

The Senate Committee on Education and Youth offered the following substitute to SB 386:

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 require a complaint procedure for scholarship
5 calculations; to require an appeals process relating to qualifying conditions; to provide for
6 related matters; to provide an effective date; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

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

14 "20-2-2113.

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

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

27 then the parent shall be responsible for transportation to such school. The student may
 28 attend such public school pursuant to this paragraph until the student completes all grades
 29 of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance
 30 with federal and state requirements for disabled students;

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

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

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

43 **SECTION 2.**

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

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

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

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

53 ~~(A) Autism;~~

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

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

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

57 ~~(E) Intellectual disability;~~

58 ~~(F) Orthopedic impairment;~~

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

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

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

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

63 ~~(K) Visual impairment;~~

64 ~~(3) The student:~~

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

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

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

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

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

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

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

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

97 (ii) Autism spectrum disorder;

98 (iii) Bipolar disorder;

99 (iv) Cancer;

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

127 **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;

158 (2)(A) Upon request by a parent, the department shall provide to the parent a written
 159 calculation of the estimated or actual scholarship amount for the parent's student within
 160 14 calendar days. Within 30 calendar days of receiving said written calculation, a
 161 parent shall be allowed to submit a written request for recalculation, along with any
 162 supporting information. The department shall respond to such request within 15
 163 calendar days. If after a parent submits such a written request the calculation is not
 164 changed, the parent may file a complaint with the department within 14 calendar days
 165 of being notified that the amount will not change. The complaint shall be submitted in
 166 writing and provide a clear explanation of why the parent believes the calculation
 167 should be changed, along with any supporting information. Within 14 calendar days
 168 of receipt of the complaint, the department shall provide the parent with a written
 169 response. The final decision of the department shall not be appealable except as
 170 otherwise provided by law; and

171 (B) The department shall annually report to the board in writing the total number of
172 complaints submitted pursuant to subparagraph (A) of this paragraph and the total
173 number of said complaints resolved, in whole or in part, by a recalculation of the
174 scholarship amount at issue in favor of the scholarship student.

175 (3) The board shall adopt rules by which a parent, whose child has a formal diagnosis
176 from a licensed physician or psychologist or a Section 504 Plan relating to a condition
177 that is not included among the conditions provided for in subparagraph (a)(3)(B) of Code
178 Section 20-2-2114, may petition the board to consider whether such child should qualify
179 for a scholarship under this article.

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

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

186 **SECTION 5.**

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

188 **SECTION 6.**

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