**A** **BILL**

TO AMEND TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 156 SO AS TO ESTABLISH THE SPECIAL NEEDS SCHOLARSHIP PROGRAM THAT PROVIDES SPECIAL NEEDS STUDENTS WITH THE OPTION TO ATTEND A PUBLIC OR NONPUBLIC SCHOOL OF THEIR CHOICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 156

Special Needs Scholarship Program

Section 59‑156‑10. This chapter is known and may be cited as the ‘Special Needs Scholarship Program’.

Section 59‑156‑20. As used in this chapter:

(1) ‘Program’ means the Special Needs Scholarship Program.

(2) ‘Eligible student’ means an elementary or secondary student attending public school in this State with an individual education plan, including, but not limited to, students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, autistic, or hospitalized or homebound due to illness or disability.

(3) ‘Parent’ includes a guardian, custodian, or other person with authority to act on behalf of the child.

(4) ‘Resident school district’ means the public school district in which the student resides.

(5) ‘Department’ means the State Department of Education.

(6) ‘Participating school’ means either a public school outside of the resident school district or a nonpublic school that provides education to elementary or secondary students that has notified the department of its intention to participate in the program and to comply with its requirements.

Section 59‑156‑30. (A) A parent of a public school special needs student who is dissatisfied with the student’s progress shall qualify for a scholarship from the State for the child to enroll in and attend a participating school if:

(1) the special needs student has had an individual education plan written in accordance with regulations of the department;

(2) the student has been accepted for admission at a participating school; and

(3) the parent has requested a scholarship from the State before the deadline established by the department.

(B) The department shall inform the resident school district that a special needs student has requested a special needs scholarship. The resident school district within three business days shall provide the department with a copy of the student’s most current individual education plan.

(C) Upon receipt of the special needs student’s request for a scholarship, the department shall review the individual education plan drafted by the student’s public school to determine the amount of the scholarship. The department shall provide the student’s parents with a timely written explanation of its determination for the amount of the scholarship.

(D) The minimum scholarship granted an eligible student must be an amount equivalent to the cost of the educational program that would have been provided for the student in his resident school district. Although the scholarship amount is a function of a student’s individual education plan, the participating school is not required to abide by the individual education plan. The parent and the participating school mutually shall determine the best services and educational plan for the student.

(E) The amount of the special needs scholarship must be the lesser of the amount calculated above in subsections (C) and (D) or the amount of the participating school’s estimated costs for serving the student. The costs of any assessment by the participating school of the student’s special needs may be included in the scholarship amount.

(F) Participating students must be counted in the enrollment of their resident school district. The funds needed to provide a scholarship must be subtracted from the state school aid payable to the student’s resident school district.

(G) The special needs scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches age twenty‑one, whichever comes first.

(H) At any time, the student’s parent may remove the student from the participating school and place the student in another participating school or in a public school.

Section 59‑156‑40. (A) A resident school district annually shall notify the parents of a special needs student of the scholarship program and offer the parents an opportunity to enroll the student in a participating school of their choice.

(B) The resident school district shall provide a participating school that has admitted an eligible student with a complete copy of the student’s school records while complying with the federal Family Educational Rights and Privacy Act of 1974.

(C) The resident school district shall provide transportation for an eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students. The resident school district shall qualify for state transportation aid for each student transported.

(D) If the parent of an eligible student participating in this program requests that the student take the statewide assessments, the resident school district shall provide locations and times for the student to take all statewide assessments if they are not offered at the student’s participating school.

Section 59‑156‑50. (A) The department shall adopt regulations and procedures regarding the:

(1) eligibility and participation of nonpublic schools, including time lines that maximize student and public and nonpublic school participation;

(2) calculating and distribution of scholarships to eligible students and participating schools; and

(3) application and approval procedures for eligible students and participating schools.

(B) Liability does not arise on the part of the department or the State based on the award or use of a special needs scholarship.

(C) The department may bar a school from participation in the program if the department has established that the participating school has intentionally and substantially misrepresented information required under Section 59‑156‑60 or failed to refund to the State any scholarship overpayments in a timely manner.

(D) If the department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

Section 59‑156‑60. (A) To ensure that students are treated fairly and kept safe, a participating school shall:

(1) comply with health and safety laws or codes that apply to nonpublic schools;

(2) hold a valid occupancy permit if required by its municipality or county;

(3) certify that it would not discriminate in admissions on the basis of race, color, national origin, or religion; and

(4) comply with all state laws that apply to nonpublic schools regarding criminal background checks for employees and exclude from employment individuals not permitted by state law to work in a nonpublic school.

(B) To ensure that public funds are spent appropriately, a participating school shall demonstrate its:

(1) financial accountability by submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant, and by having the auditor certify the report is free of material misstatements. The auditor’s report must be limited in scope to those records that are necessary for the department to make payments to the school for scholarships;

(2) financial viability by showing it can pay any funds owed the State, if it is to receive fifty thousand dollars or more during the school year, by filing with the department before the start of the school year a surety bond payable to the State in an amount equal to the aggregate amount of the special needs scholarships expected to be paid during the school year to students admitted to the participating school, or by filing with the department before the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the special needs scholarships expected to be paid during the school year to students admitted to the participating school.

(C) To ensure that schools provide academic accountability to parents of the students in the program, a participating school shall report regularly to the parent on the student’s progress.

(D) A participating school is autonomous and not an agent of the state or federal government and as a result:

(1) the department or any other state agency may not in any way regulate the educational program of a participating school that accepts a special needs scholarship;

(2) the creation of the special needs scholarship program does not expand the regulatory authority of the State, its officers, or any school district to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce the requirements of the program; and

(3) participating schools must be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 59‑156‑70. (A) It is the responsibility of a parent to select his child’s school, apply for admission, and apply for a special needs scholarship.

(B) A student participating in the program shall comply fully with a participating school’s written code of conduct and shall remain in attendance throughout the school year, unless excused by the school for illness or other good cause. However, a parent may transfer an eligible student to another participating school at any time. The scholarship amount must be prorated between participating schools according to the period of attendance at each school.

(C) A parent’s decision for his student to participate in the program constitutes a nonpublic placement for purposes of the federal Individuals With Disabilities Education Act.

Section 59‑156‑80. (A) The Education Oversight Committee shall conduct a study of the program.

(B) The study shall assess the:

(1) level of a participating student’s satisfaction with the program;

(2) level of parental satisfaction with the program;

(3) percentage of participating students who were victimized because of their special needs status at their resident school district compared to the percentage victimized at their participating school;

(4) percentage of participating students who exhibited behavioral problems at their resident school district compared to the percentage exhibiting behavioral problems at their participating school;

(5) class size experienced by participating students at their resident school district and at their participating school; and

(6) fiscal impact to the State and resident school districts of the program.

(C) The public and nonpublic participating schools from which students transfer in order to participate in the program shall cooperate with the research effort by providing student assessment instrument scores and any other data necessary to complete this study.”

SECTION 2. The provisions of Chapter 156 of Title 59 must be implemented beginning with 2009-2010 school year.

SECTION 3. This act takes effect upon approval by the Governor.

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