

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SUBCOMMITTEE RECOMMENDATION
FOR

HOUSE BILL NO. 3718

By: Caldwell (Chad)

SUBCOMMITTEE RECOMMENDATION

An Act related to education; amending 70 O.S. 2021, Section 13-101.2, as last amended by Section 1, Chapter 246, O.S.L. 2025 (70 O.S. Supp. 2025, Section 13-101.2), which relates to the Lindsey Nicole Henry Scholarships for Students with Disabilities Program; requiring school districts to make an eligibility decision for special education services within forty-five school days of receiving parental request; determining student eligibility when the forty-five-day timeline is not met; including certain professional days and meetings as school days; providing maximum scholarship calculations for certain eligible students; requiring supplement of scholarship award after certain determination; 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. 2021, Section 13-101.2, as last amended by Section 1, Chapter 246, O.S.L. 2025 (70 O.S. Supp. 2025, Section 13-101.2), is amended to read as follows:

1 Section 13-101.2. A. There is hereby created the Lindsey
2 Nicole Henry Scholarships for Students with Disabilities Program.
3 The Lindsey Nicole Henry Scholarships for Students with Disabilities
4 Program is established to provide a scholarship to a private school
5 of choice for students with special needs who meet at least one of
6 the criteria of subparagraph a, b, c, d, e, f, or g of paragraph 1
7 of subsection B of this section. Scholarships shall be awarded
8 beginning with the 2010-2011 school year.

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

- 14 1. a. the student has an individualized education program
15 (IEP), an individualized service plan (ISP), or meets
16 the eligibility standards for special education
17 services in accordance with the Individuals with
18 Disabilities Education Act (IDEA),
- 19 b. the student has had an individualized service plan
20 pursuant to Section 1-4-704 of Title 10A of the
21 Oklahoma Statutes any time prior to notifying the
22 State Department of Education of the intent to
23 participate in the program,

- c. the student is a child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a permanent change of station orders of the parent,
- d. the student was in out-of-home placement with the Department of Human Services,
- e. the student was adopted while in the permanent custody of the Department of Human Services,
- f. the student is enrolling or is enrolled in a school that exclusively serves students experiencing homelessness, or
- g. the student was in out-of-home placement with the Office of Juvenile Affairs; 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~~ I 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

1 request. The Department shall notify the school district in which
2 the student is enrolled, if applicable, upon receipt of the request.
3 For purposes of continuity of educational choice, the scholarship
4 shall remain in force until the student enrolls in a public school,
5 graduates from high school, or reaches the age of twenty-two (22),
6 whichever occurs first. At any time, the parent or legal guardian
7 of the student may remove the student from the private school and
8 place the student in another private school that is eligible for the
9 program as provided in subsection ~~H~~ I of this section or place the
10 student in a public school.

11 C. 1. Upon receiving a request from a parent or legal guardian
12 to conduct a special education evaluation, school districts shall
13 determine eligibility for special education services within forty-
14 five (45) school days. If a school district fails to reach a
15 decision on eligibility within forty-five (45) school days of
16 receiving the request, the student shall be deemed eligible for
17 purposes of receiving a Lindsey Nicole Henry Scholarship.
18 Professional days and days when parent-teacher conferences are held
19 shall count as school days for purposes of this subsection.

20 2. The maximum scholarship granted for a student found eligible
21 under this subsection shall be a calculated amount equivalent to the
22 total State Aid factors for the applicable school year multiplied by
23 the grade weight for which the student is eligible for the
24 applicable school year.

1 3. Once a school district reaches an eligibility decision and
2 determines that the student is eligible for special education
3 services, the student shall receive the remaining maximum
4 scholarship amount allowed under paragraphs 2 and 3 of subsection K
5 of this section.

6 D. A student shall be eligible for a scholarship if the parent
7 or legal guardian of the student made a request for a scholarship
8 for the 2010-2011 school year and the student transferred to an
9 eligible private school but was subsequently denied a scholarship
10 because the student did not have an IEP in effect on October 1,
11 2009, but did meet all other eligibility requirements as set forth
12 in the Lindsey Nicole Henry Scholarships for Students with
13 Disabilities Program Act.

14 ~~D.~~ E. A student shall not be eligible for a Lindsey Nicole
15 Henry Scholarship if the student is not having regular and direct
16 contact with the private school teachers at the physical location of
17 the private school.

18 ~~E.~~ F. School districts shall notify the parent or legal
19 guardian of a public school student with a special need of all
20 options available pursuant to this section and inform the parent or
21 legal guardian of the availability of information about the program
22 from the State Department of Education through the toll-free
23 telephone number or website. The notification shall be provided
24 with or included in the copy of the "Parents Rights in Special

1 Education: Notice of Procedural Safeguards" document given to
2 parents at least annually or as otherwise required by law.

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

7 ~~G.~~ H. 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.~~ I. 1. To be eligible to participate in the Lindsey Nicole
17 Henry 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 special needs 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 a. meets the accreditation requirements set by the State
2 Board of Education or another accrediting association
3 approved by the State Board of Education. The State
4 Department of Education shall list on its website all
5 accrediting associations approved by the Board,
- 6 b. demonstrates fiscal soundness by having been in
7 operation for one (1) school year or providing the
8 State Department of Education with a statement by a
9 certified public accountant confirming that the
10 private school desiring to participate is insured and
11 the owner or owners have sufficient capital or credit
12 to operate the school for the upcoming year by serving
13 the number of students anticipated with expected
14 revenues from tuition and other sources that may be
15 reasonably expected. In lieu of a statement, a surety
16 bond or letter of credit for the amount equal to the
17 scholarship funds for any quarter may be filed with
18 the Department,
- 19 c. complies with the antidiscrimination provisions of 42
20 U.S.C., Section 2000d,
- 21 d. meets state and local health and safety laws and
22 codes,
- 23
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- e. will be academically accountable to the parent or legal guardian for meeting the educational needs of 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.

~~¶~~ J. 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 ~~#~~ I of this section and apply for the admission of the child,

- 1 b. the parent or legal guardian shall request the
2 scholarship no later than December 1 of the school
3 year during which the scholarship is requested,
- 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 or legal guardian of a student who
10 qualifies pursuant to subparagraph a of paragraph 1 of
11 subsection B of this section shall agree to meet
12 annually with a representative of the private school
13 to identify the services necessary to support the
14 special needs of the student participating in the
15 scholarship program,
- 16 e. the parent or legal guardian shall fully comply with
17 the parental involvement requirements of the private
18 school, unless excused by the school for illness or
19 other good cause, and
- 20 f. upon issuance of a scholarship warrant, the parent or
21 legal guardian to whom the warrant is made shall
22 restrictively endorse the warrant to the private
23 school for deposit into the account of the private
24 school. The parent or legal guardian may not

1 designate any entity or individual associated with the
2 private school as the attorney in fact for the parent
3 or legal guardian to endorse a warrant. A parent or
4 legal guardian who fails to comply with this
5 subparagraph shall forfeit the scholarship.

6 2. A participant who fails to comply with this subsection
7 forfeits the scholarship.

8 ~~J.~~ K. Provisions governing payment of a Lindsey Nicole Henry
9 Scholarship shall be as follows:

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

16 2. The maximum scholarship granted for an eligible student with
17 special needs shall be a calculated amount equivalent to the total
18 State Aid factors for the applicable school year multiplied by the
19 grade and disability weights for which the student is eligible for
20 the applicable school year. The disability weights used in
21 calculating the scholarship amount shall include all disability
22 weights which correspond to the disabilities included in the
23 multidisciplinary evaluation and eligibility group summary for the
24 student at the time the request for a scholarship is made by the

1 parent or legal guardian. The maximum scholarship amount shall be
2 calculated by the State Board of Education for each year the student
3 is participating in the scholarship program;

4 3. The amount of the scholarship shall be the amount calculated
5 in paragraph 2 of this subsection or the amount of tuition and fees
6 for the private school, whichever is less, minus up to two and one-
7 half percent (2 1/2%) of the scholarship amount which may be
8 retained by the State Department of Education as a fee for
9 administrative services rendered. If a private school does not
10 charge tuition, the amount of the scholarship shall be the amount
11 calculated in paragraph 2 of this subsection minus up to two and
12 one-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. The amount of any assessment fee
15 required by the private school and the amount associated with
16 providing services and therapies to address the special needs of the
17 student may be paid from the total amount of the scholarship. The
18 amount of the scholarship shall be prorated to reflect the number of
19 days remaining in the current school year, if the scholarship
20 request is granted after the beginning of the school year;

21 4. The State Department of Education shall notify the private
22 school of the amount of the scholarship within ten (10) days after
23 receiving the request for a scholarship, when the total State Aid
24 factors have been determined for the current fiscal year. The

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

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

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

18 7. The State Department of Education shall require an annual,
19 notarized, sworn compliance statement by participating private
20 schools certifying compliance with state laws and shall retain all
21 records received from a participating private school. The State
22 Department of Education shall post on its website the annual
23 compliance statement for each participating private school; and
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1 8. The State Department of Education shall cross-check the list
2 of participating scholarship students with the public school
3 enrollments prior to each scholarship payment to avoid duplication.

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

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

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

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

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

15 ~~L.~~ M. No liability shall arise on the part of the state, the
16 State Board of Education, the State Department of Education, or a
17 school district based on the award or use of any scholarship
18 provided through the Lindsey Nicole Henry Scholarships for Students
19 with Disabilities Program.

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

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

15 ~~O.~~ P. The State Department of Education shall annually prepare
16 and post on its website a report of Lindsey Nicole Henry
17 Scholarships for Students with Disabilities Program. The annual
18 report shall include, but not be limited to, the following
19 information:

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

22 2. The total number of scholarships denied;

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

1 4. Data on participating students, disaggregated by years of
2 participation in the program, grade level, economically
3 disadvantaged status, racial and ethnic groups, and disability
4 category.

5 SECTION 2. This act shall become effective July 1, 2026.

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

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