

Senate Bill 10

By: Senators Johnson of the 1st, Rogers of the 21st, Weber of the 40th, Schaefer of the 50th, Hill of the 32nd and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to enact the "Georgia Special Needs Scholarship
3 Act"; to provide for a short title; to define certain terms; to provide for scholarships for public
4 school students with disabilities to attend eligible private schools; to provide for
5 qualifications and criteria for the scholarship program; to establish certain requirements for
6 private schools that participate in the scholarship program; to provide for the amount of
7 scholarship and method of payments; to authorize the State Board of Education to
8 promulgate certain rules; to provide for related matters; to provide for an effective date and
9 applicability; to repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
13 secondary education, is amended by adding at the end thereof a new article, to be designated
14 as Article 33, to read as follows:

15 **"ARTICLE 33**

16 20-2-2110.

17 This article shall be known and may be cited as the 'Georgia Special Needs Scholarship
18 Act.'

19 20-2-2111.

20 The General Assembly finds that:

21 (1) Students with disabilities have special needs that merit educational alternatives which
22 will allow students to learn in an appropriate setting and manner;

- (2) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;
- (3) Children, parents, and families are the primary beneficiaries of the scholarship program authorized in this article and any benefit to private schools, sectarian or otherwise, is purely incidental;
- (4) The scholarship program established in this article is for the valid secular purpose of tailoring a student's education to that student's specific needs and enabling families to make genuine and independent private choices to direct their resources to appropriate schools; and
- (5) Nothing in this article shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

20-2-2112.

As used in this article, the term:

- (1) "Board" means the State Board of Education.
- (2) "Department" means the Department of Education.
- (3) "Eligible private school" means any nonpublic school that provides education to elementary or secondary students, has notified the department of its intention to participate in the program, and complies with the department's requirements.
- (4) "Parent" means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a child.
- (5) "Prior school year in attendance" means that the student was enrolled and reported by a public school system or school systems for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160.
- (6) "Program" means the scholarship program established pursuant to this article.
- (7) "Resident school system" means the public school system in which the student would be enrolled based on his or her residence.
- (8) "Scholarship" means a Georgia Special Needs Scholarship awarded pursuant to this article.
- (9) "Scholarship student" means a student who receives a scholarship pursuant to this article.

1 20-2-2113.

2 (a) Any parent of a public school student with a disability may request and receive from
3 the department a scholarship for the child to enroll in and attend an eligible private school
4 in accordance with this article.

5 (b) To qualify for a scholarship:

6 (1) The student's parent shall reside within Georgia;

7 (2) The student shall have one or more of the following disabilities:

8 (A) Autism;

9 (B) Deaf/blind;

10 (C) Deaf/hard of hearing;

11 (D) Emotional and behavioral disorder;

12 (E) Intellectual disability;

13 (F) Orthopedic impairment;

14 (G) Other health impairment;

15 (H) Specific learning disability;

16 (I) Speech-language impairment;

17 (J) Traumatic brain injury; or

18 (K) Visual impairment;

19 (3) The student shall have spent the prior school year in attendance at a Georgia public
20 school and shall have had an Individualized Education Program (IEP) written by the
21 school in accordance with federal and state laws and regulations;

22 (4) The parent shall have obtained acceptance for admission of the student to an eligible
23 private school; and

24 (5) The parent shall have submitted an application for a scholarship to the public school
25 system no later than the deadline established by the department.

26 (c) Upon acceptance of the scholarship, the parent assumes full financial responsibility for
27 the education of the scholarship student, including transportation to and from the private
28 school.

29 (d) For a student who participates in the program whose parents request that the student
30 take the state-wide assessments pursuant to Code Section 20-2-281, the resident school
31 system shall make available to the student locations and times to take all state-wide
32 assessments.

33 (e) Students enrolled in a school operated by the Department of Juvenile Justice are not
34 eligible for the scholarship.

35 (f) The scholarship shall remain in force until the student returns to a public school,
36 graduates from high school, or reaches the age of 21. However, at any time, the student's

1 parent may remove the student from the participating school and place the student in
2 another eligible private school.

3 (g) Acceptance of a scholarship shall have the same effect as a parental refusal to consent
4 to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section
5 1400, et seq.

6 (f) The creation of the program or the granting of a scholarship pursuant to this article shall
7 not be construed to imply that a public school did not provide a free and appropriate public
8 education for a student or constitute a waiver or admission by the state.

9 20-2-2114.

10 (a) To be eligible to enroll a scholarship student, an eligible private school shall:

11 (1) Have a physical location in Georgia where the scholarship students attend classes and
12 have direct contact with the school's teachers;

13 (2) Demonstrate fiscal soundness by submitting a financial information report for the
14 school that complies with uniform financial accounting standards established by the
15 department and conducted by a certified public accountant. The report must confirm that
16 the private school desiring to participate is insured and the owner or owners have
17 sufficient capital or credit to operate the school for the upcoming school year serving the
18 number of students anticipated with expected revenues from tuition and other sources that
19 may be reasonably expected. The report shall be limited in scope to those records that
20 are necessary for the department to make a determination on fiscal soundness and to
21 make payments to schools for scholarships;

22 (3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;

23 (4) Comply with all health and safety laws or codes that apply to private schools;

24 (5) Comply with all provisions of Code Section 20-2-690 and any other state law
25 applicable to private schools;

26 (6) Regularly report to the parent on the student's progress, including, but not limited to,
27 the results of any annual assessment given to the student, in accordance with department
28 guidelines; and

29 (7) Annually provide to the parents the relevant credentials of the teachers who will be
30 teaching their students.

31 (b) A home school operating under the provisions of Code Section 20-2-690 shall not be
32 eligible to enroll scholarship students.

33 (c) Residential treatment facilities licensed or approved by the state shall not be eligible
34 to enroll scholarship students.

35 (d) The creation of the program shall not be construed to expand the regulatory authority
36 of the state, its officers, or any public school system to impose any additional regulation

1 of nonpublic schools beyond those reasonably necessary to enforce the requirements of this
2 article.

3 (e) A private school intending to enroll scholarship students shall submit an application
4 to the department by June 30 of the school year preceding the school year in which it
5 intends to enroll scholarship students. The notice shall specify the grade levels and
6 services that the private school has available for students with disabilities who are
7 participating in the scholarship program. A private school intending to enroll scholarship
8 students in the 2007-2008 school year shall submit an application no later than June 30,
9 2007.

10 (f) The board shall approve a private school's application to enroll scholarship students if
11 the private school meets the eligibility requirements of this article and complies with board
12 rules established pursuant to Code Section 20-2-2116. The board shall make available to
13 local school systems and the public a list of eligible private schools.

14 20-2-2115.

15 (a) The maximum scholarship granted a scholarship student pursuant to this article shall
16 be an amount equivalent to the costs of the educational program that would have been
17 provided for the student in the resident school system as calculated under Code Section
18 20-2-161 and any federal funds received by the department for special education services
19 for the student, as determined by the department.

20 (b) The amount of the scholarship shall be the lesser of the amount calculated in
21 subsection (a) or the amount of the eligible private school's tuition and fees. The amount
22 of any assessment fee required by the eligible private school may be paid from the total
23 amount of the scholarship.

24 (c) Scholarship students shall be counted in the enrollment of their resident school system.
25 The funds needed to provide a scholarship shall be subtracted from the allotment payable
26 to the resident school system.

27 (d) Each local school system shall report on July 1, September 1, December 1, and
28 February 1 of each year to the department the number of scholarship students in the
29 resident school system. Following each notification, the department shall transfer from the
30 state allotment to each school system the amount calculated under Code Section 20-2-161
31 to a separate account for the scholarship program for quarterly disbursement to the parents
32 of scholarship students. When a student enters the program, the department must receive
33 all documentation required for the student's participation, including the private school's
34 and student's fee schedules at least 30 days before the first quarterly scholarship payment
35 is made for the student. The department may not make any retroactive payments.

1 (e) Upon proper documentation received by the department, the department shall make
2 scholarship payments to the parents of scholarship students in four equal amounts on dates
3 established by the department during each academic year in which the scholarship is in
4 force. The initial payment shall be made upon evidence of admission to the eligible private
5 school, and subsequent payments shall be made on evidence of continued enrollment and
6 attendance at the eligible private school.

7 (f) Payment to the parents must be made by individual warrant made payable to the
8 student's parent and mailed by the department to the eligible private school of the parent's
9 choice, and the parent shall restrictively endorse the warrant to the eligible private school
10 for deposit into the account of the private school.

11 (g) A person, on behalf of an eligible private school, may not accept a power of attorney
12 from a parent to sign a warrant, and a parent of a scholarship student may not give a power
13 of attorney designating a person, on behalf of an eligible private school, as the parent's
14 attorney in fact.

15 (h) If the eligible private school requires partial payment of tuition prior to the start of the
16 academic year to reserve space for students admitted to the school, that partial payment
17 may be paid by the department prior to the first quarterly payment of the year in which the
18 scholarship is awarded, up to a maximum of \$1,000.00, and deducted from subsequent
19 scholarship payments. If a student decides not to attend the eligible private school, the
20 partial reservation payment must be returned to the department by the private school. Only
21 one reservation payment per student may be made per year.

22 20-2-2116.

23 (a) The board shall adopt rules to administer the program regarding eligibility and
24 participation of private schools, including, but not limited to, timelines that will maximize
25 student and public and private school participation, the calculation and distribution of
26 scholarships to eligible students and participating schools, and the application and approval
27 procedures for eligible students and participating schools.

28 (b) No liability shall arise on the part of the department or the state based on the award or
29 use of a scholarship awarded pursuant to this article.

30 (c) The department may bar a private school from participation in the program if the
31 department determines that the school has intentionally and substantially misrepresented
32 information or failed to refund to the state any scholarship overpayments in a timely
33 manner."

1 SECTION 2.

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval and shall apply to the 2007-2008 school year and all school years
4 subsequent thereto.

5 SECTION 3.

6 All laws and parts of laws in conflict with this Act are repealed.