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February 15, 2017

AS AMENDED

SENATE BILL NO. 301

By: Griffin

[Lindsey Nicole Henry Scholarships for Students with Disabilities Program - eligibility - effective date -

~~emergency]~~

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 13-101.2, as last amended by Section 1, Chapter 342, O.S.L. 2014 (70 O.S. Supp. 2016, Section 13-101.2), is amended to read as follows:

Section 13-101.2. A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities Program is established to provide a scholarship to a private school of choice for students with disabilities for whom an individualized education program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) has been developed at any time prior to notifying the State Department of Education of the intent to participate in the Program and the IEP is in effect at the time the request for a scholarship is received by the State Department of

1 Education. Scholarships shall be awarded beginning with the 2010-
2 2011 school year.

3 B. The parent or legal guardian of a public school student with
4 a disability may exercise their parental option and request to have
5 a Lindsey Nicole Henry Scholarship awarded for the child to enroll
6 in and attend a private school in accordance with this section and
7 the scholarship shall be awarded if:

8 1. The student has spent the prior school year in attendance at
9 a public school in this state. For purposes of this section, "prior
10 school year in attendance" means that the student was enrolled in
11 and reported by a school district for funding purposes during the
12 preceding school year regardless of whether or not the student had
13 an IEP at the time the student was counted for funding purposes. A
14 student who is a child of a member of the United States Armed Forces
15 who transfers to a school in this state from out of state or from a
16 foreign country pursuant to a permanent change of station orders of
17 the parent shall be exempt from the requirements of this paragraph
18 but shall be required to meet all other eligibility requirements to
19 participate as provided for in this section. A student who has been
20 provided services under an Individual Family Service Plan through
21 the SoonerStart program and during transition was evaluated and
22 determined to be eligible for school district services shall be
23 exempt from the requirements of this paragraph but shall be required
24 to meet all other eligibility requirements to participate as

1 provided for in this section. A student who was in out-of-home
2 placement with the Department of Human Services or the Office of
3 Juvenile Affairs shall be exempt from the requirements of this
4 paragraph but shall be required to meet all other eligibility
5 requirements to participate as provided for in this section; and

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

1 C. A student shall be eligible for a scholarship if the parent
2 or legal guardian of the student made a request for a scholarship
3 for the 2010-2011 school year and the student transferred to an
4 eligible private school but was subsequently denied a scholarship
5 because the student did not have an IEP in effect on October 1,
6 2009, but did meet all other eligibility requirements as set forth
7 in the Lindsey Nicole Henry Scholarships for Students with
8 Disabilities Program Act.

9 D. A student shall not be eligible for a Lindsey Nicole Henry
10 Scholarship if the student is not having regular and direct contact
11 with the private school teachers at the physical location of the
12 private school.

13 E. School districts shall notify the parent or legal guardian
14 of a public school student with a disability of all options
15 available pursuant to this section and inform the parent or legal
16 guardian of the availability of information about the program from
17 the State Department of Education through the toll-free telephone
18 number or website. The notification shall be provided with or
19 included in the copy of the "Parents Rights in Special Education:
20 Notice of Procedural Safeguards" document given to parents at least
21 annually or as otherwise required by law.

22 F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall
23 have the same effect as a parental revocation of consent to service
24

1 pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the
2 IDEA.

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

7 G. If the parent or legal guardian requests a Lindsey Nicole
8 Henry Scholarship and the student is accepted by the private school
9 pending the availability of a space for the student, the parent or
10 legal guardian of the student shall notify the State Department of
11 Education before entering the private school and before December 1
12 in order to be eligible for the scholarship during the school year
13 when a space becomes available for the student in the private
14 school. If notification is made after December 1, payment of the
15 scholarship shall not begin until the next school year.

16 H. To be eligible to participate in the Lindsey Nicole Henry
17 Scholarships for Students with Disabilities Program, a private
18 school shall notify the State Department of Education of its intent
19 to participate. The notice shall specify the grade levels and
20 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 scholarship program upon
24 determination that the 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 (1) school year or providing the State Department of
6 Education with a statement by a certified public accountant
7 confirming that the private school desiring to participate is
8 insured and the owner or owners have sufficient capital or credit to
9 operate the school for the upcoming year by serving the number of
10 students anticipated with expected revenues from tuition and other
11 sources that may be reasonably expected. In lieu of a statement, a
12 surety bond or letter of credit for the amount equal to the
13 scholarship funds for 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 or legal
18 guardian for meeting 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 I. 1. Lindsey Nicole Henry Scholarship Program participants
6 shall comply with the following:

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

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

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

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

23 e. upon issuance of a scholarship warrant, the parent or
24 legal guardian to whom the warrant is made shall

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

9 2. A participant who fails to comply with this subsection
10 forfeits the scholarship.

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

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

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

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

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

19 4. The State Department of Education shall notify the private
20 school of the amount of the scholarship within ten (10) days after
21 receiving the request for a scholarship, when the total State Aid
22 factors have been determined for the current fiscal year. The
23 initial payment shall be made after the Department verifies
24 admission acceptance and enrollment. Quarterly payments shall be

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

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

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

16 7. The State Department of Education shall require an annual,
17 notarized, sworn compliance statement by participating private
18 schools certifying compliance with state laws and shall retain all
19 records received from a participating private school; and

20 8. The State Department of Education shall cross-check the list
21 of participating scholarship students with the public school
22 enrollments prior to each scholarship payment to avoid duplication.

23 K. 1. The State Superintendent of Public Instruction shall
24 deny, suspend, or revoke the participation of a private school in

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

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

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

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

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

10 L. No liability shall arise on the part of the state, the State
11 Board of Education, the State Department of Education or a school
12 district based on the award or use of any scholarship provided
13 through the Lindsey Nicole Henry Scholarships for Students with
14 Disabilities Program.

15 M. The inclusion of private schools within options available to
16 public school students in Oklahoma shall not expand the regulatory
17 authority of the state or any school district to impose any
18 additional regulation of private schools beyond those reasonably
19 necessary to enforce the requirements expressly set forth in this
20 section.

21 N. If the State Department of Education determines that a
22 school district prior to the effective date of this act has failed
23 to comply with the provisions of the Lindsey Nicole Henry
24 Scholarships for Students with Disabilities Program Act and has

1 failed to make full or partial scholarship payments for eligible
2 students, the Department shall have authority to reduce the amount
3 of State Aid allocated to the school district or require the school
4 district to make repayment to the Department of State Aid
5 allocations in an amount equal to the amount of scholarship payments
6 the school district failed to make. The Department shall make
7 payment to the parent or legal guardian in the amount the school
8 district failed to make in the manner as provided for in subsection
9 J of this section.

10 ~~SECTION 2. This act shall become effective July 1, 2017.~~

11 ~~SECTION 3. It being immediately necessary for the preservation~~
12 ~~of the public peace, health or safety, an emergency is hereby~~
13 ~~declared to exist, by reason whereof this act shall take effect and~~
14 ~~be in full force from and after its passage and approval.~~

15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
16 February 15, 2017 - DO PASS AS AMENDED
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