

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

AS PASSED SENATE

**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; to provide for a review 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;~~

63 ~~(3) The student:~~

64 ~~(A) Has spent the prior school year in attendance at a Georgia public school; provided,~~
 65 ~~however, that this requirement shall not apply if the student's parent is an active duty~~
 66 ~~military service member stationed in Georgia within the previous year; and~~

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

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

73 (B) 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 previous
 75 year; or

76 (C) The student previously qualified for a scholarship pursuant to this article;

77 ~~(B)(3)(A)~~ The student has Has an Individualized Education Program written in
 78 accordance with federal and state laws and regulations; provided, however, that the
 79 State Board of Education shall be authorized to require a local board of education to
 80 expedite the development of an Individualized Education Program and to waive the
 81 prior school year requirement contained in ~~subparagraph (A) of this paragraph~~
 82 paragraph (2) of this subsection, in its sole discretion, on a case-by-case basis for
 83 specific medical or behavioral needs of the student upon the request of a parent or
 84 guardian in accordance with state board procedures. If an expedited Individualized
 85 Education Program is required by the state board pursuant to this subparagraph, the
 86 state board may additionally require such expedited process to be completed prior to
 87 the beginning of the school year. The State Board of Education shall provide an annual
 88 report by December 31 of each year ~~through December 31, 2015~~, regarding the number
 89 of waivers approved at the current annual cost pursuant to this paragraph to the General
 90 Assembly; or

91 (B) The student has a formal diagnosis from a licensed physician or psychologist or a
 92 Section 504 Plan relating to one or more conditions that are included among the
 93 conditions which shall be identified by the State Board of Education for the purposes
 94 of this Code section and which shall, at a minimum, include the following:

95 (i) Attention deficit hyperactivity disorder (ADHD);

96 (ii) Autism spectrum disorder;

97 (iii) Bipolar disorder;

98 (iv) Cancer;

99 (v) Cerebral palsy;

- 100 (vi) Cystic fibrosis;
- 101 (vii) Deafness;
- 102 (viii) Down syndrome;
- 103 (ix) Drug or alcohol abuse;
- 104 (x) Dual sensory impairment;
- 105 (xi) Dyslexia;
- 106 (xii) Emotional or behavioral disorder;
- 107 (xiii) Epilepsy;
- 108 (xiv) Hearing impairment;
- 109 (xv) Intellectual disability;
- 110 (xvi) Muscular dystrophy;
- 111 (xvii) Specific learning disability;
- 112 (xviii) Spina bifida;
- 113 (xix) Traumatic brain injury;
- 114 (xx) Visual impairment; or
- 115 (xxi) Any rare disease identified by the National Institutes of Health’s Genetic and
- 116 Rare Disease Center's list of rare disease disorders.

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

118 and

119 (5) The parent submits an application for a scholarship to the department no later than

120 the deadline established by the department; provided, however, that the department shall

121 provide application deadline opportunities on September 15, December 15, and February

122 15 of each school year for a student to transfer.”

123 “(f) With respect to local school systems, the acceptance ~~Acceptance~~ of a scholarship shall

124 have the same effect as a parental refusal to consent to services pursuant to the Individuals

125 with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq., and Section 504 of the

126 federal Rehabilitation Act of 1973, 29 U.S.C.A. Section 701, et seq.”

SECTION 3.

128 Said article is further amended by revising subsection (a) of Code Section 20-2-2116, relating

129 to amount of scholarship and method of payments, as follows:

130 “(a) The maximum scholarship granted a scholarship student pursuant to this article shall

131 be an amount equivalent to the costs of the educational program that would have been

132 provided for the student in the resident school system as calculated under Code Section

133 20-2-161 and, if a scholarship student has an Individualized Education Program, based

134 upon services specified in the Individualized Education Program in place at the time of the

135 most recent enrollment count, as described in Code Section 20-2-160. This shall not

136 include any federal funds.”

137 **SECTION 4.**

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

141 “20-2-2117.

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

151 (b) The board shall adopt rules to administer the program regarding student eligibility,
 152 transparency, and awareness of the impact of the program, including, but not limited to, the
 153 following:

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

158 (2) The department shall post on its publicly accessible website the basic unit cost for
 159 general instructional programs, as a minimum estimate for scholarship amounts. The
 160 department shall provide parents of scholarship students the actual scholarship amounts
 161 upon appropriation of state funds to the department for disbursement. Within 30 calendar
 162 days of receipt of the actual scholarship amount, a parent of a scholarship student who
 163 believes that such student's program weights have been incorrectly reported by the local
 164 school system may make a request in writing to the department for a review of the
 165 accuracy of the local school system's reported program weights. The department shall
 166 provide a written response within 30 days of receipt of the parent's written request.

167 (3) The department shall collect and report information on the scholarship student
 168 retention rate for each participating private school and for the program, in total and
 169 disaggregated by race and gender; the average number of years students receive a
 170 scholarship; the percent of scholarship students who return to public schools annually and
 171 at what grade levels, and the assessments used by private schools to measure student

172 academic progress.

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

175 ~~(c)~~(d) The department may bar a school from participation in the program if the
176 department determines that the school has intentionally and substantially misrepresented
177 information or failed to refund to the state any scholarship overpayments in a timely
178 manner."

179 **SECTION 5.**

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

181 **SECTION 6.**

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