

1 ENGROSSED SENATE
2 BILL NO. 105

By: Daniels and Murdock of the
Senate

3 and

4 Caldwell (Chad) of the
5 House

6
7 [Scholarships - program - eligibility - effective
8 date - emergency]

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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 70 O.S. 2021, Section 13-101.2, as
13 amended by Section 1, Chapter 337, O.S.L. 2024 (70 O.S. Supp. 2024,
14 Section 13-101.2), is amended to read as follows:

15 Section 13-101.2. A. There is hereby created the Lindsey
16 Nicole Henry Scholarships for Students with Disabilities Program.
17 The Lindsey Nicole Henry Scholarships for Students with Disabilities
18 Program is established to provide a scholarship to a private school
19 of choice for students with ~~disabilities for whom an individualized~~
20 ~~education program (IEP) in accordance with the Individuals with~~
21 ~~Disabilities Education Act (IDEA) or an individualized service plan~~
22 ~~pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes~~
23 ~~has been developed at any time prior to notifying the State~~
24 ~~Department of Education of the intent to participate in the Program~~

1 ~~and the IEP is in effect at the time the request for a scholarship~~
2 ~~is received by the State Department of Education~~ special needs who
3 meet at least one of the criteria of subparagraphs a, b, c, d, e, f,
4 or g of paragraph 1 of subsection B of this section. Scholarships
5 shall be awarded beginning with the 2010-2011 school year.

6 B. The parent or legal guardian of a ~~public school~~ student with
7 a ~~disability~~ special need may exercise their parental option and
8 request to have a Lindsey Nicole Henry Scholarship awarded for the
9 child to enroll in and attend a private school in accordance with
10 this section and the scholarship shall be awarded if:

11 1. ~~The a. the~~ student has ~~spent the prior school year in~~
12 ~~attendance at a public school in this state. For~~
13 ~~purposes of this section, "prior school year in~~
14 ~~attendance"~~ means that the student was enrolled in and
15 ~~reported by a school district for funding purposes~~
16 ~~during the preceding school year regardless of whether~~
17 ~~or not the student had an IEP at the time the student~~
18 ~~was counted for funding purposes. A~~ an individualized
19 education program (IEP) in accordance with the

20 Individuals with Disabilities Education Act (IDEA),
21 b. the student has had an individualized service plan
22 pursuant to Section 1-4-704 of Title 10A of the
23 Oklahoma Statutes any time prior to notifying the
24

1 State Department of Education of the intent to
2 participate in the program,

3 c. the student ~~who~~ is a child of a member of the United
4 States Armed Forces who transfers to a school in this
5 state from out of state or from a foreign country
6 pursuant to a permanent change of station orders of
7 the parent ~~shall be exempt from the requirements of~~
8 ~~this paragraph but shall be required to meet all other~~
9 ~~eligibility requirements to participate as provided~~
10 ~~for in this section. A student who has been provided~~
11 ~~services under an Individual Family Service Plan~~
12 ~~through the SoonerStart program and during transition~~
13 ~~was evaluated and determined to be eligible for school~~
14 ~~district services shall be exempt from the~~
15 ~~requirements of this paragraph but shall be required~~
16 ~~to meet all other eligibility requirements to~~
17 ~~participate as provided for in this section. A,~~

18 d. the student ~~who~~ was in out-of-home placement with the
19 Department of Human Services; ~~who,~~

20 e. the student was adopted while in the permanent custody
21 of the Department of Human Services; ~~who,~~

22 f. the student is enrolling or is enrolled in a school
23 that exclusively serves students experiencing
24 homelessness; ~~,~~ or ~~who~~

1 g. the student was in out-of-home placement with the
2 Office of Juvenile Affairs ~~shall be exempt from the~~
3 ~~requirements of this paragraph but shall be required~~
4 ~~to meet all other eligibility requirements to~~
5 ~~participate as provided for in this section;~~ and

6 2. The parent or legal guardian has obtained acceptance for
7 admission of the student to a private school that is eligible for
8 the program as provided in subsection H of this section and has
9 notified the State Department of Education of the request for a
10 scholarship. Requests to participate in the program made after
11 December 1 shall be granted, but funding for scholarships requested
12 after December 1 shall not be available until the beginning of the
13 next school year. The request shall be through a communication
14 directly to the Department in a manner that creates a written or
15 electronic record of the request and the date of receipt of the
16 request. The Department shall notify the school district in which
17 the student is enrolled, if applicable, upon receipt of the request.
18 For purposes of continuity of educational choice, the scholarship
19 shall remain in force until the student enrolls in a public school,
20 graduates from high school, or reaches the age of twenty-two (22),
21 whichever occurs first. At any time, the parent or legal guardian
22 of the student may remove the student from the private school and
23 place the student in another private school that is eligible for the

1 program as provided in subsection H of this section or place the
2 student in a public school.

3 C. A student shall be eligible for a scholarship if the parent
4 or legal guardian of the student made a request for a scholarship
5 for the 2010-2011 school year and the student transferred to an
6 eligible private school but was subsequently denied a scholarship
7 because the student did not have an IEP in effect on October 1,
8 2009, but did meet all other eligibility requirements as set forth
9 in the Lindsey Nicole Henry Scholarships for Students with
10 Disabilities Program Act.

11 D. A student shall not be eligible for a Lindsey Nicole Henry
12 Scholarship if the student is not having regular and direct contact
13 with the private school teachers at the physical location of the
14 private school.

15 E. School districts shall notify the parent or legal guardian
16 of a public school student with a ~~disability~~ special need of all
17 options available pursuant to this section and inform the parent or
18 legal guardian of the availability of information about the program
19 from the State Department of Education through the toll-free
20 telephone number or website. The notification shall be provided
21 with or included in the copy of the "Parents Rights in Special
22 Education: Notice of Procedural Safeguards" document given to
23 parents at least annually or as otherwise required by law.

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1 F. ~~1. Acceptance of a Lindsey Nicole Henry Scholarship shall~~
2 ~~have the same effect as a parental revocation of consent to service~~
3 ~~pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the~~
4 ~~IDEA.~~

5 ~~2.~~ Upon acceptance of a Lindsey Nicole Henry Scholarship, the
6 parent or legal guardian shall assume full financial responsibility
7 for the education of the student including, but not limited to,
8 transportation to and from the private school.

9 G. If the parent or legal guardian requests a Lindsey Nicole
10 Henry Scholarship and the student is accepted by the private school
11 pending the availability of a space for the student, the parent or
12 legal guardian of the student shall notify the State Department of
13 Education before entering the private school and before December 1
14 in order to be eligible for the scholarship during the school year
15 when a space becomes available for the student in the private
16 school. If notification is made after December 1, payment of the
17 scholarship shall not begin until the next school year.

18 H. 1. To be eligible to participate in the Lindsey Nicole
19 Henry Scholarships for Students with Disabilities Program, a private
20 school shall notify the State Department of Education of its intent
21 to participate. The notice shall specify the grade levels and
22 services that the private school has available for students with
23 ~~disabilities~~ special needs who are participating in the scholarship
24 program. The State Department of Education shall approve a private

1 school as eligible to participate in the scholarship program upon
2 determination that the private school:

- 3 a. meets the accreditation requirements set by the State
4 Board of Education or another accrediting association
5 approved by the State Board of Education. The State
6 Department of Education shall list on its website all
7 accrediting associations approved by the Board,
- 8 b. demonstrates fiscal soundness by having been in
9 operation for one (1) school year or providing the
10 State Department of Education with a statement by a
11 certified public accountant confirming that the
12 private school desiring to participate is insured and
13 the owner or owners have sufficient capital or credit
14 to operate the school for the upcoming year by serving
15 the number of students anticipated with expected
16 revenues from tuition and other sources that may be
17 reasonably expected. In lieu of a statement, a surety
18 bond or letter of credit for the amount equal to the
19 scholarship funds for any quarter may be filed with
20 the Department,
- 21 c. complies with the antidiscrimination provisions of 42
22 U.S.C., Section 2000d,
- 23 d. meets state and local health and safety laws and
24 codes,

- e. will be academically accountable to the parent or legal guardian for meeting the educational needs of the student,
- f. employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught,
- g. complies with all state laws relating to general regulation of private schools, and
- h. adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

2. Upon approval of a private school, the State Department of Education shall provide on its website all information and material submitted by the private school with its application.

I. 1. Lindsey Nicole Henry Scholarship Program participants shall comply with the following:

- a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection H of this section and apply for the admission of the child,

- 1 b. the parent or legal guardian shall request the
2 scholarship no later than December 1 of the school
3 year during which the scholarship is requested,
- 4 c. any student participating in the scholarship program
5 shall attend throughout the school year, unless
6 excused by the school for illness or other good cause,
7 and shall comply fully with the code of conduct for
8 the school,
- 9 d. the parent or legal guardian shall fully comply with
10 the parental involvement requirements of the private
11 school, unless excused by the school for illness or
12 other good cause, and
- 13 e. upon issuance of a scholarship warrant, the parent or
14 legal guardian to whom the warrant is made shall
15 restrictively endorse the warrant to the private
16 school for deposit into the account of the private
17 school. The parent or legal guardian may not
18 designate any entity or individual associated with the
19 private school as the attorney in fact for the parent
20 or legal guardian to endorse a warrant. A parent or
21 legal guardian who fails to comply with this
22 subparagraph shall forfeit the scholarship.

23 2. A participant who fails to comply with this subsection
24 forfeits the scholarship.

1 J. Provisions governing payment of a Lindsey Nicole Henry
2 Scholarship shall be as follows:

3 1. The State Department of Education shall calculate the total
4 cost of all scholarships for all eligible students in the state.
5 The State Department of Education shall then reserve or retain from
6 the total amount appropriated to the State Board of Education for
7 State Aid purposes and any other revenue available for allocation
8 for State Aid purposes the total cost for all scholarship payments;

9 2. The maximum scholarship granted for an eligible student with
10 ~~disabilities~~ special needs shall be a calculated amount equivalent
11 to the total State Aid factors for the applicable school year
12 multiplied by the grade and disability weights for which the student
13 is eligible for the applicable school year. The disability weights
14 used in calculating the scholarship amount shall include all
15 disability weights which correspond to the disabilities included in
16 the multidisciplinary evaluation and eligibility group summary for
17 the student at the time the request for a scholarship is made by the
18 parent or legal guardian. The maximum scholarship amount shall be
19 calculated by the State Board of Education for each year the student
20 is participating in the scholarship program;

21 3. The amount of the scholarship shall be the amount calculated
22 in paragraph 2 of this subsection or the amount of tuition and fees
23 for the private school, whichever is less, minus up to two and one-
24 half percent (2 1/2%) of the scholarship amount which may be

1 retained by the State Department of Education as a fee for
2 administrative services rendered. If a private school does not
3 charge tuition, the amount of the scholarship shall be the amount
4 calculated in paragraph 2 of this subsection minus up to two and
5 one-half percent (2 1/2%) of the scholarship amount which may be
6 retained by the State Department of Education as a fee for
7 administrative services rendered. The amount of any assessment fee
8 required by the private school and the amount associated with
9 providing services and therapies to address the ~~disabilities~~ special
10 needs of the student may be paid from the total amount of the
11 scholarship. The amount of the scholarship shall be prorated to
12 reflect the number of days remaining in the current school year, if
13 the scholarship request is granted after the beginning of the school
14 year;

15 4. The State Department of Education shall notify the private
16 school of the amount of the scholarship within ten (10) days after
17 receiving the request for a scholarship, when the total State Aid
18 factors have been determined for the current fiscal year. The
19 initial payment shall be made after the Department verifies
20 admission acceptance and enrollment. Quarterly payments shall be
21 made upon verification of continued enrollment and attendance at the
22 private school. Payment shall be made by the Department with an
23 individual warrant made payable to the parent or legal guardian of
24 the student and mailed by the Department to the private school that

1 the parent or legal guardian chooses. The parent or legal guardian
2 shall restrictively endorse the warrant to the private school for
3 deposit into the account of the private school;

4 5. The State Department of Education shall not be responsible
5 for any additional costs associated with special education and
6 related services incurred by the private school for the student
7 including the cost of teachers, equipment, material, and special
8 costs associated with the special education class;

9 6. The State Department of Education shall establish a toll-
10 free telephone number or website that provides parents or legal
11 guardians and private schools with information about the program;

12 7. The State Department of Education shall require an annual,
13 notarized, sworn compliance statement by participating private
14 schools certifying compliance with state laws and shall retain all
15 records received from a participating private school. The State
16 Department of Education shall post on its website the annual
17 compliance statement for each participating private school; and

18 8. The State Department of Education shall cross-check the list
19 of participating scholarship students with the public school
20 enrollments prior to each scholarship payment to avoid duplication.

21 K. 1. The ~~State~~ Superintendent of Public Instruction shall
22 deny, suspend, or revoke the participation of a private school in
23 the scholarship program if it is determined that the private school
24 has failed to comply with the provisions of this section. However,

1 in instances in which the noncompliance is correctable within a
2 reasonable amount of time and in which the health, safety, or
3 welfare of the students is not threatened, the Superintendent may
4 issue a notice of noncompliance which shall provide the private
5 school with a time frame within which to provide evidence of
6 compliance prior to taking action to suspend or revoke participation
7 in the scholarship program.

8 2. If the Superintendent intends to deny, suspend, or revoke
9 the participation of a private school in the scholarship program,
10 the Department shall notify the private school of the proposed
11 action in writing by certified mail and regular mail to the private
12 school's address of record with the Department. The Department
13 shall also notify any parents or legal guardians of scholarship
14 students attending the private school. The notification shall
15 include the reasons for the proposed action and notice of the
16 timelines and procedures set forth in this subsection.

17 3. The private school that is adversely affected by the
18 proposed action shall have fifteen (15) days from receipt of the
19 notice of proposed action to file with the Department a request for
20 an administrative hearing proceeding pursuant to the Administrative
21 Procedures Act.

22 4. Upon receipt of a request for a hearing, the State Board of
23 Education shall commence a hearing within sixty (60) days after the
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1 receipt of the formal written request and enter an order within
2 thirty (30) days after the hearing.

3 5. The Board may immediately suspend payment of scholarship
4 funds if it is determined that there is probable cause to believe
5 that there is an imminent threat to the health, safety, or welfare
6 of the students or fraudulent activity on the part of the private
7 school.

8 L. No liability shall arise on the part of the state, the State
9 Board of Education, the State Department of Education, or a school
10 district based on the award or use of any scholarship provided
11 through the Lindsey Nicole Henry Scholarships for Students with
12 Disabilities Program.

13 M. The inclusion of private schools within options available to
14 public school students in Oklahoma shall not expand the regulatory
15 authority of the state or any school district to impose any
16 additional regulation of private schools beyond those reasonably
17 necessary to enforce the requirements expressly set forth in this
18 section.

19 N. If the State Department of Education determines that a
20 school district prior to August 26, 2011, has failed to comply with
21 the provisions of the Lindsey Nicole Henry Scholarships for Students
22 with Disabilities Program Act and has failed to make full or partial
23 scholarship payments for eligible students, the Department shall
24 have authority to reduce the amount of State Aid allocated to the

1 school district or require the school district to make repayment to
2 the Department of State Aid allocations in an amount equal to the
3 amount of scholarship payments the school district failed to make.
4 The Department shall make payment to the parent or legal guardian in
5 the amount the school district failed to make in the manner as
6 provided for in subsection J of this section.

7 O. The State Department of Education shall annually prepare and
8 post on its website a report of Lindsey Nicole Henry Scholarships
9 for Students with Disabilities Program. The annual report shall
10 include, but not be limited to, the following information:

11 1. The total number and amount of scholarships awarded and
12 reported for each participating private school;

13 2. The total number of scholarships denied;

14 3. The total number and amount of scholarship payments
15 suspended for each participating private school; and

16 4. Data on participating students, disaggregated by years of
17 participation in the program, grade level, economically
18 disadvantaged status, racial and ethnic groups, and disability
19 category.

20 SECTION 2. This act shall become effective July 1, 2025.

21 SECTION 3. It being immediately necessary for the preservation
22 of the public peace, health, or safety, an emergency is hereby
23 declared to exist, by reason whereof this act shall take effect and
24 be in full force from and after its passage and approval.

