

HOUSE BILL 837

By Sparks

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to scholarships.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding
the following as a new part:

49-6-3601.

This part is known and may be cited as the "Opportunity Scholarships Program."

49-6-3602.

By May 1, 2022, the department of education, in collaboration with the state
board, shall establish a scholarship program to assist eligible students in kindergarten
through grade twelve (K-12) who are attending a school in an LEA designated by the
department as a Tennessee rapid growth school district (TRGSD) to attend a
participating private school of the student's choice.

49-6-3603.

As used in this part, unless the context otherwise requires:

(1) "Department" means the department of education;

(2) "Eligible student" means a student who:

(A)

(i) Resides within the boundaries of an LEA that, at the time of the
student's initial application for a scholarship, is designated as a
Tennessee rapid growth school district (TRGSD) by the department;

(ii) Is zoned to attend or is currently enrolled in a public school
within a TRGSD;

(iii) Meets the minimum age requirements specified in § 49-6-3001, with eligibility extending until the student graduates from high school; however, the student must be less than twenty-two (22) years of age by August 15 of each year; and

(iv) Was previously enrolled in a Tennessee public school during the two (2) semesters immediately preceding the semester in which the student receives a scholarship under this part, or is enrolling in a school within the LEA for the first time; or

(B)

(i) Received a scholarship pursuant to this part in the previous school year;

(ii) Resides within the boundaries of an LEA which was designated as a TRGSD during the school year in which the student began participating in the scholarship program; and

(iii) Meets the minimum age requirements specified in § 49-6-3001, with eligibility extending until the student graduates from high school; however, the student must be less than twenty-two (22) years of age by August 15 of each year;

(3) "Parent" means the parent, legal guardian, person who has custody of the child, or person with caregiving authority for the child under § 49-6-3001;

(4) "Participating school" means a private school, as defined by § 49-6-3001(c)(3)(A)(iii), that:

(A) Meets the requirements established by the department of education and the state board of education for a Category I, II, or III private school;

(B) Complies with the requirements of this part; and

(C) Seeks to enroll eligible students;

(5) "Program" means the scholarship program created by this part;

(6) "Scholarship" means payments made by the department to participating schools on behalf of a scholarship student for tuition and fees pursuant to this part;

(7) "Scholarship student" or "scholarship recipient" means an eligible student who is awarded a scholarship pursuant to this part;

(8) "State board" means state board of education;

(9) "Tennessee rapid growth school district" means an LEA with a minimum average growth of two percent (2%) in average daily membership (ADM), as defined in § 49-3-302, over the five (5) fiscal years immediately preceding a fiscal year, and that is designated by the department as a Tennessee rapid growth school district upon application to the department by the LEA; and

(10) "Tuition and fees" means the cost of educating an enrolled student, inclusive of any cost required as a condition of attending the participating school or using its equipment or facilities while participating in or receiving educational training. "Tuition and fees" also includes operational and facility costs, transportation costs, meal costs, and any additional costs associated with participating in the program or educating students.

49-6-3604.

(a) A participating school shall:

(1) Voluntarily agree to participate in the program and enroll eligible students pursuant to this part;

(2) Provide notice, on an annual basis, of intent to participate in the program to the department through completion of an application developed by

the department. Such notice must include the number of available seats by grade level;

(3) Comply with all health and safety laws or codes that are applicable to the participating school;

(4) Annually administer to scholarship students state assessments as provided in chapter 1, part 6 of this title;

(5) Provide the parent of a scholarship student with the results of the parent's student's annual mandatory state assessments;

(6) Provide the department with graduation rates, or the equivalent information of scholarship students, as well as other student information allowing for the aggregation of data as determined and required by the department;

(7) Comply with nondiscrimination policies in the same manner as the LEA in which the student resides and otherwise abide by the participating school's written admission policy with regard to students who are awarded scholarships under this part. If a scholarship student is not successfully enrolled in a school, the student remains eligible to enroll in another participating school;

(8) Not discriminate against students with special education needs who meet the requirements for admission to the school; however, as a private school, a participating school shall offer only those services the school already provides to assist students with special needs. If a scholarship student would have been entitled to receive special education services in the public school the student would otherwise be attending, the parent must acknowledge in writing, as part of the enrollment process, that the parent agrees to accept only services available to the student in the private school. A participating school may partner with an LEA or other participating school to provide special education services. The

parent of an eligible student shall sign an agreement promising not to enroll the parent's eligible student in a public school and to release the LEA in which the student resides and is zoned to attend from all obligations to educate the student. Participation in the program has the same effect as a parental refusal to consent to the receipt of services under 20 U.S.C. § 1414 of the Individuals with Disabilities Education Act (IDEA);

(9) Require any person applying for a position as a teacher or any other position requiring close proximity to children, including contractors and service providers, to submit to a criminal background check; and

(10) Comply with § 49-5-202.

(b) Participation in the program by a school is voluntary, and this part does not authorize any additional regulation of participating schools beyond that specifically authorized by this part. A school participating in the program is not a state actor, or agent of the state or federal government, by virtue of its participation in this program.

(c) The amount of a scholarship awarded to a student must not be treated as income or an asset for the purposes of any individual tax or qualification for any other federal or state grant or program.

49-6-3605.

(a) The department shall develop procedures necessary for administering the scholarship program created by this part. In administering the program, the department shall:

(1) Annually identify each LEA that is eligible to seek designation from the department as a Tennessee rapid growth school district (TRGSD), and notify the LEA of the LEA's eligibility;

(2) Establish an application process for an LEA to apply for and receive designation as a TRGSD from the department. The department shall annually publish a list of all LEAs designated as TRGSDs on the department's website. An LEA that is eligible to be designated as a TRGSD must not be designated as a TRGSD unless the LEA seeks such designation from the department;

(3) Require all TRGSDs to provide the department with the names of the parents of eligible students;

(3) Provide notice to parents of the parent's student's eligibility and a list of participating schools;

(4) Create a standard application that parents and students interested in the scholarship program may submit to establish scholarship eligibility;

(5) Establish application and participation timelines that will maximize student and school participation;

(6) Accept applications from parents of eligible students and award scholarships to eligible students. Each application must indicate the parent's choice or choices of participating schools;

(7) Determine and approve school and student eligibility and participation pursuant to the requirements of this part. The department shall award scholarships to no more than one thousand (1,000) students per school year pursuant to this part. If the number of eligible students who submit applications exceeds one thousand (1,000), then the department shall conduct a random selection process to award scholarships that provides each eligible student with an equal opportunity for selection. The department shall give preference to students already enrolled in a participating school and to siblings of such students;

(8) Remit scholarship payments to participating schools on behalf of scholarship recipients; however, any scholarship awarded under this part must be the entitlement of the scholarship student under the supervision of the student's parent and is not an entitlement of any participating school; and

(9) Annually publish, in compliance with all state and federal student privacy laws, student achievement and progress information for each participating school, which must include:

(A) Achievement results in the aggregate, including educational progress, for scholarship recipients;

(B) The graduation rate for scholarship recipients; and

(C) The retention rate for scholarship recipients.

(b)

(1) The department may suspend or terminate a school's participation in the program, if the department determines the school has:

(A) Failed to comply with the requirements of this part;

(B) Misappropriated scholarship funds; or

(C) Misrepresented assessment scores of, or academic achievement by, scholarship students.

(2) If the department suspends or terminates the school's participation, the department shall notify affected scholarship students and the student's parent of the decision. If a participating school is suspended or terminated from the program, or if the school otherwise withdraws from the program, scholarship students enrolled at the school may transfer to another participating school without loss of scholarship eligibility and such students must be given preference for enrollment.

(c) Notwithstanding subsection (b), an eligible student is entitled to one (1) scholarship per school year. If the scholarship student voluntarily leaves a participating school for reasons other than suspension or termination of the school by the department, and enrolls in another participating school, the student and the successor participating school shall not receive any funds under this part for the payment of tuition and fees for the remainder of the school year. However, if the scholarship student enrolls in a public school, then the LEA shall receive the funds that otherwise would have been remitted to a participating school on behalf of the scholarship student.

(d) In compliance with all state and federal student privacy laws, the LEA, in a timely manner, shall provide a participating school that has admitted an eligible student under this part with a complete copy of the student's school records in the possession of the LEA.

(e) The name or any other information that alone, or in combination, could personally identify a scholarship recipient must be treated as confidential and is not open to public inspection. Nothing in this part prevents the department, state board, or participating schools from accessing and utilizing such records as required to fulfill their lawful functions.

49-6-3606.

(a) After initial approval by the department as a participating school, a school may continue to enroll additional eligible students through the program; provided, the school demonstrates achievement growth for scholarship students, in the aggregate, at a minimum level of "at expectations," as represented by a value-added assessment system developed pursuant to chapter 1, part 6 of this title.

(b) If a participating school demonstrates achievement growth for scholarship students, in the aggregate, at a level of "significantly below expectations" for two (2)

consecutive years, as represented by a value-added assessment system developed pursuant to chapter 1, part 6 of this title, the commissioner may suspend or terminate a school's participation in the program. If the department suspends or terminates the school's participation, the department shall notify affected scholarship students and the students' parents of the decision.

49-6-3607.

(a) The annual scholarship amount to which an eligible student is entitled under this part must be equal to the lesser of the following:

- (1) The cost of tuition and fees charged by the participating school; or
- (2) The amount representing the per pupil state and local funds

generated and required through the basic education program (BEP) for the Tennessee rapid growth school district (TRGSD).

(b) For the purposes of funding calculations, each scholarship recipient must be counted in the enrollment figures for the TRGSD. The scholarship funds must be subtracted from the total state funds otherwise payable to the TRGSD and must be paid directly to the participating school.

(c) Subject to appropriation, the department shall disburse grants to TRGSDs in an amount equal to twenty-five percent (25%) of the per pupil state and local funds generated and required through the basic education program (BEP) for the TRGSD for each scholarship student who:

- (1) Was enrolled in and attended a school in the TRGSD for the one (1) full school year immediately preceding the school year in which the student began participating in the scholarship program; and

(ii) Generates BEP funds for the TRGSD in the applicable fiscal year that will be subtracted from the state BEP funds payable to the TRGSD under subsection (b).

(d) If the participating school's cost of tuition and fees is less than the amount outlined in subdivision (a)(2), the remaining funds must be retained by the department and the TRGSD, with specific amounts based on the TRGSD's state and local funding share under the BEP.

(e) The department shall develop a schedule for payments of scholarship funds to participating schools. If a participating student is enrolled in a participating school for less than the entire school year, the scholarship provided under this part must be reduced on a prorated basis to reflect the shorter school term.

SECTION 2. The state board is authorized to promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.