Senate Bill 386
By: Senators Unterman of the 45th, Gooch of the 51st, Brass of the 28th, Robertson of the 29th, Martin of the 9th and others

A BILL TO BE ENTITLED
AN ACT
To amend Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Special Needs Scholarship Act, so as to revise the prior school year requirement; to expand eligibility for students; to revise the basis for calculating scholarship amounts; to require annual parent surveys and a complaint procedure for scholarship calculations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Special Needs Scholarship Act, is amended by revising Code Section 20-2-2113, relating to annual notification of options available to parents of special needs students, as follows:

"20-2-2113. (a) The resident school system shall provide specific written notice of the options available under this article to the parent at the initial Individualized Education Program (IEP) meeting in which a disability of the parent's child is identified or at the time the child is determined to be eligible for accommodations or services under Section 504 of the federal Rehabilitation Act of 1973. Thereafter, the resident school system shall annually notify prior to the beginning of each school year the parent of a student with a disability by letter, electronic means, or by such other reasonable means in a timely manner of the options available to the parent under this article.

(b)(1) The parent may choose for the student to attend another public school within the resident school system which has available space and which has a program with the services agreed to in the student's existing Individualized Education Program or Section 504 Plan. If the parent chooses this option, then the parent shall be responsible for transportation to such school. The student may
attend such public school pursuant to this paragraph until the student completes all grades of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance with federal and state requirements for disabled students;

(2) The parent may choose to enroll the student in and transport the student to a public school outside of the student’s resident school system which has available space and which has a program with the services agreed to in the student’s existing Individualized Education Program or Section 504 Plan. The nonresident public school system may accept the student, and if it does, such system shall report the student for purposes of funding to the department;

(3) The parent may choose for the student to attend one of the state schools for the deaf and blind operated by the State Board of Education, if appropriate for the student's needs. Funding for such students shall be provided in accordance with Code Section 20-2-302;

or

(4) The parent may request and receive from the department a scholarship for the student to enroll in and attend a participating private school in accordance with this article.”

SECTION 2.

Said article is further amended by revising subsections (a) and (f) of Code Section 20-2-2114, relating to qualifications for scholarship, financial responsibility, state-wide assessments, exception, and compliance, as follows:

“(a) A student shall qualify for a scholarship under this article if:

(1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one year; provided, however, that the one-year requirement shall not apply if the student's parent is an active duty military service member stationed in Georgia within the previous year;

(2) The student has one or more of the following disabilities:

(A) Autism;

(B) Deaf/blind;

(C) Deaf/hard of hearing;

(D) Emotional and behavioral disorder;

(E) Intellectual disability;

(F) Orthopedic impairment;

(G) Other health impairment;

(H) Specific learning disability;

(I) Speech-language impairment;

(J) Traumatic brain injury; or

(K) Visual impairment; or
(L) Physical or mental impairment that substantially limits one or more major life activities, or a record of such an impairment, or is regarded as having such an impairment;

(3) The student:

(A) Has spent the prior school year in attendance at a Georgia public school or receiving preschool special education or related services pursuant to Section 619 of Part B of the federal Individuals with Disabilities Education Act; provided, however, that this requirement shall not apply if:

(i) The student's parent is an active duty military service member stationed in Georgia within the previous year; or

(ii) The student has been adopted or placed in a permanent guardianship from foster care pursuant to an order issued by a court of competent jurisdiction within the previous year; and

(B) Has an Individualized Education Program or a Section 504 Plan written in accordance with federal and state laws and regulations; provided, however, that the State Board of Education shall be authorized to require a local board of education to expedite the development of an Individualized Education Program or a Section 504 Plan and to waive the prior school year requirement contained in subparagraph (A) of this paragraph, in its sole discretion, on a case-by-case basis for specific medical needs of the student upon the request of a parent or guardian in accordance with state board procedures. If an expedited Individualized Education Program or Section 504 Plan is required by the state board pursuant to this subparagraph, the state board may additionally require such expedited process to be completed prior to the beginning of the school year. The State Board of Education shall provide an annual report by December 31 of each year through December 31, 2015, regarding the number of waivers approved pursuant to this paragraph to the General Assembly;

(4) The parent obtains acceptance for admission of the student to a participating school; and

(5) The parent submits an application for a scholarship to the department no later than the deadline established by the department; provided, however, that the department shall provide application deadline opportunities on September 15, December 15, and February 15 of each school year for a student to transfer."

“(f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. Section 701, et seq.”
SECTION 3.

Said article is further amended by revising subsection (a) of Code Section 20-2-2116, relating to amount of scholarship and method of payments, as follows:

“(a) The maximum scholarship granted a scholarship student pursuant to this article shall be an amount equivalent to the costs of the educational program that would have been provided for the student in the resident school system as calculated under Code Section 20-2-161 and, if a scholarship student has an Individualized Education Program, based upon services specified in the Individualized Education Program in place at the time of the most recent enrollment count, as described in Code Section 20-2-160. This shall not include any federal funds.”

SECTION 4.

Said article is further amended by revising Code Section 20-2-2117, relating to adoption and promulgation of rules, immunity from liability for scholarship decisions, and schools barred from program participation for certain actions, as follows:

“20-2-2117.

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

(b) The board shall adopt rules to administer the program regarding transparency and awareness of the impact of the program, including the following:

(1) The department shall conduct an annual survey of participating parents' satisfaction with the program, their satisfaction with the private school, and their likelihood of recommending the program. Survey results shall be reported to the board and shall be subject to public review and comment;

(2) Upon request by a parent, the department shall provide to the parent a written calculation of the estimated or actual scholarship amount for the parent's student within 14 calendar days. Within 30 calendar days of receiving said written calculation, a parent shall be allowed to submit a written request for recalculation, along with any supporting information. The department shall respond to such request within 15 calendar days. If after a parent submits such a written request the calculation is not changed, the parent...
may file a complaint with the department within 14 calendar days of being notified that
the amount will not change. The complaint shall be submitted in writing and provide a
clear explanation of why the parent believes the calculation should be changed, along
with any supporting information. Within 14 calendar days of receipt of the complaint,
the department shall provide the parent with a written response. The final decision of the
department shall not be appealable except as otherwise provided by law; and

(3) The department shall annually report to the board in writing the total number of
complaints submitted pursuant to paragraph (2) of this subsection and the total number
of said complaints resolved, in whole or in part, by a recalculation of the scholarship
amount at issue in favor of the scholarship student.

(c) No liability shall arise on the part of the department or the state or of any local board
of education based on the award or use of a scholarship awarded pursuant to this article.

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

SECTION 5.

This Act shall become effective on July 1, 2020.

SECTION 6.

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