

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

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

13 "20-2-2113.

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

22 (b)(1) The parent may choose for the student to attend another public school within the
23 resident school system which has available space and which has a program with the
24 services agreed to in the student's existing ~~individualized education program~~
25 Individualized Education Program or Section 504 Plan. If the parent chooses this option,
26 then the parent shall be responsible for transportation to such school. The student may

27 attend such public school pursuant to this paragraph until the student completes all grades
 28 of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance
 29 with federal and state requirements for disabled students;

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

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

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

42 **SECTION 2.**

43 Said article is further amended by revising subsections (a) and (f) of Code Section
 44 20-2-2114, relating to qualifications for scholarship, financial responsibility, state-wide
 45 assessments, exception, and compliance, as follows:

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

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

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

52 (A) Autism;

53 (B) Deaf/blind;

54 (C) Deaf/hard of hearing;

55 (D) Emotional and behavioral disorder;

56 (E) Intellectual disability;

57 (F) Orthopedic impairment;

58 (G) Other health impairment;

59 (H) Specific learning disability;

60 (I) Speech-language impairment;

61 (J) Traumatic brain injury; ~~or~~

62 (K) Visual impairment; or

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

66 (3) The student:

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

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

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

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

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

91 (5) The parent submits an application for a scholarship to the department no later than
 92 the deadline established by the department; provided, however, that the department shall
 93 provide application deadline opportunities on September 15, December 15, and February
 94 15 of each school year for a student to transfer."

95 "(f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent
 96 to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section
 97 1400, et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. Section 701,
 98 et seq."

99

SECTION 3.

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

102 "(a) The maximum scholarship granted a scholarship student pursuant to this article shall
103 be an amount equivalent to the costs of the educational program that would have been
104 provided for the student in the resident school system as calculated under Code Section
105 20-2-161 and, if a scholarship student has an Individualized Education Program, based
106 upon services specified in the Individualized Education Program in place at the time of the
107 most recent enrollment count, as described in Code Section 20-2-160. This shall not
108 include any federal funds."

109

SECTION 4.

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

113 "20-2-2117.

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

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

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

129 (2) Upon request by a parent, the department shall provide to the parent a written
130 calculation of the estimated or actual scholarship amount for the parent's student within
131 14 calendar days. Within 30 calendar days of receiving said written calculation, a parent
132 shall be allowed to submit a written request for recalculation, along with any supporting
133 information. The department shall respond to such request within 15 calendar days. If
134 after a parent submits such a written request the calculation is not changed, the parent

135 may file a complaint with the department within 14 calendar days of being notified that
136 the amount will not change. The complaint shall be submitted in writing and provide a
137 clear explanation of why the parent believes the calculation should be changed, along
138 with any supporting information. Within 14 calendar days of receipt of the complaint,
139 the department shall provide the parent with a written response. The final decision of the
140 department shall not be appealable except as otherwise provided by law; and
141 (3) The department shall annually report to the board in writing the total number of
142 complaints submitted pursuant to paragraph (2) of this subsection and the total number
143 of said complaints resolved, in whole or in part, by a recalculation of the scholarship
144 amount at issue in favor of the scholarship student.
145 (c) No liability shall arise on the part of the department or the state or of any local board
146 of education based on the award or use of a scholarship awarded pursuant to this article.
147 ~~(c)~~(d) The department may bar a school from participation in the program if the
148 department determines that the school has intentionally and substantially misrepresented
149 information or failed to refund to the state any scholarship overpayments in a timely
150 manner."

151 **SECTION 5.**

152 This Act shall become effective on July 1, 2020.

153 **SECTION 6.**

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