

Special Needs Scholarships

This Act provides for scholarships for public school students with disabilities to attend other public or private schools. It provides for qualifications and criteria for the scholarship program and establishes certain requirements for schools that participate in the scholarship program.

Submitted as:

Georgia

[SB 10](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be known and may be cited as the “Special Needs
2 Scholarship Act.”

3
4 Section 2. [*Legislative Findings.*]

5 The [General Assembly] finds that:

6 (1) students with disabilities have special needs that merit educational alternatives
7 to allow students to learn in an appropriate setting and manner;

8 (2) parents are best equipped to make decisions for their children, including the
9 educational setting that will best serve the interests and educational needs of their children;

10 (3) children, parents, and families are the primary beneficiaries of the scholarship
11 program authorized in this Act and any benefit to private schools, sectarian or otherwise, is purely
12 incidental;

13 (4) the scholarship program established in this Act is for the valid secular purpose
14 of tailoring a student’s education to that student’s specific needs and enabling families to make
15 genuine and independent private choices to direct their resources to appropriate schools; and

16 (5) nothing in this Act shall be construed as a basis for granting vouchers or tuition
17 tax credits for any other students, with or without disabilities.

18
19 Section 3. [*Definitions.*]

20 As used in this Act:

21 (1) ‘board’ means the [State Board of Education].

22 (2) ‘department’ means the [Department of Education].

23 (3) ‘parent’ means a biological parent, legal guardian, custodian, or other person
24 with legal authority to act on behalf of a child.

25 (4) ‘participating school’ means a private school that has notified the [department]
26 of its intention to participate in the program, and that complies with the [department’s]
27 requirements.

28 (5) ‘prior school year in attendance’ means that the student was enrolled and
29 reported by a public school system or school systems for funding purposes during the preceding
30 October and March full-time equivalent (FTE) program counts in accordance with [insert citation].

31 (6) ‘private school’ means a nonpublic school, sectarian or nonsectarian, which is
32 accredited or in the process of becoming accredited by one or more of the entities listed in [insert
33 citation].

34 (7) ‘program’ means the scholarship program established pursuant to this Act.

35 (8) ‘resident school system’ means the public school system in which the student
36 would be enrolled based on his or her residence.

37 (9) ‘scholarship’ means a Special Needs Scholarship awarded pursuant to this Act.

38 (10) ‘scholarship student’ means a student who receives a scholarship pursuant to
39 this Act.

40
41 Section 4. [*Students with Disabilities Option to Attend Schools.*]

42 (a) The resident school system shall annually notify prior to the beginning of each school
43 year the parent of a student with a disability by letter, electronic means, or by such other
44 reasonable means in a timely manner of the options available to the parent under this Act.

45 (b) A parent may choose for a student to attend another public school within the resident
46 school system which has available space and which has a program with the services agreed to in
47 the student’s existing individualized education program. If the parent chooses this option, then the
48 parent shall be responsible for transportation to such school. The student may attend such public
49 school pursuant to this paragraph until the student completes all grades of the school, graduates, or
50 reaches the age of [21], whichever occurs first, in accordance with federal and state requirements
51 for disabled students;

52 (c) The parent may choose to enroll the student in and transport the student to a public
53 school outside of the student’s resident school system which has available space and which has a
54 program with the services agreed to in the student’s existing individualized education program.
55 The public school system may accept the student, and if it does, such system shall report the
56 student for purposes of funding to the [department];

57 (d) The parent may choose for the student to attend one of the state schools for the deaf and
58 blind operated by the [State Board of Education], if appropriate for the student’s needs. Funding
59 for such students shall be provided in accordance with [insert citation].

60 (e) The parent may request and receive from the [department] a scholarship for the student
61 to enroll in and attend a participating private school in accordance with this Act.

62
63 Section 5. [*Special Needs Scholarship Qualifications.*]

64 (a) A student shall qualify for a scholarship under this Act if:

65 (1) the student’s parent currently resides within this state and has been a resident of
66 this state for at least [one] year;

67 (2) the student has one or more of the following disabilities:

68 (A) autism;

69 (B) deaf/blind;

70 (C) deaf/hard of hearing;

71 (D) emotional and behavioral disorder;

72 (E) intellectual disability;

73 (F) orthopedic impairment;

74 (G) other health impairment;

75 (H) specific learning disability;

76 (I) speech-language impairment;

77 (J) traumatic brain injury; or

78 (K) visual impairment;

79 (3) the student has spent the prior school year in attendance at a public school in
80 this state and has an Individualized Education Program (IEP) written by the school in accordance
81 with federal and state laws and regulations;

82 (4) the parent obtains acceptance for admission of the student to a participating
83 school; and

84 (5) the parent submits an application for a scholarship to the [department] no later
85 than the deadline established by the [department].

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

89 (c) For a student who participates in the program whose parents request that the student
90 take the state-wide assessments pursuant to [insert citation], the resident school system shall make
91 available to the student locations and times to take all state-wide assessments.

92 (d) Test scores of private school students participating in the state-wide assessments shall
93 not be applied to the system averages of the resident school system for data reported for federal
94 and state requirements.

95 (e) Students enrolled in a school operated by the [Department of Juvenile Justice] are not
96 eligible for the scholarship.

97 (f) The scholarship shall remain in force until the student returns to his or her assigned
98 school in the resident public school system, graduates from high school, or reaches the age of [21],
99 whichever occurs first.

100 (g) At any time, a student's parent may remove the student from the participating school
101 and place the student in another participating school or public school as provided for in section 4
102 of this Act.

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

106 (i) The creation of the program or the granting of a scholarship pursuant to this Act shall
107 not be construed to imply that a public school did not provide a free and appropriate public
108 education for a student or constitute a waiver or admission by the state.

109 (j) Any scholarship directed to a participating school is so directed wholly as a result of the
110 genuine and independent private choice of the parent.

111 (k) The parent of each student participating in the scholarship program shall comply fully
112 with the participating school's rules and policies.

113 (l) Any parent who fails to comply with the provisions of this Act and [department]
114 regulations relating to the scholarship shall forfeit the scholarship.

115
116 Section 6. *[Enrolling a Scholarship Student.]*

117 (a) To be eligible to enroll a scholarship student under this Act, a participating school
118 shall:

119 (1) have a physical location in this state where the scholarship students attend
120 classes and have direct contact with the school's teachers;

121 (2) demonstrate fiscal soundness by having been in operation for [one school year]
122 or by submitting a financial information report for the school that complies with uniform financial
123 accounting standards established by the [department] and conducted by a certified public
124 accountant, and:

125 (i) the report must confirm that the school desiring to participate is insured
126 and the owner or owners have sufficient capital or credit to operate the school for the upcoming

127 school year serving the number of students anticipated with expected revenues from tuition and
128 other sources that may be reasonably expected; and
129 (ii) the report shall be limited in scope to those records that are necessary
130 for the [department] to make a determination on fiscal soundness and to make payments to schools
131 for scholarships;
132 (3) comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
133 (4) comply with all health and safety laws or codes that apply to private schools;
134 (5) comply with all provisions of state law applicable to private schools;
135 (6) regularly report to the parent and the [department] the student's academic
136 progress, including the results of pre-academic assessments and post-academic assessments given
137 to the student, in accordance with [department] guidelines; and
138 (7) employ or contract with teachers who hold a bachelor's degree or higher degree
139 or have at least [three] years of experience in education or health and annually provide to the
140 parents the relevant credentials of the teachers who will be teaching their students.
141 (b) A home school operating under the provisions of [insert citation] shall not be eligible to
142 enroll scholarship students.
143 (c) Residential treatment facilities licensed or approved by the state under [insert citation]
144 shall not be eligible to enroll scholarship students.
145 (d) The creation of the program shall not be construed to expand the regulatory authority of
146 the state, its officers, or any public school system to impose any additional regulation of nonpublic
147 schools beyond those reasonably necessary to enforce the requirements of this Act.
148 (e) A participating school intending to enroll scholarship students shall submit an
149 application to the [department] by [June 30] of the school year preceding the school year in which
150 it intends to enroll scholarship students.
151 (f) The notice shall specify the grade levels and services that the school has available for
152 students with disabilities who are participating in the scholarship program.
153 (g) A school intending to enroll scholarship students in the [2007-2008] school year shall
154 submit an application no later than [June 30, 2007].
155 (h) The [board] shall approve a participating school's application to enroll scholarship
156 students if the school meets the eligibility requirements of this Act and complies with [board] rules
157 established pursuant to section 8 of this Act. The [board] shall make available to local school
158 systems and the public a list of participating schools.

159

160 Section 7. *[Determining Scholarship Amounts.]*

161 (a) The maximum scholarship granted a scholarship student pursuant to this Act shall be an
162 amount equivalent to the costs of the educational program that would have been provided for the
163 student in the resident school system as calculated under [insert citation]. This shall not include
164 any federal funds.
165 (b) The amount of the scholarship shall be the lesser of the amount calculated in subsection
166 (a) or the amount of the participating school's tuition and fees, if applicable. The amount of any
167 assessment fee required by the participating school may be paid from the total amount of the
168 scholarship.
169 (c) Scholarship students shall be counted in the enrollment of their resident school system;
170 provided, however, that this count shall only be for purposes of determining the amount of the
171 scholarship and the scholarship students shall not be included as enrolled for purposes of state or
172 federal accountability requirements, including, but not limited to, the federal Elementary and
173 Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110).
174 The funds needed to provide a scholarship shall be subtracted from the allotment payable to the
175 resident school system.

176 (d) Each local school system shall submit quarterly reports to the [department] on dates
177 established by the [department] stating the number of scholarship students in the resident school
178 system. Following each notification, the [department] shall transfer from the state allotment to
179 each school system the amount calculated under [insert citation] to a separate account for the
180 scholarship program for quarterly disbursement to the parents of scholarship students. When a
181 student enters the program, the [department] must receive all documentation required for the
182 student's participation, including the participating school's and student's fee schedules at least
183 [30] days before the first quarterly scholarship payment is made for the student. The [department]
184 may not make any retroactive payments.

185 (e) Upon proper documentation received by the [department], the [department] shall make
186 [quarterly] scholarship payments to the parents of scholarship students on dates established by the
187 [department] during each academic year in which the scholarship is in force. The initial payment
188 shall be made upon evidence of admission to the participating school, and subsequent payments
189 shall be made on evidence of continued enrollment and attendance at the participating school.

190 (f) Payment to the parents must be made by individual warrant made payable to the
191 student's parent and mailed by the [department] to the participating school of the parent's choice,
192 and the parent shall restrictively endorse the warrant to the participating school for deposit into the
193 account of such school.

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

197 (h) If the participating school requires partial payment of tuition prior to the start of the
198 academic year to reserve space for students admitted to the school, that partial payment may be
199 paid by the [department] prior to the first quarterly payment of the year in which the scholarship is
200 awarded, up to a maximum of [\$1,000.00], and deducted from subsequent scholarship payments.
201 If a student decides not to attend the participating school, the partial reservation payment must be
202 returned to the [department] by such school. Only [one reservation payment per student] may be
203 made per year.
204

205 Section 8. *[General Program Administration.]*

206 (a) The [board] shall adopt rules to administer the program regarding eligibility and
207 participation of participating schools, including, but not limited to, timelines that will maximize
208 student and public and private school participation, the calculation and distribution of scholarships
209 to eligible students and participating schools, and the application and approval procedures for
210 eligible students and participating schools.

211 (b) The [department] shall develop and use a compliance form for completion by
212 participating schools. The [department] shall be authorized to require any pertinent information as
213 it deems necessary from participating schools for the purpose of implementing the program.
214 Participating schools shall be required to complete such forms and certify their accuracy.

215 (c) No liability shall arise on the part of the [department] or the state or of any local board
216 of education based on the award or use of a scholarship awarded pursuant to this Act.

217 (d) The [department] may bar a school from participation in the program if the
218 [department] determines that the school has intentionally and substantially misrepresented
219 information or failed to refund to the state any scholarship overpayments in a timely manner.
220

221 Section 9. *[Reporting about Special Needs Scholarship Program.]*

222 The [Office of Student Achievement] established under [insert citation], in conjunction
223 with the [department], shall provide the [General Assembly] not later than [December 1] of each
224 year with a report about the Special Needs Scholarship Program for the previous fiscal year. The

225 report shall include, but not be limited to, numbers and demographics of students participating and
226 numbers of participating schools. Such report shall also be posted on the [Office of Student
227 Achievement's] website.
228

229 Section 10. [*Severability.*] [Insert severability clause.]
230

231 Section 11. [*Repealer.*] [Insert repealer clause.]
232

233 Section 12. [*Effective Date.*] [Insert effective date.]