

House Bill 199

By: Representatives Casas of the 103<sup>rd</sup>, May of the 111<sup>th</sup>, Butler of the 18<sup>th</sup>, Scott of the 2<sup>nd</sup>,  
and Graves of the 12<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia  
2 Annotated, relating to educational programs, so as to enact the "Georgia Scholarships for  
3 Students with Disabilities Act"; to provide for a short title; to provide for objectives; to  
4 provide for definitions; to provide for school system obligations; to provide for scholarship  
5 eligibility requirements; to provide for private school eligibility; to provide for obligations  
6 of scholarship recipients; to provide for funding and payment; to provide for limited liability;  
7 to provide for rules and regulations; to provide for legislative oversight; to provide for related  
8 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for  
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
13 relating to educational programs, is amended by adding a new Code section to read as  
14 follows:

15 "20-2-152.1.

16 (a) *Short title.* This Code section shall be known and may be cited as the 'Georgia  
17 Scholarships for Students with Disabilities Act.'

18 (b) *Objective.* (1) This program is established to provide students with disabilities with  
19 the option to attend a public school other than the one to which assigned or to receive a  
20 scholarship to a private school, for students for whom an individualized education program  
21 has been written in accordance with federal and state laws and regulations.

22 (2) The program is intended to serve students with disabilities in kindergarten through  
23 grade 12 who are mentally disabled, speech and language impaired, deaf or hard of  
24 hearing, visually impaired, dual sensory impaired, physically impaired, emotionally  
25 handicapped, specific learning disabled, hospitalized or homebound, or autistic.

26 (c) *Definitions.* For purposes of this Code section, the term:

- 1 (1) 'Department' means the Georgia Department of Education.
- 2 (2) 'Disability' means a disability condition for which special education services are  
3 provided pursuant to Code Section 20-2-152.
- 4 (3) 'Parent' means a parent, legal guardian, or other person with legal authority to act on  
5 behalf of a child.
- 6 (4) 'Prior school year' means that the student was enrolled and reported by a public  
7 school system or school systems for funding purposes during the preceding October and  
8 March full-time equivalent (FTE) program counts in accordance with Code Section  
9 20-2-160.
- 10 (5) 'Private school' means a nonpublic school in Georgia, sectarian or nonsectarian,  
11 which is accredited by one or more of the entities listed in subparagraph (A) of paragraph  
12 (6) of Code Section 20-3-519. Such term shall not include home schools.
- 13 (6) 'Program' means the scholarship program established pursuant to this Code section.
- 14 (7) 'Resident school system' means the public school system in which the student is or  
15 would be enrolled by virtue of his or her residence.
- 16 (8) 'Scholarship student' means a student with a disability who receives a scholarship to  
17 attend a private school pursuant to this Code section.
- 18 (d) *School system obligations.* (1) The resident school system shall annually notify prior  
19 to the beginning of each school year the parent of a student with a disability by letter,  
20 electronic means, or by such other reasonable means in a timely manner of the following  
21 options available to the parent:
- 22 (A) The parent may choose for the student to attend another public school within the  
23 resident school system which has available space and which has a program with the  
24 services agreed to in the student's existing individualized education program. If the  
25 parent chooses this option, the school system shall provide transportation to such school  
26 in accordance with its existing policies on transfers within the system. If the parent  
27 chooses for the student to attend a school in the resident school system other than those  
28 referred to above, then the parent shall be responsible for transportation to such school.  
29 The student may attend such public school pursuant to this paragraph until the student  
30 completes all grades of the school, graduates, or reaches the age of 21, whichever  
31 occurs first.
- 32 (B) The parent may choose to enroll the student in and transport the student to a public  
33 school in an adjacent school system which has available space and which has a program  
34 with the services agreed to in the student's existing individualized education program.  
35 The adjacent school system may accept the student, and if it does, such system shall  
36 report the student for purposes of funding to the department.

1 (C) The parent may choose to enroll his or her child in a private school if the student  
 2 is accepted by such school and may receive a scholarship for this purpose pursuant to  
 3 this Code section. To be eligible for the scholarship, the parent shall notify the resident  
 4 school system no later than 60 days prior to the due date of the first scholarship  
 5 payment to the private school and prior to the student entering the private school and  
 6 shall meet all other eligibility requirements of this Code section.

7 (2) For a student who participates in the scholarship program whose parent requests that  
 8 the student take the state-wide assessments, the resident school system shall provide  
 9 locations and times to take such assessments. If the parent so requests, he or she shall be  
 10 responsible for transporting the student to the assessment site designated by the home  
 11 school system.

12 (3) A resident school system shall notify the department within ten days after it receives  
 13 notification of a parent's intent to apply for a scholarship for a student with a disability  
 14 pursuant to this Code section.

15 (e) *Scholarship eligibility.* (1) Any parent of a public school student with a disability  
 16 may request from and be approved by the department for a scholarship for the child to  
 17 enroll in and attend an eligible private school in accordance with this Code section if:

18 (A) The student has spent the prior school year in a Georgia public school and in such  
 19 prior year the public school established an individualized education program (IEP) for  
 20 such student;

21 (B) The parent has obtained acceptance for admission of the student to a private school  
 22 that is eligible for the program; and

23 (C) The parent has notified, in writing, the resident school system of the request for a  
 24 scholarship at least 60 days prior to the date of the first scholarship payment.

25 (2) To ensure continuity in educational choice, the scholarship shall remain in force until  
 26 the student returns to his or her assigned school in the resident school system, completes  
 27 all grades at the private school, graduates from high school, or reaches the age of 21,  
 28 whichever occurs first. However, at any time, the student's parent may remove the  
 29 student from the private school and place the student in another eligible private or public  
 30 school.

31 (3) Students enrolled in a school operated by the Department of Juvenile Justice are not  
 32 eligible for the scholarship.

33 (4) The creation of the scholarship program shall not be construed to expand the  
 34 regulatory authority of the state, its officers, or any public school system to impose any  
 35 additional regulation of nonpublic schools beyond those reasonably necessary to enforce  
 36 the requirements of this Code section.

1 (f) *Private school eligibility.* (1) To be eligible to participate in the scholarship program,  
2 as determined by the department, a private school shall:

3 (A) Demonstrate fiscal soundness by having been in operation for three consecutive  
4 school years or provide the department with a statement by a certified public accountant  
5 confirming that the private school desiring to participate in the program is insured and  
6 the owner or owners have sufficient capital or credit to operate the school for the  
7 upcoming year;

8 (B) Notify the department of its intent to participate in the program, preceding the  
9 school year in which it intends to participate. The notice shall specify the grade levels  
10 and services that the private school has available for students with disabilities who are  
11 participating in the scholarship program;

12 (C) Comply with federal antidiscrimination laws and regulations;

13 (D) Meet state and local health and safety laws and codes;

14 (E) Be academically accountable to the parent for meeting the educational needs of the  
15 student;

16 (F) Employ or contract with teachers who hold a bachelor's degree or higher degree;  
17 have at least three years teaching experience in public or private schools; or have  
18 special skills, knowledge, or expertise that qualifies them to provide instruction in  
19 subjects taught;

20 (G) Comply with all state laws relating to the regulation of private schools; and

21 (H) Adhere to the tenets of its published disciplinary procedures prior to the expulsion  
22 of a scholarship student.

23 (2) A private school which fails to comply with the requirements of this Code section or  
24 any department rules and regulations, as determined by the department, shall be barred  
25 from participation in this program.

26 (g) *Obligation of scholarship recipients.* (1) A parent who applies for the scholarship to  
27 a private school is exercising a parental option to place his or her child in a private school.  
28 The parent shall select the private school and apply for admission of his or her child.

29 (2) Upon acceptance of the scholarship, the parent assumes full financial responsibility  
30 for the education of the student participating in the scholarship program, including  
31 transportation to and from the private school.

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

35 (4) Any student participating in the scholarship program shall remain in attendance  
36 throughout the school year, unless excused by the school for illness or other good cause

1 or unless he or she elects to attend another school pursuant to paragraph (1) of subsection  
2 (e) of this Code section, and shall comply with the school's code of conduct.

3 (5) The parent of each student participating in the scholarship program shall comply fully  
4 with the private school's parental involvement requirements, unless excused by the  
5 school for illness or other good cause.

6 (6) Once the scholarship payment is made, the check, which shall be made out to both  
7 the parent and the designated private school, shall be endorsed by the parent for deposit  
8 into the account of the private school.

9 (7) Any parent or participant who fails to comply with these measures shall forfeit the  
10 scholarship.

11 (h) *Scholarship funding and payment.* (1) The maximum scholarship granted for an  
12 eligible student with a disability shall be a calculated amount equivalent to the total amount  
13 of state funds which would have been allotted to the resident school system on behalf of  
14 the student, including, but not limited to, funds based on full-time equivalent (FTE) counts  
15 and any funds related to special education services for the student. This shall not include  
16 any federal funds.

17 (2) The amount of the scholarship shall be the calculated amount from paragraph (1) of  
18 this subsection or the amount of the private school's tuition and fees, whichever is less.  
19 The amount of any assessment fee required by the private school may be paid from the  
20 total amount of the scholarship.

21 (3) If a private school requires partial payment of tuition prior to the start of the  
22 academic year to reserve space for students admitted to the school, that partial payment  
23 may be paid by the department prior to the first quarterly payment of the year in which  
24 the scholarship is awarded, up to a maximum of \$1,000.00, and deducted from  
25 subsequent scholarship payments.

26 (4) If a student decides not to attend the private school, the partial reservation payment  
27 shall be returned to the department by the school. There shall be a limit of one  
28 reservation payment per student per year. If a student withdraws from the private school  
29 prior to the end of the school year, the private school shall refund to the department a  
30 prorated amount of the scholarship.

31 (5) The resident school system shall report all students who are attending a private  
32 school under this program. The students with disabilities attending private schools using  
33 the scholarship shall be reported separately from other students for purposes of funding  
34 under this chapter.

35 (6) Following notification from resident school systems, the department shall transfer the  
36 amount determined pursuant to paragraph (2) of this subsection to a separate account for  
37 the scholarship program for quarterly disbursement to the parents of scholarship students.

1 (7) When a student enters the scholarship program, the department shall receive all  
2 documentation required for the student's participation, including the private school's and  
3 student's fee schedules, at least 30 days before the first quarterly scholarship payment is  
4 made for the students. The department may not make any retroactive payments.

5 (8) Upon proper documentation reviewed and approved by the department, the  
6 department shall make scholarship payments in four equal amounts no later than  
7 September 1, November 1, February 1, and April 15 of each academic year in which the  
8 scholarship is in force.

9 (9) The initial payment shall be made after the department verification of admission  
10 acceptance, and subsequent payments shall be made upon verification of continued  
11 enrollment and attendance at the private school.

12 (10) Payment shall be by individual warrant made payable to the scholarship student's  
13 parent and mailed by the department to the participating private school, and the parent  
14 shall restrictively endorse the warrant to the private school for the deposit into the  
15 account of the private school.

16 (i) *Liability.* No liability shall arise on the part of this state or any local board of education  
17 based on the award or use of the scholarship.

18 (j) *Rules.* The State Board of Education may adopt rules and regulations pursuant to this  
19 Code section in order to administer the program. The department shall develop and utilize  
20 a compliance form for completion by private and public schools which participate in the  
21 program. The department shall be authorized to require any pertinent information as it  
22 deems necessary from private or public schools for the purpose of implementing the  
23 program. Participating schools shall be required to complete such forms and certify its  
24 accuracy.

25 (k) *Legislative oversight committee.* (1) There is created as a joint committee of the  
26 General Assembly the School Choice Legislative Oversight Committee to be composed of  
27 five members of the House of Representatives, to be appointed by the Speaker of the House  
28 of Representatives, and five members of the Senate, to be appointed by the Lieutenant  
29 Governor. The Speaker and the Lieutenant Governor shall each designate one of their  
30 appointees to serve as cochairpersons for the oversight committee. The oversight  
31 committee shall periodically inquire into and review the administration of the program  
32 created pursuant to this Code section, as well as periodically review and evaluate the  
33 compliance of local school systems and participating private schools with the program  
34 requirements. The oversight committee may conduct any independent audit or  
35 investigation of the program it deems necessary.

36 (2) The department shall provide the oversight committee not later than December 1 of  
37 each year with general data regarding the scholarship program for the previous fiscal

1 year. General data shall include, but not be limited to, numbers of students participating  
2 and a list of private schools participating, but shall not include any confidential student  
3 information."

4 **SECTION 2.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law  
6 without such approval and shall apply to the 2007-2008 school year and all school years  
7 subsequent thereto.

8 **SECTION 3.**

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