

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 ENGROSSED SENATE
5 BILL NO. 358

By: Daniels of the Senate

and

Echols and Conley of the
House

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9 An Act relating to the Lindsey Nicole Henry
10 Scholarships for Students with Disabilities Program;
11 amending 70 O.S. 2021, Section 13-101.2, which
12 relates to eligibility for the program; removing
13 requirement for prior public school year attendance;
14 providing certain exemption to certain students;
15 modifying reference to weights to be used in certain
16 calculation; providing for calculation of scholarship
17 amount if certain private school does not charge
18 tuition; and updating statutory language.

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

20 SECTION 1. AMENDATORY 70 O.S. 2021, Section 13-101.2, is
21 amended to read as follows:

22 Section 13-101.2. A. There is hereby created the Lindsey
23 Nicole Henry Scholarships for Students with Disabilities Program.
24 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

1 Disabilities Education Act (IDEA) or an individualized service plan
2 pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes
3 has been developed at any time prior to notifying the State
4 Department of Education of the intent to participate in the Program
5 and the IEP is in effect at the time the request for a scholarship
6 is received by the State Department of Education. Scholarships
7 shall be awarded beginning with the 2010-2011 school year.

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

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

~~provided services under an Individual Family Service Plan through the SoonerStart program and during transition was evaluated and determined to be eligible for school district services 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. A an IEP or individualized service plan as provided for in subsection A of this section; provided, however, a student who was in out-of-home placement with the Department of Human Services⁷; who was adopted while in the permanent custody of the Department of Human Services, an international child-placing agency, a child-placing agency in this state, or a federally recognized Indian tribe; who is enrolling or is enrolled in a school that exclusively serves students experiencing homelessness; or who was in out-of-home placement with the 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 not be required to have an IEP or an individualized service plan; 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

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 in which
7 the student is enrolled, if applicable, upon receipt of the request.
8 For purposes of continuity of educational choice, the scholarship
9 shall remain in force until the student ~~returns to~~ enrolls in a
10 public school, graduates from high school, or reaches the age of
11 twenty-two (22), whichever occurs first. At any time, the parent or
12 legal guardian of the student may remove the student from the
13 private school and place the student in another private school that
14 is eligible for the program as provided in subsection H of this
15 section or place the student in a public school.

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

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

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

1 is eligible for the applicable school year. The disability weights
2 used in calculating the scholarship amount shall include all
3 disability weights which correspond to the disabilities included in
4 the multidisciplinary evaluation and eligibility group summary for
5 the student at the time the request for a scholarship is made by the
6 parent or legal guardian. The maximum scholarship amount shall be
7 calculated by the State Board of Education for each year the student
8 is participating 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. If a private school does not
15 charge tuition, the amount of the scholarship shall be the amount
16 calculated in paragraph 2 of this subsection minus up to two and
17 one-half percent (2 1/2%) of the scholarship amount which may be
18 retained by the State Department of Education as a fee for
19 administrative services rendered. The amount of any assessment fee
20 required by the private school and the amount associated with
21 providing services and therapies to address the disabilities of the
22 student may be paid from the total amount of the scholarship. The
23 amount of the scholarship shall be prorated to reflect the number of
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1 days remaining in the current school year, if the scholarship
2 request is granted after the beginning of the school year;

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

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

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

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

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

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

21 2. If the Superintendent intends to deny, suspend, or revoke
22 the participation of a private school in the scholarship program,
23 the Department shall notify the private school of the proposed
24 action in writing by certified mail and regular mail to the private

1 school's address of record with the Department. The Department
2 shall also notify any parents or legal guardians of scholarship
3 students attending the private school. The notification shall
4 include the reasons for the proposed action and notice of the
5 timelines and procedures set forth in this subsection.

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

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

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

20 L. No liability shall arise on the part of the state, the State
21 Board of Education, the State Department of Education, or a school
22 district based on the award or use of any scholarship provided
23 through the Lindsey Nicole Henry Scholarships for Students with
24 Disabilities Program.

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

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

20 O. The State Department of Education shall annually prepare and
21 post on its website a report of Lindsey Nicole Henry Scholarships
22 for Students with Disabilities Program. The annual report shall
23 include, but not be limited to, the following information:
24

- 1 1. The total number and amount of scholarships awarded and
- 2 reported for each participating private school;
- 3 2. The total number of scholarships denied;
- 4 3. The total number and amount of scholarship payments
- 5 suspended for each participating private school; and
- 6 4. Data on participating students, disaggregated by years of
- 7 participation in the program, grade level, economically
- 8 disadvantaged status, racial and ethnic groups, and disability
- 9 category.

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11 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/11/2024 - DO PASS.

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