

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 1031

5 By: Representative Hutchinson
6
7

For An Act To Be Entitled

8 AN ACT TO CREATE THE ABILITY SCHOLARSHIPS FOR
9 STUDENTS WITH DISABILITIES PROGRAM; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12 AN ACT TO CREATE THE ABILITY
13 SCHOLARSHIPS FOR STUDENTS WITH
14 DISABILITIES PROGRAM.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 6, Chapter 41, is amended to add an
22 additional subchapter to read as follows:

23 6-41-601. Program.

24 (a)(1) The Ability Scholarships for Students with Disabilities Program
25 is established to provide the option to attend a public school other than the
26 one to which the student is assigned, or to provide a scholarship to a
27 private school of choice, for students with disabilities for whom an
28 individual education plan has been written in accordance with rules of the
29 State Board of Education.

30 (2) Students with disabilities include students in kindergarten
31 through grade twelve (K-12) who are mentally handicapped, speech and language
32 impaired, deaf or hard of hearing, visually impaired, dual sensory impaired,
33 physically impaired, specific learning disabled, hospitalized or homebound,
34 or autistic.

35 (b) The parent of a public school student with a disability who is not
36 satisfied with the student's progress may request and shall receive from the



1 Department of Education an Ability Scholarship for the child to enroll in and
 2 attend a private school if the parent has obtained acceptance for admission
 3 of the student to a private school that is eligible for the program under §
 4 6-41-603 and has notified, in writing, the school district of the request for
 5 a scholarship at least sixty (60) days prior to the date of the first
 6 scholarship payment.

7 (c) This section does not apply to a student who is enrolled in a
 8 school operating for the purpose of providing educational services to youth
 9 in a juvenile detention facility defined by § 6-20-104.

10 (d)(1) For purposes of continuity of educational choice, the
 11 scholarship shall remain in force until the student returns to a public
 12 school or graduates from high school.

13 (2) However, at any time, the student’s parent may remove the
 14 student from the private school and place the student in another private
 15 school that is eligible for the program under § 6-41-603.

16
 17 6-41-602. School district and Department of Education obligations.

18 (a)(1) The parent of a student eligible for an Ability Scholarship may
 19 enroll the student in another public school within the district.

20 (2) The parent is not required to accept enrollment of the
 21 student in another public school within the district in lieu of requesting an
 22 Ability Scholarship to a private school.

23 (3) If the parent chooses to enroll the student in another
 24 public school within the district, the student may continue attending a
 25 public school chosen by the parent until the student graduates from high
 26 school.

27 (b)(1) For a student with disabilities who does not have an individual
 28 education plan, the school district must complete an individual education
 29 plan.

30 (2) The school district must complete the individual education
 31 plan for any student who is participating in the Ability Scholarships for
 32 Students with Disabilities Program and must notify the Department of
 33 Education of the student’s individual education plan within thirty (30) days
 34 after receiving notification by the student’s parent of intent to participate
 35 in the scholarship program.

36 (3) The Department of Education shall notify the private school

1 of the amount of the scholarship within ten (10) days after receiving the
 2 school district's notification of the student's individual education plan.

3 (c) If the parent chooses the private school option and the student is
 4 accepted by the private school pending the availability of a space for the
 5 student, the parent of the student must notify the school district sixty (60)
 6 days prior to the first scholarship payment and before entering the private
 7 school in order to be eligible for the scholarship when a space becomes
 8 available for the student in the private school.

9 (d) The parent of a student may choose, as an alternative, to enroll
 10 the student in and transport the student to a public school in an adjacent
 11 school district that has available space and has a program with the services
 12 agreed to in the student's individual education plan, and that school
 13 district shall accept the student and report the student for purposes of the
 14 district's funding.

15 (e) For a student in the district who participates in the Ability
 16 Scholarships for Students with Disabilities Program whose parent requests
 17 that the student take statewide assessments, the district shall provide
 18 locations and times to take all statewide assessments.

19 (f) A school district must notify the Department of Education within
 20 ten (10) days after it receives notification of a parent's intent to apply
 21 for a scholarship for a student with a disability.

22
 23 6-41-603. Private school eligibility.

24 To be eligible to participate in the Ability Scholarships for Students
 25 with Disabilities Program, a private school may be sectarian or nonsectarian,
 26 and must:

27 (1)(A) Demonstrate fiscal soundness by being in operation for one (1)
 28 school year or provide the Department of Education with a statement by a
 29 certified public accountant confirming that the private school desiring to
 30 participate is insured and the owner or owners have sufficient capital or
 31 credit to operate the school for the upcoming year serving the number of
 32 students anticipated with expected revenues from tuition and other sources
 33 that may be reasonably expected.

34 (B) In lieu of the statement, a surety bond or letter of credit
 35 for the amount equal to the scholarship funds for any quarter may be filed
 36 with the department;

1 (2)(A) Notify the Department of Education of its intent to participate
 2 in the program under this subchapter by May 1 of the school year preceding
 3 the school year in which it intends to participate.

4 (B) The notice must specify the grade levels and services that
 5 the private school has available for students with disabilities who are
 6 participating in the scholarship program;

7 (3) Comply with the antidiscrimination provisions of 42 U.S.C. s.
 8 2000d as it appeared on January 1, 2003;

9 (4) Meet state and local health and safety laws and codes;

10 (5) Be academically accountable to the parent for meeting the
 11 educational needs of the student;

12 (6) Employ or contract with teachers who hold baccalaureate or higher
 13 degrees, or have at least three (3) years of teaching experience in public or
 14 private schools, or have special skills, knowledge, or expertise that
 15 qualifies them to provide instruction in subjects taught;

16 (7) Comply with all state laws;

17 (8) Adhere to the tenets of its published disciplinary procedures
 18 before expulsion of a scholarship student; and

19 (9) Must be located in Arkansas.

20
 21 6-41-604. Obligation of program participants.

22 (a)(1) A parent who applies for an Ability Scholarship is exercising
 23 his or her parental option to place his or her child in a private school.

24 (2) The parent must:

25 (A) Select the private school and apply for the admission
 26 of his or her child;

27 (B) Request the scholarship at least sixty (60) days
 28 before the date of the first scholarship payment;

29 (C) Ensure that the child:

30 (i) Remains in attendance in the private school
 31 throughout the school year, unless excused by the school for illness or other
 32 good cause; and

33 (ii) Complies fully with the school's code of
 34 conduct;

35 (D) Comply fully with the private school's parental
 36 involvement requirements, unless excused by the school for illness or other

1 good cause;

2 (E) Provide transportation for the student to the
 3 assessment site designated by the school district to take any statewide
 4 assessments requested by the parents; and

5 (F) Restrictively endorse the warrant to the private
 6 school for deposit into the account of the private school, upon receipt of a
 7 scholarship warrant.

8 (b) A parent who fails to comply with this section forfeits the
 9 scholarship.

10
 11 6-41-605. Scholarship funding and payment.

12 (a) The maximum scholarship granted for an eligible student with
 13 disabilities is a calculated amount equivalent to the per-student share of
 14 the minimum state and local revenue per average daily membership, plus the
 15 student's share of any additional funding received by the district for
 16 providing services to students with disabilities.

17 (b)(1) The amount of the Ability Scholarship is the calculated amount
 18 or the amount of the private school's tuition and fees, whichever is less.

19 (2) The amount of any assessment fee required by the
 20 participating private school may be paid from the total amount of the
 21 scholarship.

22 (c)(1) If the participating private school requires partial payment of
 23 tuition before the start of the academic year to reserve space for students
 24 admitted to the school, that partial payment may be paid by the Department of
 25 Education before the first quarterly payment of the year in which the Ability
 26 Scholarship is awarded, up to a maximum of one thousand dollars (\$1,000), and
 27 deducted from subsequent scholarship payments.

28 (2) If a student decides not to attend the participating private
 29 school, the partial reservation payment must be returned to the Department of
 30 Education by the participating private school.

31 (3) No more than one (1) reservation payment per student per
 32 year may be paid.

33 (d)(1) The school district shall report to the Department of Education
 34 all students who are attending a private school under this program.

35 (2) The students with disabilities attending private schools on
 36 Ability Scholarships shall be reported separately from other students

1 reported for purposes of the funding.

2 (e)(1) Following notification on July 1, September 1, December 1, or
 3 February 1 of the number of program participants, the Department of Education
 4 shall transfer the amount calculated under § 6-41-605(b) from the school
 5 district's total funding entitlement to a separate account for the
 6 scholarship program for quarterly disbursement to the parents of
 7 participating students.

8 (2)(A) When a student enters the scholarship program, the
 9 Department of Education must receive all documentation required by the State
 10 Board of Education's regulations for the student's participation, including
 11 the private school's and student's fee schedules, at least thirty (30) days
 12 before the first quarterly scholarship payment is made for the student.

13 (B) The Department of Education shall not make any
 14 retroactive payments.

15 (f)(1) Upon proper documentation reviewed and approved by the
 16 Department of Education, the Department of Education shall make scholarship
 17 payments in four (4) equal amounts no later than September 1, November 1,
 18 February 1, and April 15 of each academic year in which the scholarship is in
 19 force.

20 (2) The initial payment shall be made after Department of
 21 Education's verification of admission acceptance, and subsequent payments
 22 shall be made upon verification of continued enrollment and attendance at the
 23 private school.

24 (3) Payment must be by individual warrant made payable to the
 25 student's parent and mailed by the Department of Education to the private
 26 school of the parent's choice, and the parent shall restrictively endorse the
 27 warrant to the private school for deposit into the account of the private
 28 school.

29
 30 6-41-606. Liability.

31 No liability shall arise on the part of the state based on the award or
 32 use of an Ability Scholarship.

33
 34 6-41-607. Rules.

35 (a) The State Board of Education may adopt rules to administer this
 36 subchapter.

1 (b) However, the inclusion of eligible private schools within options
2 available to public school students does not expand the regulatory authority
3 of the state, its officers, or any school district to impose any additional
4 regulation of private schools beyond those reasonably necessary to enforce
5 requirements expressly stated in this subchapter.

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