3. Any student participating in the scholarship program must
13 attend throughout the school year, unless excused by the school for
14 illness or other good cause, and must comply fully with the school's
15 code of conduct;

16 4. The parent must fully comply with the private school's
17 parental involvement requirements, unless excused by the school for
18 illness or other good cause;

19 5. Upon receipt of a scholarship warrant, the parent to whom
20 the warrant is made must restrictively endorse the warrant to the
21 private school for deposit into the account of the private school;
22 and

23 6. A participant who fails to comply with this subsection
24 forfeits the scholarship.

1 F. Provisions governing payment of scholarships shall be as
2 follows:

3 1. The maximum scholarship granted for an eligible student with
4 disabilities shall be a calculated amount equivalent to the school
5 district's average local and county revenue which is chargeable in
6 the State Aid formula, state-dedicated revenue, and state-
7 appropriated funds per average daily membership generated by that
8 student for the applicable school year;

9 2. The amount of the scholarship shall be the amount calculated
10 in paragraph 1 of this subsection or the amount of the private
11 school's tuition and fees, whichever is less;

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

15 4. The initial payment shall be made after the school district
16 verifies admission acceptance and enrollment. Quarterly payments
17 shall be made upon verification of continued enrollment and
18 attendance at the private school. Payment must be by individual
19 warrant made payable to the student's parent and mailed to the
20 private school of the parent's choice. The parent shall
21 restrictively endorse the warrant to the private school for deposit
22 into the account of the private school; and

23 5. A school district shall not be responsible for any
24 additional costs associated with special education and related

1 services for the student including the cost of teachers, equipment,
2 material, and special costs associated with the special education
3 class.

4 G. No liability shall arise on the part of the state based on
5 the award or use of any scholarship provided by the Scholarships for
6 Students with Disabilities Program.

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

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

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