

The Senate Education and Youth Committee offered the following substitute to SB 458:

ADOPTED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 require local school systems and schools to be accredited; to provide for definitions; to
3 provide that if a school system or school loses or fails to attain accreditation, a student shall
4 be entitled to attend another public school or receive a scholarship to attend a private school;
5 to provide for notice to parents; to provide for the maximum amount of the scholarship; to
6 provide for procedures and requirements for payment of scholarships; to provide for
7 conditions of acceptance of a scholarship; to provide for testing; to provide for eligibility
8 requirements for private schools; to provide for rules and regulations; to provide that if a
9 school is designated as a Needs Improvement School for seven consecutive years, a student
10 shall be entitled to attend another public school or receive a scholarship to attend a private
11 school; to provide for notice to parents; to provide for the maximum amount of the
12 scholarship; to provide for procedures and requirements for payment of scholarships; to
13 provide for conditions of acceptance of a scholarship; to provide for testing; to provide for
14 eligibility requirements for private schools; to provide for rules and regulations; to provide
15 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
20 adding a new Code section to Article 3 of Chapter 2, relating to local boards of education,
21 to read as follows:

22 "20-2-72.

23 (a) As used in this Code section, the term:

24 (1) 'Accredited' means accredited in good standing by the Southern Association of
25 Colleges and Schools or the Georgia Accrediting Commission.

26 (2) 'Board' means the State Board of Education.

1 (3) 'Parent' means a parent, legal guardian, custodian, or other person with legal authority
2 to act on behalf of a child.

3 (4) 'Participating school' means a private school that has notified the department of its
4 intention to participate in the program, and that complies with the department's
5 requirements.

6 (5) 'Participating student' means a student who receives a scholarship pursuant to this
7 Code section.

8 (6) 'Private school' means a nonpublic school, sectarian or nonsectarian, which has
9 accreditation or is in the process of receiving accreditation by one or more of the entities
10 listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519.

11 (7) 'Program' means the scholarship program established pursuant to this Code section.

12 (8) 'Resident school system' means the public school system in which the student would
13 be enrolled based on his or her residence.

14 (b) Each local school system shall be accredited and shall maintain such accreditation for
15 its school system and for each school within its school system as follows:

16 (1) A school system or a school which is accredited as of the effective date of this Act
17 shall be required to maintain such accreditation in good standing;

18 (2) A school system or a school which is not accredited as of the effective date of this
19 Act shall be required to become accredited no later than two years after the effective date
20 of this Act; and

21 (3) A new school which is opened on or after the effective date of this Act shall be
22 required to become accredited no later than two years after the opening of such school.

23 (c)(1) If a school system or a school which is accredited is put on probation by its
24 accrediting agency, it shall provide notice to the parent of each student within the school
25 system or school, as appropriate, within 30 days of notice by the accrediting agency to
26 the school system of such probation status. Such notice shall include acknowledgment
27 of such status and the options that are available to a student pursuant to subsection (d) of
28 this Code section if the school system loses its accreditation.

29 (2) If a school system or a school which is not accredited as of the effective date of this
30 Act fails to attain such accreditation no later than two years after the effective date of this
31 Act, it shall provide notice no later than 30 days after the expiration of such two-year
32 period to the parent of each student within the school system or school, as appropriate,
33 of such failure and the options that are available to a student pursuant to subsection (d)
34 of this Code section.

35 (3) If a new school which is opened on or after the effective date of this Act fails to
36 become accredited within two years of its opening, the school shall provide notice no
37 later than 30 days after the expiration of such two-year period to the parent of each

1 student within the school of such failure and the options that are available to a student
2 pursuant to subsection (d) of this Code section.

3 (d) In the event a school system or school loses its accreditation or does not become
4 accredited in accordance with the time frames established pursuant to subsections (b)
5 and (c) of this Code section, the parent of each student in the noncompliant school system
6 or school, as appropriate, may opt to:

7 (1) Choose for the student to attend another public school within the resident school
8 system which has available space, in the event of a noncompliant school. If the parent
9 chooses this option, the resident school system shall be responsible for transportation to
10 such school. The student may attend such public school pursuant to this paragraph until
11 the student completes all grades of the school, graduates, or reaches the age of 20,
12 whichever occurs first;

13 (2) Choose to enroll the student in and transport the student to a public school outside
14 of the student's resident school system which has available space, in the event of a
15 noncompliant school system or school. The public school system may accept the student,
16 and if it does, such system shall report the student for purposes of funding to the
17 department; or

18 (3) Request and receive from the department a scholarship for the student to enroll in and
19 attend a participating school in accordance with the following:

20 (A) The amount of a scholarship provided pursuant to this paragraph shall be the lesser
21 of:

22 (i) The amount equivalent to the costs of the educational program that would have
23 been provided for the student in the resident school system as calculated under Code
24 Section 20-2-161, which shall not include any federal funds; or

25 (ii) The amount of the participating school's tuition and fees, including any
26 assessment fee required by the participating school;

27 (B) Participating students shall be counted in the enrollment of their resident school
28 system; provided, however, that this count shall only be for purposes of determining the
29 amount of the scholarship. The participating students shall not be included as enrolled
30 for purposes of state or federal accountability requirements, including, but not limited
31 to, the federal Elementary and Secondary Education Act, as amended by the No Child
32 Left Behind Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship
33 shall be subtracted from the allotment payable to the resident school system;

34 (C) Each local school system shall submit quarterly reports to the department on dates
35 established by the department stating the number of participating students in the
36 resident school system. Following each notification, the department shall transfer from
37 the state allotment to each school system the amount calculated under Code Section

1 20-2-161 to a separate account for the scholarships provided pursuant to this paragraph
2 for quarterly disbursement to the parents of participating students. When a student
3 applies for a scholarship, the department shall receive all documentation required for
4 the student's participation, including the participating school's and student's fee
5 schedules, at least 30 days before the first quarterly payment is made for the student.

6 The department shall not make any retroactive payments;

7 (D) Upon proper documentation received by the department, the department shall make
8 quarterly payments to the parents of participating students on dates established by the
9 department during each academic year in which the parents receive a scholarship. The
10 initial payment shall be made upon evidence of admission to the participating school,
11 and subsequent payments shall be made on evidence of continued enrollment and
12 attendance at the participating school;

13 (E) Payment to the parents shall be made by individual warrant made payable to the
14 student's parent and mailed by the department to the participating school of the parent's
15 choice, and the parent shall restrictively endorse the warrant to the participating school
16 for deposit into the account of such school;

17 (F) A person, on behalf of a participating school, shall not accept a power of attorney
18 from a parent to sign a warrant, and a parent of a participating student shall not give a
19 power of attorney designating a person, on behalf of a participating school, as the
20 parent's attorney in fact;

21 (G) If the participating school requires partial payment of tuition prior to the start of
22 the academic year to reserve space for students admitted to the school, that partial
23 payment may be paid by the department prior to the first quarterly payment of the year
24 in which the scholarship is provided, up to a maximum of \$1,000.00, and deducted
25 from subsequent payments. If a student decides not to attend the participating school,
26 the partial reservation payment shall be returned to the department by such school.
27 Only one reservation payment per student may be made per year;

28 (H) Upon acceptance of a scholarship, the parent assumes full financial responsibility
29 for the education of the participating student, including transportation to and from the
30 participating school;

31 (I) For a student who receives a scholarship pursuant to this paragraph whose parent
32 requests that the student take the state-wide assessments pursuant to Code Section
33 20-2-281, the resident school system shall make available to the student locations and
34 times to take all state-wide assessments. Test scores of participating school students
35 participating in the state-wide assessments shall not be applied to the system averages
36 of the resident school system for data reported for federal and state requirements; and

1 (J) The scholarship shall remain in force until the student returns to his or her assigned
2 school in the resident school system or another public school, completes all grades of
3 the school, graduates, or reaches the age of 20, whichever occurs first.

4 (e)(1) To be eligible to enroll a scholarship student, a participating school shall:

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

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

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

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

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

21 (F) Regularly report to the parent and the department on the student's academic
22 progress, including the results of pre-academic assessments and post-academic
23 assessments given to the student, in accordance with department guidelines; and

24 (G) Employ or contract with teachers who hold a bachelor's degree or higher degree
25 or have at least three years of experience in education or health and annually provide
26 to the parents the relevant credentials of the teachers who will be teaching their
27 students.

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

30 (3) Residential treatment facilities licensed or approved by the state shall not be eligible
31 to enroll scholarship students.

32 (4) The creation of the program shall not be construed to expand the regulatory authority
33 of the state, its officers, or any public school system to impose any additional regulation
34 of nonpublic schools beyond those reasonably necessary to enforce the requirements of
35 this Code section.

36 (5) A participating school intending to enroll scholarship students shall submit an
37 application to the department by June 30 of the school year preceding the school year in

1 which it intends to enroll scholarship students. The notice shall specify the grade levels
 2 and services that the school has available for students with disabilities who are
 3 participating in the scholarship program. A school intending to enroll scholarship
 4 students in the 2008-2009 school year shall submit an application no later than June 30,
 5 2008.

6 (6) The board shall approve a participating school's application to enroll scholarship
 7 students if the school meets the eligibility requirements of this Code section and complies
 8 with board rules established pursuant to subsection (g) of this Code section. The board
 9 shall make available to local school systems and the public a list of participating schools.

10 (7) The department may bar a school from participation in the program if the department
 11 determines that the school has intentionally and substantially misrepresented information
 12 or failed to refund to the state any scholarship overpayments in a timely manner.

13 (f) When a school system or school re-attains its accreditation, the options included in
 14 subsection (d) of this Code section shall no longer be available to students beginning in the
 15 school year following the re-attainment, except as otherwise provided in subsection (d) of
 16 this Code section for students that availed themselves of an option pursuant to such
 17 subsection when the school system or school was noncompliant.

18 (g) The board shall adopt rules to administer the program regarding eligibility and
 19 participation of participating schools, including, but not limited to, timelines that will
 20 maximize student and public and private school participation, the calculation and
 21 distribution of scholarships to eligible students and participating schools, and the
 22 application and approval procedures for eligible students and participating schools. The
 23 department shall develop and utilize a compliance form for completion by participating
 24 schools. The department shall be authorized to require any pertinent information as it
 25 deems necessary from participating schools for the purpose of implementing the program.
 26 Participating schools shall be required to complete such forms and certify their accuracy.

27 (h) No liability shall arise on the part of the department or the state or of any local board
 28 of education based on the award or use of a scholarship awarded pursuant to this Code
 29 section."

30 SECTION 2.

31 Said title is further amended by adding a new Code section to Part 3 of Article 2 of Chapter
 32 14, relating to the accountability assessment program for kindergarten through grade 12, to
 33 read as follows:

34 "20-14-42.

35 (a) As used in this Code section, the term:

- 1 (1) 'Board' means the State Board of Education.
- 2 (2) 'Needs Improvement School' means a school that has received an unacceptable rating
3 for a period of two or more consecutive years pursuant to Code Section 20-14-41.
- 4 (3) 'Parent' means a parent, legal guardian, custodian, or other person with legal authority
5 to act on behalf of a child.
- 6 (4) 'Participating school' means a private school that has notified the department of its
7 intention to participate in the program, and that complies with the department's
8 requirements.
- 9 (5) 'Participating student' means a student who receives a scholarship pursuant to this
10 Code section.
- 11 (6) 'Private school' means a nonpublic school, sectarian or nonsectarian, which has
12 accreditation or is in the process of receiving accreditation by one or more of the entities
13 listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- 14 (7) 'Program' means the scholarship program established pursuant to this Code section.
- 15 (8) 'Resident school system' means the public school system in which the student would
16 be enrolled based on his or her residence.
- 17 (b) A school which has been designated as a Needs Improvement School for six
18 consecutive years shall provide notice to the parent of each student within the school,
19 within 30 days of notice of such status by the State Board of Education. Such notice shall
20 include acknowledgment of such status and the options that are available to a student
21 pursuant to subsection (c) of this Code section if the school remains in such status for one
22 more consecutive year.
- 23 (c) In the event a school is designated as a Needs Improvement School for seven
24 consecutive years, the parent of each student in such school may opt to:
- 25 (1) Choose for the student to attend another public school within the resident school
26 system which has available space. If the parent chooses this option, the resident school
27 system shall be responsible for transportation to such school. The student may attend
28 such public school pursuant to this paragraph until the student completes all grades of the
29 school, graduates, or reaches the age of 20, whichever occurs first;
- 30 (2) Choose to enroll the student in and transport the student to a public school outside
31 of the student's resident school system which has available space. The public school
32 system may accept the student, and if it does, such system shall report the student for
33 purposes of funding to the department; or
- 34 (3) Request and receive from the department a scholarship for the student to enroll in and
35 attend a participating school in accordance with the following:
- 36 (A) The amount of a scholarship provided pursuant to this paragraph shall be the lesser
37 of:

1 (i) The amount equivalent to the costs of the educational program that would have
2 been provided for the student in the resident school system as calculated under Code
3 Section 20-2-161, which shall not include any federal funds; or

4 (ii) The amount of the participating school's tuition and fees, including any
5 assessment fee required by the participating school;

6 (B) Participating students shall be counted in the enrollment of their resident school
7 system; provided, however, that this count shall only be for purposes of determining the
8 amount of the scholarship. The participating students shall not be included as enrolled
9 for purposes of state or federal accountability requirements, including, but not limited
10 to, the federal Elementary and Secondary Education Act, as amended by the No Child
11 Left Behind Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship
12 shall be subtracted from the allotment payable to the resident school system;

13 (C) Each local school system shall submit quarterly reports to the department on dates
14 established by the department stating the number of participating students in the
15 resident school system. Following each notification, the department shall transfer from
16 the state allotment to each school system the amount calculated under Code Section
17 20-2-161 to a separate account for the scholarships provided pursuant to this paragraph
18 for quarterly disbursement to the parents of participating students. When a student
19 applies for a scholarship, the department shall receive all documentation required for
20 the student's participation, including the participating school's and student's fee
21 schedules, at least 30 days before the first quarterly payment is made for the student.
22 The department shall not make any retroactive payments;

23 (D) Upon proper documentation received by the department, the department shall make
24 quarterly payments to the parents of participating students on dates established by the
25 department during each academic year in which the parents receive a scholarship. The
26 initial payment shall be made upon evidence of admission to the participating school,
27 and subsequent payments shall be made on evidence of continued enrollment and
28 attendance at the participating school;

29 (E) Payment to the parents shall be made by individual warrant made payable to the
30 student's parent and mailed by the department to the participating school of the parent's
31 choice, and the parent shall restrictively endorse the warrant to the participating school
32 for deposit into the account of such school;

33 (F) A person, on behalf of a participating school, shall not accept a power of attorney
34 from a parent to sign a warrant, and a parent of a participating student shall not give a
35 power of attorney designating a person, on behalf of a participating school, as the
36 parent's attorney in fact;

1 (G) If the participating school requires partial payment of tuition prior to the start of
2 the academic year to reserve space for students admitted to the school, that partial
3 payment may be paid by the department prior to the first quarterly payment of the year
4 in which the scholarship is provided, up to a maximum of \$1,000.00, and deducted
5 from subsequent payments. If a student decides not to attend the participating school,
6 the partial reservation payment shall be returned to the department by such school.
7 Only one reservation payment per student may be made per year;

8 (H) Upon acceptance of a scholarship, the parent assumes full financial responsibility
9 for the education of the participating student, including transportation to and from the
10 participating school;

11 (I) For a student who receives a scholarship pursuant to this paragraph whose parent
12 requests that the student take the state-wide assessments pursuant to Code Section
13 20-2-281, the resident school system shall make available to the student locations and
14 times to take all state-wide assessments. Test scores of participating school students
15 participating in the state-wide assessments shall not be applied to the system averages
16 of the resident school system for data reported for federal and state requirements; and

17 (J) The scholarship shall remain in force until the student returns to his or her assigned
18 school in the resident school system or another public school, completes all grades of
19 the school, graduates, or reaches the age of 20, whichever occurs first.

20 (d)(1) To be eligible to enroll a scholarship student, a participating school shall:

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

23 (B) Demonstrate fiscal soundness by having been in operation for one school year or
24 by submitting a financial information report for the school that complies with uniform
25 financial accounting standards established by the department and conducted by a
26 certified public accountant. The report must confirm that the school desiring to
27 participate is insured and the owner or owners have sufficient capital or credit to
28 operate the school for the upcoming school year serving the number of students
29 anticipated with expected revenues from tuition and other sources that may be
30 reasonably expected. The report shall be limited in scope to those records that are
31 necessary for the department to make a determination on fiscal soundness and to make
32 payments to schools for scholarships;

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

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

35 (E) Comply with all provisions of Code Section 20-2-690 and any other state law
36 applicable to private schools;

1 (F) Regularly report to the parent and the department on the student's academic
2 progress, including the results of pre-academic assessments and post-academic
3 assessments given to the student, in accordance with department guidelines; and

4 (G) Employ or contract with teachers who hold a bachelor's degree or higher degree
5 or have at least three years of experience in education or health and annually provide
6 to the parents the relevant credentials of the teachers who will be teaching their
7 students.

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

10 (3) Residential treatment facilities licensed or approved by the state shall not be eligible
11 to enroll scholarship students.

12 (4) The creation of the program shall not be construed to expand the regulatory authority
13 of the state, its officers, or any public school system to impose any additional regulation
14 of nonpublic schools beyond those reasonably necessary to enforce the requirements of
15 this Code section.

16 (5) A participating school intending to enroll scholarship students shall submit an
17 application to the department by June 30 of the school year preceding the school year in
18 which it intends to enroll scholarship students. The notice shall specify the grade levels
19 and services that the school has available for students with disabilities who are
20 participating in the scholarship program. A school intending to enroll scholarship
21 students in the 2008-2009 school year shall submit an application no later than June 30,
22 2008.

23 (6) The board shall approve a participating school's application to enroll scholarship
24 students if the school meets the eligibility requirements of this Code section and complies
25 with board rules established pursuant to subsection (f) of this Code section. The board
26 shall make available to local school systems and the public a list of participating schools.

27 (7) The department may bar a school from participation in the program if the department
28 determines that the school has intentionally and substantially misrepresented information
29 or failed to refund to the state any scholarship overpayments in a timely manner.

30 (e) When a school is no longer designated as a Needs Improvement School, the options
31 included in subsection (c) of this Code section shall no longer be available to students
32 beginning in the school year following such removal of the designation, except as
33 otherwise provided in subsection (c) of this Code section for students that availed
34 themselves of an option pursuant to such subsection when the school was designated as a
35 Needs Improvement School for seven or more consecutive years.

36 (f) The board shall adopt rules to administer the program regarding eligibility and
37 participation of participating schools, including, but not limited to, timelines that will

1 maximize student and public and private school participation, the calculation and
2 distribution of scholarships to eligible students and participating schools, and the
3 application and approval procedures for eligible students and participating schools. The
4 department shall develop and utilize a compliance form for completion by participating
5 schools. The department shall be authorized to require any pertinent information as it
6 deems necessary from participating schools for the purpose of implementing the program.
7 Participating schools shall be required to complete such forms and certify their accuracy.
8 (g) No liability shall arise on the part of the department or the state or of any local board
9 of education based on the award or use of a scholarship awarded pursuant to this Code
10 section."

11 **SECTION 3.**

12 This Act shall become effective upon its approval by the Governor or upon its becoming law
13 without such approval.

14 **SECTION 4.**

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