

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB126 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Ryan Martinez

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 126

By: Daniels of the Senate

and

Martinez of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to the Lindsey Nicole Henry Scholarships for Students with Disabilities Program; amending 70 O.S. 2011, Section 13-101.2, as last amended by Section 1, Chapter 1, O.S.L. 2020 (70 O.S. Supp. 2020, Section 13-101.2), which relates to eligibility for the program; expanding eligibility to include students who were placed by a court in certain guardianship; modifying discrimination prohibition to which participating private schools must comply; updating reference; providing an effective date; and declaring an 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 1, O.S.L. 2020 (70 O.S. Supp. 2020, 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.

1 The Lindsey Nicole Henry Scholarships for Students with Disabilities
2 Program is established to provide a scholarship to a private school
3 of choice for students with disabilities for whom an individualized
4 education program (IEP) in accordance with the Individuals with
5 Disabilities Education Act (IDEA) or an individualized service plan
6 pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes
7 has been developed at any time prior to notifying the State
8 Department of Education of the intent to participate in the Program
9 and the IEP is in effect at the time the request for a scholarship
10 is received by the State Department of Education. Scholarships
11 shall be awarded beginning with the 2010-2011 school year.

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

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

1 b. the student ~~who~~ is a child of a member of the United
2 States Armed Forces who transfers to a school in this
3 state from out of state or from a foreign country
4 pursuant to a permanent change of station orders of
5 the parent ~~shall be exempt from the requirements of~~
6 ~~this paragraph but shall be required to meet all other~~
7 ~~eligibility requirements to participate as provided~~
8 ~~for in this section. A student who,~~

9 c. the student has been provided services under an
10 Individual Family Service Plan through the SoonerStart
11 program and during transition was evaluated and
12 determined to be eligible for school district services
13 ~~shall be exempt from the requirements of this~~
14 ~~paragraph but shall be required to meet all other~~
15 ~~eligibility requirements to participate as provided~~
16 ~~for in this section. A student who,~~

17 d. the student was in out-of-home placement with the
18 Department of Human Services, ~~who~~ or was adopted while
19 in the permanent custody of the Department of Human
20 Services,

21 e. the student was placed by a court in the guardianship
22 of another including a kinship foster home, or ~~who~~

23 f. the student was in out-of-home placement with the
24 Office of Juvenile Affairs ~~shall be exempt from the~~

~~requirements of this paragraph but shall be required
to meet all other eligibility requirements to
participate as provided for in this section; and~~

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

C. A student shall be eligible for a scholarship if the parent or legal guardian of the student made a request for a scholarship

1 for the 2010-2011 school year and the student transferred to an
2 eligible private school but was subsequently denied a scholarship
3 because the student did not have an IEP in effect on October 1,
4 2009, but did meet all other eligibility requirements as set forth
5 in the Lindsey Nicole Henry Scholarships for Students with
6 Disabilities Program Act.

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

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

20 F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall
21 have the same effect as a parental revocation of consent to service
22 pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the
23 IDEA.
24

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

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

14 H. 1. To be eligible to participate in the Lindsey Nicole
15 Henry Scholarships for Students with Disabilities Program, a private
16 school shall notify the State Department of Education of its intent
17 to participate. The notice shall specify the grade levels and
18 services that the private school has available for students with
19 disabilities who are participating in the scholarship program. The
20 State Department of Education shall approve a private school as
21 eligible to participate in the scholarship program upon
22 determination that the private school:

- 23 a. meets the accreditation requirements set by the State
24 Board of Education or another accrediting association

1 approved by the State Board of Education. The State
2 Department of Education shall list on its website all
3 accrediting associations approved by the Board,

4 b. demonstrates fiscal soundness by having been in
5 operation for one (1) school year or providing the
6 State Department of Education with a statement by a
7 certified public accountant confirming that the
8 private school desiring to participate is insured and
9 the owner or owners have sufficient capital or credit
10 to operate the school for the upcoming year by serving
11 the number of students anticipated with expected
12 revenues from tuition and other sources that may be
13 reasonably expected. In lieu of a statement, a surety
14 bond or letter of credit for the amount equal to the
15 scholarship funds for any quarter may be filed with
16 the Department,

17 c. ~~complies with the antidiscrimination provisions of 42~~
18 ~~U.S.C., Section 2000d~~ prohibits discrimination on the
19 basis of race, color and national origin,

20 d. meets state and local health and safety laws and
21 codes,

22 e. will be academically accountable to the parent or
23 legal guardian for meeting the educational needs of
24 the student,

- f. employs or contracts with teachers who hold
baccalaureate or higher degrees, or have at least
three (3) years of teaching experience in public or
private schools, or have special skills, knowledge, or
expertise that qualifies them to provide instruction
in subjects taught,
- g. complies with all state laws relating to general
regulation of private schools, and
- h. adheres to the tenets of its published disciplinary
procedures prior to the expulsion of a scholarship
student.

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

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

- a. the parent or legal guardian shall select the private
school from the schools approved for eligibility
pursuant to subsection H of this section and apply for
the admission of the child,
- b. the parent or legal guardian shall request the
scholarship no later than December 1 of the school
year during which the scholarship is requested,

- 1 c. any student participating in the scholarship program
2 shall attend throughout the school year, unless
3 excused by the school for illness or other good cause,
4 and shall comply fully with the code of conduct for
5 the school,
- 6 d. the parent or legal guardian shall fully comply with
7 the parental involvement requirements of the private
8 school, unless excused by the school for illness or
9 other good cause, and
- 10 e. upon issuance of a scholarship warrant, the parent or
11 legal guardian to whom the warrant is made shall
12 restrictively endorse the warrant to the private
13 school for deposit into the account of the private
14 school. The parent or legal guardian may not
15 designate any entity or individual associated with the
16 private school as the attorney in fact for the parent
17 or legal guardian to endorse a warrant. A parent or
18 legal guardian who fails to comply with this
19 subparagraph shall forfeit the scholarship.

20 2. A participant who fails to comply with this subsection
21 forfeits the scholarship.

22 J. Provisions governing payment of a Lindsey Nicole Henry
23 Scholarship shall be as follows:
24

1 1. The State Department of Education shall calculate the total
2 cost of all scholarships for all eligible students in the state.

3 The State Department of Education shall then reserve or retain from
4 the total amount appropriated to the State Board of Education for
5 State Aid purposes and any other revenue available for allocation
6 for State Aid purposes the total cost for all scholarship payments;

7 2. The maximum scholarship granted for an eligible student with
8 disabilities shall be a calculated amount equivalent to the total
9 State Aid factors for the applicable school year multiplied by the
10 grade and disability weights generated by that student for the
11 applicable school year. The disability weights used in calculating
12 the scholarship amount shall include all disability weights which
13 correspond to the disabilities included in the multidisciplinary
14 evaluation and eligibility group summary for the student at the time
15 the request for a scholarship is made by the parent or legal
16 guardian. The maximum scholarship amount shall be calculated by the
17 State Board of Education for each year the student is participating
18 in the scholarship program;

19 3. The amount of the scholarship shall be the amount calculated
20 in paragraph 2 of this subsection or the amount of tuition and fees
21 for the private school, whichever is less, minus up to two and one-
22 half percent (2 1/2%) of the scholarship amount which may be
23 retained by the State Department of Education as a fee for
24 administrative services rendered. The amount of any assessment fee

1 required by the private school and the amount associated with
2 providing services and therapies to address the disabilities of the
3 student may be paid from the total amount of the scholarship. The
4 amount of the scholarship shall be prorated to reflect the number of
5 days remaining in the current school year, if the scholarship
6 request is granted after the beginning of the school year;

7 4. The State Department of Education shall notify the private
8 school of the amount of the scholarship within ten (10) days after
9 receiving the request for a scholarship, when the total State Aid
10 factors have been determined for the current fiscal year. The
11 initial payment shall be made after the Department verifies
12 admission acceptance and enrollment. Quarterly payments shall be
13 made upon verification of continued enrollment and attendance at the
14 private school. Payment shall be made by the Department with an
15 individual warrant made payable to the parent or legal guardian of
16 the student and mailed by the Department to the private school that
17 the parent or legal guardian chooses. The parent or legal guardian
18 shall restrictively endorse the warrant to the private school for
19 deposit into the account of the private school;

20 5. The State Department of Education shall not be responsible
21 for any additional costs associated with special education and
22 related services incurred by the private school for the student
23 including the cost of teachers, equipment, material, and special
24 costs associated with the special education class;

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

4 7. The State Department of Education shall require an annual,
5 notarized, sworn compliance statement by participating private
6 schools certifying compliance with state laws and shall retain all
7 records received from a participating private school. The State
8 Department of Education shall post on its website the annual
9 compliance statement for each participating private school; and

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

13 K. 1. The State Superintendent of Public Instruction shall
14 deny, suspend~~7~~ or revoke the participation of a private school in
15 the scholarship program if it is determined that the private school
16 has failed to comply with the provisions of this section. However,
17 in instances in which the noncompliance is correctable within a
18 reasonable amount of time and in which the health, safety~~7~~ or
19 welfare of the students is not threatened, the Superintendent may
20 issue a notice of noncompliance which shall provide the private
21 school with a time frame within which to provide evidence of
22 compliance prior to taking action to suspend or revoke participation
23 in the scholarship program.

1 2. If the Superintendent intends to deny, suspend~~7~~ or revoke
2 the participation of a private school in the scholarship program,
3 the Department shall notify the private school of the proposed
4 action in writing by certified mail and regular mail to the private
5 school's address of record with the Department. The Department
6 shall also notify any parents or legal guardians of scholarship
7 students attending the private school. The notification shall
8 include the reasons for the proposed action and notice of the
9 timelines and procedures set forth in this subsection.

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

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

19 5. The Board may immediately suspend payment of scholarship
20 funds if it is determined that there is probable cause to believe
21 that there is an imminent threat to the health, safety, or welfare
22 of the students or fraudulent activity on the part of the private
23 school.
24

1 L. No liability shall arise on the part of the state, the State
2 Board of Education, the State Department of Education or a school
3 district based on the award or use of any scholarship provided
4 through the Lindsey Nicole Henry Scholarships for Students with
5 Disabilities Program.

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

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

1 0. The State Department of Education shall annually prepare and
2 post on its website a report of Lindsey Nicole Henry Scholarships
3 for Students with Disabilities Program. The annual report shall
4 include, but not be limited to, the following information:

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

7 2. The total number of scholarships denied;

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

10 4. Data on participating students, disaggregated by years of
11 participation in the program, grade level, economically
12 disadvantaged status, racial and ethnic groups and disability
13 category.

14 SECTION 2. This act shall become effective July 1, 2021.

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

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20 58-1-8056 AMM 04/05/21
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