

House Bill 1013

By: Representatives Efration of the 104<sup>th</sup>, Dudgeon of the 25<sup>th</sup>, Casas of the 107<sup>th</sup>, Stovall of the 74<sup>th</sup>, Chandler of the 105<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
2 elementary and secondary education, so as to extensively revise the Georgia Special Needs  
3 Scholarship Program; to revise definitions; to require a signed agreement by parents; to  
4 extend the uses for which scholarship funds may be used; to revise requirements for  
5 eligibility and participation; to transfer administration of the scholarship program from the  
6 Department of Education to the Office of Student Achievement; to revise provisions relating  
7 to scholarship funds; to revise the components of an annual report on the program; to provide  
8 for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
12 secondary education, is amended by revising Article 33, the "Georgia Special Needs  
13 Scholarship Act," as follows:

14 style="text-align:center">"ARTICLE 33

15 20-2-2110.

16 This article shall be known and may be cited as the 'Georgia Special Needs Scholarship  
17 Act.'

18 20-2-2111.

19 The General Assembly finds that:

20 (1) Students with disabilities have special needs that merit educational alternatives which  
21 will allow students to learn in an appropriate setting and manner;

22 (2) Parents are best equipped to make decisions for their children, including the  
 23 educational setting that will best serve the interests and educational needs of their  
 24 children;

25 (3) Children, parents, and families are the primary beneficiaries of the scholarship  
 26 program authorized in this article and any benefit to private schools, sectarian or  
 27 otherwise, is purely incidental;

28 (4) The scholarship program established in this article is for the valid secular purpose of  
 29 tailoring a student's education to that student's specific needs and enabling families to  
 30 make genuine and independent private choices to direct their resources to appropriate  
 31 schools, services, and providers; and

32 (5) Nothing in this article shall be construed as a basis for granting vouchers or tuition  
 33 tax credits for any other students, ~~with or without disabilities~~ beyond those specified in  
 34 this article.

35 20-2-2112.

36 As used in this article, the term:

37 (1) 'Board' means the State Board of Education.

38 (2) ~~'Department'~~ 'Office' means the ~~Department of Education~~ Office of Student  
 39 Achievement.

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

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

45 (5) 'Prior school year in attendance' means that the student was enrolled and reported by  
 46 a public school system or school systems for funding purposes during the preceding  
 47 October and March full-time equivalent (FTE) program counts in accordance with Code  
 48 Section 20-2-160.

49 (6) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is  
 50 accredited or in the process of becoming accredited by one or more of the entities listed  
 51 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.

52 (7) 'Program' means the scholarship program established pursuant to this article.

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

55 (9) 'Scholarship' means a Georgia Special Needs Scholarship awarded pursuant to this  
 56 article.

57 (10) 'Scholarship funds' means the funds awarded on behalf of a scholarship student.

58 ~~(10)~~(11) 'Scholarship student' means a student who receives a scholarship pursuant to  
59 this article.

60 20-2-2113.

61 (a) The resident school system shall ~~provide specific written notice of the options available~~  
62 ~~under this article to the parent at the initial Individualized Education Program (IEP)~~  
63 ~~meeting in which a disability of the parent's child is identified. Thereafter, the resident~~  
64 ~~school system shall~~ annually notify prior to the beginning of each school year the parent  
65 of a student with a disability by letter, electronic means, or by such other reasonable means  
66 in a timely manner of the options available to the parent under this article.

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

74 ~~(2) The parent may choose to enroll the student in and transport the student to a public~~  
75 ~~school outside of the student's resident school system which has available space and~~  
76 ~~which has a program with the services agreed to in the student's existing individualized~~  
77 ~~education program. The public school system may accept the student, and if it does, such~~  
78 ~~system shall report the student for purposes of funding to the department;~~

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

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

85 (b) In addition to the requirements contained in subsection (a) of Code Section 20-2-2114,  
86 a student shall qualify to participate in the program if the parent signs an agreement  
87 promising:

88 (1) To provide an education for the scholarship student in at least the subjects of reading,  
89 grammar, mathematics, social studies, and science;

90 (2) Not to enroll their child in a local school system school, charter school, or other state  
91 charter school; and

92 (3) To only use scholarship funds for any of the following expenses of the scholarship  
93 student:

- 94 (A) Tuition and fees at a participating school;  
 95 (B) Textbooks required by a participating school;  
 96 (C) Tutoring services provided by a tutor accredited by a state, regional, or national  
 97 accrediting organization or by an educator certified by the Professional Standards  
 98 Commission;  
 99 (D) Payment for the purchase of curriculum, including any supplemental materials  
 100 required by the curriculum;  
 101 (E) No more than \$500.00 per year to a fee-for-service transportation provider for  
 102 transportation to or from a participating school or service provider;  
 103 (F) Tuition and fees for a nonpublic online learning program or course;  
 104 (G) Educational therapies or services from a licensed or accredited practitioner or  
 105 provider, paraprofessional, or educational aide, including but not limited to  
 106 occupational, behavioral, physical, and speech-language therapies;  
 107 (H) Services provided under a contract with a public school, including individual  
 108 classes and extracurricular programs;  
 109 (I) Fees for the management of scholarship funds by an approved private financial  
 110 management firm; or  
 111 (J) Computer hardware or other technological devices approved by the office or a  
 112 physician if the computer hardware or other technological device is used for the  
 113 student's educational needs.

114 20-2-2114.

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

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

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

121 ~~(A) Autism;~~

122 ~~(B) Deaf/blind;~~

123 ~~(C) Deaf/hard of hearing;~~

124 ~~(D) Emotional and behavioral disorder;~~

125 ~~(E) Intellectual disability;~~

126 ~~(F) Orthopedic impairment;~~

127 ~~(G) Other health impairment;~~

128 ~~(H) Specific learning disability;~~

129 ~~(I) Speech-language impairment;~~

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

131 ~~(K) Visual impairment;~~

132 ~~(3)~~(2) The student:

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

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

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

150 ~~(5)~~(3) The parent submits an application for a scholarship to the department office no  
151 later than the deadline established by the department office; provided, however, that the  
152 department office shall provide application deadline opportunities on September 15,  
153 December 15, and February 15 of each school year for a student to transfer enroll in the  
154 program. The office shall process applications in the order they are received.

155 (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for  
156 the education of the scholarship student, including transportation to and from the  
157 participating school.

158 ~~(c) For a student who participates in the program whose parents request that the student~~  
159 ~~take the state-wide assessments pursuant to Code Section 20-2-281, the resident school~~  
160 ~~system shall make available to the student locations and times to take all state-wide~~  
161 ~~assessments. Test scores of private school students participating in the state-wide~~  
162 ~~assessments shall not be applied to the system averages of the resident school system for~~  
163 ~~data reported for federal and state requirements. For scholarship students, a parent shall~~  
164 ~~ensure that the student is annually administered a nationally norm-referenced test identified~~  
165 ~~by the office. The test identified by the office shall, at a minimum, measure learning in~~  
166 ~~mathematics and English language arts. Students with disabilities for whom standardized~~

167 testing is not appropriate, as determined on the student's Individualized Education Program,  
 168 shall be exempt from this subsection.

169 (d) Students enrolled in a school operated by the Department of Juvenile Justice are not  
 170 eligible for the scholarship.

171 (e) The scholarship shall remain in force until the student returns to his or her assigned  
 172 school in the resident public school system, graduates from high school, or reaches the age  
 173 of 21, whichever occurs first. ~~However, at any time, the student's parent may remove the~~  
 174 ~~student from the participating school and place the student in another participating school~~  
 175 ~~or public school as provided for in Code Section 20-2-2113. A scholarship student may~~  
 176 return to the student's zoned public school in his or her resident school system at any time  
 177 after enrolling in the program in compliance with rules promulgated by the board.

178 (f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent  
 179 to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section  
 180 1400, et seq.

181 (g) The creation of the program or the granting of a scholarship pursuant to this article  
 182 shall not be construed to imply that a public school did not provide a free and appropriate  
 183 public education for a student or constitute a waiver or admission by the state.

184 (h) Any scholarship funds directed to a participating school or service provider are is so  
 185 directed wholly as a result of the genuine and independent private choice of the parent.

186 (i) The parent of each student participating in the scholarship program shall comply fully  
 187 with the participating school's rules and policies.

188 (j) Any parent who fails to comply with the provisions of this article and department office  
 189 regulations relating to the scholarship shall forfeit the scholarship and all funds therein.

190 20-2-2115.

191 (a) To be eligible to enroll a scholarship student, a participating school shall:

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

194 (2) Demonstrate fiscal soundness by having been in operation for one school year or by  
 195 submitting a financial information report for the school that complies with uniform  
 196 financial accounting standards established by the department office and conducted by a  
 197 certified public accountant. The report must confirm that the school desiring to  
 198 participate is insured and the owner or owners have sufficient capital or credit to operate  
 199 the school for the upcoming school year serving the number of students anticipated with  
 200 expected revenues from tuition and other sources that may be reasonably expected. The  
 201 report shall be limited in scope to those records that are necessary for the department

202 office to make a determination on fiscal soundness and to make payments to schools for  
203 scholarships;

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

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

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

208 (6) Regularly report to the parent and the ~~department~~ office on the student's academic  
209 progress, including the results of pre-academic assessments and post-academic  
210 assessments given to the student, in accordance with ~~department~~ office guidelines; and

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

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

216 ~~(c) Residential treatment facilities licensed or approved by the state shall not be eligible  
217 to enroll scholarship students.~~

218 ~~(d)~~(b) The creation of the program shall not be construed to expand the regulatory  
219 authority of the state, its officers, or any public school system to impose any additional  
220 regulation of nonpublic schools beyond those reasonably necessary to enforce the  
221 requirements of this article.

222 ~~(e)~~(c) A participating school intending to enroll scholarship students shall submit an  
223 application to the ~~department~~ office by June 30 of the school year preceding the school year  
224 in which it intends to enroll scholarship students. The notice shall specify the grade levels  
225 and services that the school has available for students with disabilities who are participating  
226 in the scholarship program. ~~A school intending to enroll scholarship students in the  
227 2007-2008 school year shall submit an application no later than June 30, 2007.~~

228 ~~(f)~~(d) The board shall approve a participating school's application to enroll scholarship  
229 students if the school meets the eligibility requirements of this article and complies with  
230 board rules established pursuant to Code Section 20-2-2117. The board shall make  
231 available to local school systems and the public a list of participating schools.

232 20-2-2116.

233 (a) The ~~maximum~~ scholarship granted a scholarship student pursuant to this article shall  
234 be an amount equivalent to the costs of the educational program that would have been  
235 provided for the student in the resident school system, including appropriate weights, as  
236 calculated under Code Section 20-2-161. This shall not include any federal funds.

237 ~~(b) The amount of the scholarship shall be the lesser of the amount calculated in~~  
238 ~~subsection (a) of this Code section or the amount of the participating school's tuition and~~  
239 ~~fees, if applicable. The amount of any assessment fee required by the participating school~~  
240 ~~may be paid from the total amount of the scholarship.~~

241 ~~(c)~~(b) Scholarship students shall be counted in the enrollment of their resident school  
242 system; provided, however, that this count shall only be for purposes of determining the  
243 amount of the scholarship and the scholarship students shall not be included as enrolled for  
244 purposes of state or federal accountability requirements, including, but not limited to, the  
245 federal Elementary and Secondary Education Act, as amended by the No Child Left Behind  
246 Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship shall be subtracted  
247 from the allotment payable to the resident school system.

248 ~~(d)~~(c) Each local school system shall submit quarterly reports to the department office on  
249 dates established by the department office stating the number of scholarship students in the  
250 resident school system. Following each notification, the department office shall transfer  
251 from the state allotment to each school system the amount calculated under  
252 subsection ~~(b)~~(a) of this Code section to a separate account for the scholarship program for  
253 quarterly disbursement to the parents of scholarship students. ~~When a student enters the~~  
254 ~~program, the department must receive all documentation required for the student's~~  
255 ~~participation, including the participating school's and student's fee schedules, at least 30~~  
256 ~~days before the first quarterly scholarship payment is made for the student. The department~~  
257 ~~may not make any retroactive payments.~~

258 ~~(e) Upon proper documentation received by the department, the department shall make~~  
259 ~~quarterly scholarship payments to the parents of scholarship students on or before October~~  
260 ~~15, December 15, February 15, and May 15 for quarterly periods corresponding,~~  
261 ~~respectively, to August 1 through September 30, October 1 through November 30,~~  
262 ~~December 1 through the last day of February, and March 1 through May 31 during each~~  
263 ~~academic year in which the scholarship is in force. As nearly as practical, such quarterly~~  
264 ~~payments shall be equal; provided, however, that this shall not prevent payments from~~  
265 ~~being adjusted due to budgetary midterm adjustments made pursuant to Code Section~~  
266 ~~20-2-162. The state auditor shall cite as an audit exception any failure by the department~~  
267 ~~to meet any payment deadlines and shall include such audit exceptions on the website~~  
268 ~~established pursuant to Code Section 50-6-32. The initial payment shall be made upon~~  
269 ~~evidence of admission to the participating school, and subsequent payments shall be made~~  
270 ~~on evidence of continued enrollment and attendance at the participating school.~~

271 ~~(f) Payment to the parents must be made by individual warrant made payable to the~~  
272 ~~student's parent and mailed by the department to the participating school of the parent's~~



273 ~~choice, and the parent shall restrictively endorse the warrant to the participating school for~~  
 274 ~~deposit into the account of such school.~~

275 ~~(g) A person, on behalf of a participating school, may not accept a power of attorney from~~  
 276 ~~a parent to sign a warrant, and a parent of a scholarship student may not give a power of~~  
 277 ~~attorney designating a person, on behalf of a participating school, as the parent's attorney~~  
 278 ~~in fact.~~

279 ~~(h) If the participating school requires partial payment of tuition prior to the start of the~~  
 280 ~~academic year to reserve space for students admitted to the school, that partial payment~~  
 281 ~~may be paid by the department prior to the first quarterly payment of the year in which the~~  
 282 ~~scholarship is awarded, up to a maximum of \$1,000.00, and deducted from subsequent~~  
 283 ~~scholarship payments. If a student decides not to attend the participating school, the partial~~  
 284 ~~reservation payment must be returned to the department by such school. Only one~~  
 285 ~~reservation payment per student may be made per year.~~

286 (d) The office shall develop a system for parents to direct scholarship funds to  
 287 participating schools and service providers of their choice by electronic funds transfer.  
 288 This system shall be a commercially viable, cost-effective, and parent friendly system. The  
 289 office shall not adopt a system that requires parents to be reimbursed for out-of-pocket  
 290 expenses. The office is authorized to qualify private financial management firms to  
 291 manage the payment system.

292 (e) A participating school or service provider shall not refund, rebate, or share scholarship  
 293 funds with a parent or student in any manner. The funds in an account shall only be used  
 294 for approved educational purposes.

295 (f) Funds received pursuant to this Code section shall not constitute taxable income of the  
 296 parent of the scholarship student.

297 (g) Nothing in this article shall be deemed to prohibit a parent or child from making a  
 298 payment for any tuition, fee, service, or product described in this article from a source other  
 299 than the scholarship funds of the child.

300 20-2-2117.

301 (a) The board shall adopt rules to administer the program regarding eligibility and  
 302 participation of participating schools, including, but not limited to, timelines that will  
 303 maximize student and public and private school participation, the calculation and  
 304 distribution of scholarships to eligible students and participating schools, and the  
 305 application and approval procedures for eligible students and participating schools. The  
 306 department office shall develop and utilize a compliance form for completion by  
 307 participating schools. The department office shall be authorized to require any pertinent  
 308 information as it deems necessary from participating schools for the purpose of

309 implementing the program. Participating schools shall be required to complete such forms  
310 and certify their accuracy.

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

314 (c) The department office may bar a school from participation in the program if the  
315 department office determines that the school has intentionally and substantially  
316 misrepresented information or failed to refund to the state any scholarship overpayments  
317 in a timely manner.

318 (d) The office will have the authority to conduct or contract for the auditing of scholarship  
319 funds and will, at a minimum, conduct random audits on an annual basis. The office shall  
320 have the authority to make any parent or scholarship student ineligible for the program in  
321 the event of misuse of scholarship funds.

322 (e) The office shall have the authority to refer cases of substantial misuse of scholarship  
323 funds to the Attorney General for investigation if evidence of fraudulent use is obtained.

324 (f) The office may deduct an amount from scholarships to cover the costs of overseeing  
325 and administering the program, up to a maximum of 4 percent.

326 (g) The office may contract with qualified organizations to administer the program or  
327 specific functions of the program.

328 (h) The office shall provide parents of scholarship students with an explanation of the  
329 allowable uses of scholarship funds, the responsibilities of parents, and the duties of the  
330 office.

331 (i) The office shall adopt rules and procedures as necessary for the administration of the  
332 scholarship program.

333 20-2-2118.

334 ~~(a) The Office of Student Achievement, in conjunction with the department, office shall~~  
335 ~~provide the General Assembly not later than December 1 of each year with a report~~  
336 ~~regarding the scholarship program for the previous fiscal year. The report shall include,~~  
337 ~~but not be limited to:, numbers and demographics of students participating and numbers~~  
338 ~~of participating schools. Such report shall also be posted on the Office of Student~~  
339 ~~Achievement's website.~~

340 (1) The level of scholarship students' satisfaction with the program;

341 (2) The level of parental satisfaction with the program;

342 (3) Scholarship student performance on nationally norm-referenced tests;

343 (4) High school graduation rates and college acceptance rates of scholarship students;

344 (5) The percentage of funds used for each purpose included in paragraph (3) of  
345 subsection (b) of Code Section 20-2-2113; and

346 (6) The fiscal impact to the state and resident school systems of the program, taking into  
347 consideration both the impact on revenue and the impact on expenses, and the fiscal  
348 savings associated with students departing public schools must be explicitly quantified,  
349 even if the public school losing the student or students does not reduce its spending.

350 (b) The report shall apply appropriate analytical and behavioral science methodologies to  
351 ensure public confidence in the study.

352 (c) The report shall protect the identity of scholarship students and schools, including, but  
353 not limited to, by keeping anonymous all disaggregated data and maintaining state and  
354 federal guidelines for student privacy."

355 **SECTION 2.**

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