

1 ENGROSSED HOUSE  
2 BILL NO. 1230

By: McBride of the House

3 and

4 Weaver of the Senate

5  
6  
7 [ education - requiring State Department of Education  
8 to list on its website approved accrediting  
9 associations - effective date ]  
10  
11

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 70 O.S. 2011, Section 13-101.2, as  
14 last amended by Section 1, Chapter 249, O.S.L. 2017 (70 O.S. Supp.  
15 2018, Section 13-101.2), is amended to read as follows:

16 Section 13-101.2 A. There is hereby created the Lindsey Nicole  
17 Henry Scholarships for Students with Disabilities Program. The  
18 Lindsey Nicole Henry Scholarships for Students with Disabilities  
19 Program is established to provide a scholarship to a private school  
20 of choice for students with disabilities for whom an individualized  
21 education program (IEP) in accordance with the Individuals with  
22 Disabilities Education Act (IDEA) or an individualized service plan  
23 pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes  
24 has been developed at any time prior to notifying the State

1 Department of Education of the intent to participate in the Program  
2 and the IEP is in effect at the time the request for a scholarship  
3 is received by the State Department of Education. Scholarships  
4 shall be awarded beginning with the 2010-2011 school year.

5 B. The parent or legal guardian of a public school student with  
6 a disability may exercise their parental option and request to have  
7 a Lindsey Nicole Henry Scholarship awarded for the child to enroll  
8 in and attend a private school in accordance with this section and  
9 the scholarship shall be awarded if:

10 1. The student has spent the prior school year in attendance at  
11 a public school in this state. For purposes of this section, "prior  
12 school year in attendance" means that the student was enrolled in  
13 and reported by a school district for funding purposes during the  
14 preceding school year regardless of whether or not the student had  
15 an IEP at the time the student was counted for funding purposes. A  
16 student who is a child of a member of the United States Armed Forces  
17 who transfers to a school in this state from out of state or from a  
18 foreign country pursuant to a permanent change of station orders of  
19 the parent shall be exempt from the requirements of this paragraph  
20 but shall be required to meet all other eligibility requirements to  
21 participate as provided for in this section. A student who has been  
22 provided services under an Individual Family Service Plan through  
23 the SoonerStart program and during transition was evaluated and  
24 determined to be eligible for school district services shall be

1 exempt from the requirements of this paragraph but shall be required  
2 to meet all other eligibility requirements to participate as  
3 provided for in this section. A student who was in out-of-home  
4 placement with the Department of Human Services, who was adopted  
5 while in the permanent custody of the Department of Human Services  
6 or who was in out-of-home placement with the Office of Juvenile  
7 Affairs shall be exempt from the requirements of this paragraph but  
8 shall be required to meet all other eligibility requirements to  
9 participate as provided for in this section; and

10 2. The parent or legal guardian has obtained acceptance for  
11 admission of the student to a private school that is eligible for  
12 the program as provided in subsection H of this section and has  
13 notified the State Department of Education of the request for a  
14 scholarship. Requests to participate in the program made after  
15 December 1 shall be granted, but funding for scholarships requested  
16 after December 1 shall not be available until the beginning of the  
17 next school year. The request shall be through a communication  
18 directly to the Department in a manner that creates a written or  
19 electronic record of the request and the date of receipt of the  
20 request. The Department shall notify the school district upon  
21 receipt of the request. For purposes of continuity of educational  
22 choice, the scholarship shall remain in force until the student  
23 returns to a public school, graduates from high school or reaches  
24 the age of twenty-two (22), whichever occurs first. At any time,

1 the parent or legal guardian of the student may remove the student  
2 from the private school and place the student in another private  
3 school that is eligible for the program as provided in subsection H  
4 of this section or place the student in a public school.

5 C. A student shall be eligible for a scholarship if the parent  
6 or legal guardian of the student made a request for a scholarship  
7 for the 2010-2011 school year and the student transferred to an  
8 eligible private school but was subsequently denied a scholarship  
9 because the student did not have an IEP in effect on October 1,  
10 2009, but did meet all other eligibility requirements as set forth  
11 in the Lindsey Nicole Henry Scholarships for Students with  
12 Disabilities Program Act.

13 D. A student shall not be eligible for a Lindsey Nicole Henry  
14 Scholarship if the student is not having regular and direct contact  
15 with the private school teachers at the physical location of the  
16 private school.

17 E. School districts shall notify the parent or legal guardian  
18 of a public school student with a disability of all options  
19 available pursuant to this section and inform the parent or legal  
20 guardian of the availability of information about the program from  
21 the State Department of Education through the toll-free telephone  
22 number or website. The notification shall be provided with or  
23 included in the copy of the "Parents Rights in Special Education:  
24

1 Notice of Procedural Safeguards" document given to parents at least  
2 annually or as otherwise required by law.

3 F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall  
4 have the same effect as a parental revocation of consent to service  
5 pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the  
6 IDEA.

7 2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the  
8 parent or legal guardian shall assume full financial responsibility  
9 for the education of the student, including but not limited to  
10 transportation to and from the private school.

11 G. If the parent or legal guardian requests a Lindsey Nicole  
12 Henry Scholarship and the student is accepted by the private school  
13 pending the availability of a space for the student, the parent or  
14 legal guardian of the student shall notify the State Department of  
15 Education before entering the private school and before December 1  
16 in order to be eligible for the scholarship during the school year  
17 when a space becomes available for the student in the private  
18 school. If notification is made after December 1, payment of the  
19 scholarship shall not begin until the next school year.

20 H. 1. To be eligible to participate in the Lindsey Nicole  
21 Henry Scholarships for Students with Disabilities Program, a private  
22 school shall notify the State Department of Education of its intent  
23 to participate. The notice shall specify the grade levels and  
24 services that the private school has available for students with

1 disabilities who are participating in the scholarship program. The  
2 State Department of Education shall approve a private school as  
3 eligible to participate in the scholarship program upon  
4 determination that the private school:

5 ~~1. Meets~~

6 a. meets the accreditation requirements set by the State  
7 Board of Education or another accrediting association  
8 approved by the State Board of Education~~7.~~ The State  
9 Department of Education shall list on its website all  
10 accrediting associations approved by the Board,

11 ~~2. Demonstrates~~

12 b. demonstrates fiscal soundness by having been in  
13 operation for one (1) school year or providing the  
14 State Department of Education with a statement by a  
15 certified public accountant confirming that the  
16 private school desiring to participate is insured and  
17 the owner or owners have sufficient capital or credit  
18 to operate the school for the upcoming year by serving  
19 the number of students anticipated with expected  
20 revenues from tuition and other sources that may be  
21 reasonably expected. In lieu of a statement, a surety  
22 bond or letter of credit for the amount equal to the  
23 scholarship funds for any quarter may be filed with  
24 the Department~~7.~~

1 ~~3. Complies~~

2 c. complies with the antidiscrimination provisions of 42  
3 U.S.C., Section 2000d~~†~~†

4 ~~4. Meets~~

5 d. meets state and local health and safety laws and  
6 codes~~†~~†

7 ~~5. Will~~

8 e. will be academically accountable to the parent or  
9 legal guardian for meeting the educational needs of  
10 the student~~†~~†

11 ~~6. Employs~~

12 f. employs or contracts with teachers who hold  
13 baccalaureate or higher degrees, or have at least  
14 three (3) years of teaching experience in public or  
15 private schools, or have special skills, knowledge, or  
16 expertise that qualifies them to provide instruction  
17 in subjects taught~~†~~†

18 ~~7. Complies~~

19 g. complies with all state laws relating to general  
20 regulation of private schools~~†~~† and

21 ~~8. Adheres~~

22 h. adheres to the tenets of its published disciplinary  
23 procedures prior to the expulsion of a scholarship  
24 student.

1        2. Upon approval of a private school, the State Department of  
2 Education shall provide on its website all information and material  
3 submitted by the private school with its application and all  
4 material considered by the State Department of Education in making  
5 the eligibility determination provided for in paragraph 1 of this  
6 subsection.

7        I. 1. Lindsey Nicole Henry Scholarship Program participants  
8 shall comply with the following:

9            a. the parent or legal guardian shall select the private  
10 school from the schools approved for eligibility  
11 pursuant to subsection H of this section and apply for  
12 the admission of the child,

13            b. the parent or legal guardian shall request the  
14 scholarship no later than December 1 of the school  
15 year during which the scholarship is requested,

16            c. any student participating in the scholarship program  
17 shall attend throughout the school year, unless  
18 excused by the school for illness or other good cause,  
19 and shall comply fully with the code of conduct for  
20 the school,

21            d. the parent or legal guardian shall fully comply with  
22 the parental involvement requirements of the private  
23 school, unless excused by the school for illness or  
24 other good cause, and



1 e. upon issuance of a scholarship warrant, the parent or  
2 legal guardian to whom the warrant is made shall  
3 restrictively endorse the warrant to the private  
4 school for deposit into the account of the private  
5 school. The parent or legal guardian may not  
6 designate any entity or individual associated with the  
7 private school as the attorney in fact for the parent  
8 or legal guardian to endorse a warrant. A parent or  
9 legal guardian who fails to comply with this  
10 subparagraph shall forfeit the scholarship.

11 2. A participant who fails to comply with this subsection  
12 forfeits the scholarship.

13 J. Provisions governing payment of a Lindsey Nicole Henry  
14 Scholarship shall be as follows:

15 1. The State Department of Education shall calculate the total  
16 cost of all scholarships for all eligible students in the state.  
17 The State Department of Education shall then reserve or retain from  
18 the total amount appropriated to the State Board of Education for  
19 State Aid purposes and any other revenue available for allocation  
20 for State Aid purposes the total cost for all scholarship payments;

21 2. The maximum scholarship granted for an eligible student with  
22 disabilities shall be a calculated amount equivalent to the total  
23 State Aid factors for the applicable school year multiplied by the  
24 grade and disability weights generated by that student for the

1 applicable school year. The disability weights used in calculating  
2 the scholarship amount shall include all disability weights which  
3 correspond to the disabilities included in the multidisciplinary  
4 evaluation and eligibility group summary for the student at the time  
5 the request for a scholarship is made by the parent or legal  
6 guardian. The maximum scholarship amount shall be calculated by the  
7 State Board of Education for each year the student is participating  
8 in the scholarship program;

9 3. The amount of the scholarship shall be the amount calculated  
10 in paragraph 2 of this subsection or the amount of tuition and fees  
11 for the private school, whichever is less, minus up to two and one-  
12 half percent (2 1/2%) of the scholarship amount which may be  
13 retained by the State Department of Education as a fee for  
14 administrative services rendered. The amount of any assessment fee  
15 required by the private school and the amount associated with  
16 providing services and therapies to address the disabilities of the  
17 student may be paid from the total amount of the scholarship. The  
18 amount of the scholarship shall be prorated to reflect the number of  
19 days remaining in the current school year, if the scholarship  
20 request is granted after the beginning of the school year;

21 4. The State Department of Education shall notify the private  
22 school of the amount of the scholarship within ten (10) days after  
23 receiving the request for a scholarship, when the total State Aid  
24 factors have been determined for the current fiscal year. The

1 initial payment shall be made after the Department verifies  
2 admission acceptance and enrollment. Quarterly payments shall be  
3 made upon verification of continued enrollment and attendance at the  
4 private school. Payment shall be made by the Department with an  
5 individual warrant made payable to the parent or legal guardian of  
6 the student and mailed by the Department to the private school that  
7 the parent or legal guardian chooses. The parent or legal guardian  
8 shall restrictively endorse the warrant to the private school for  
9 deposit into the account of the private school;

10 5. The State Department of Education shall not be responsible  
11 for any additional costs associated with special education and  
12 related services incurred by the private school for the student  
13 including the cost of teachers, equipment, material, and special  
14 costs associated with the special education class;

15 6. The State Department of Education shall establish a toll-  
16 free telephone number or website that provides parents or legal  
17 guardians and private schools with information about the program;

18 7. The State Department of Education shall require an annual,  
19 notarized, sworn compliance statement by participating private  
20 schools certifying compliance with state laws and shall retain all  
21 records received from a participating private school. The State  
22 Department of Education shall post on its website the annual  
23 compliance statement for each participating private school; and  
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1       8. The State Department of Education shall cross-check the list  
2 of participating scholarship students with the public school  
3 enrollments prior to each scholarship payment to avoid duplication.

4       K. 1. The State Superintendent of Public Instruction shall  
5 deny, suspend, or revoke the participation of a private school in  
6 the scholarship program if it is determined that the private school  
7 has failed to comply with the provisions of this section. However,  
8 in instances in which the noncompliance is correctable within a  
9 reasonable amount of time and in which the health, safety, or  
10 welfare of the students is not threatened, the Superintendent may  
11 issue a notice of noncompliance which shall provide the private  
12 school with a time frame within which to provide evidence of  
13 compliance prior to taking action to suspend or revoke participation  
14 in the scholarship program.

15       2. If the Superintendent intends to deny, suspend, or revoke  
16 the participation of a private school in the scholarship program,  
17 the Department shall notify the private school of the proposed  
18 action in writing by certified mail and regular mail to the private  
19 school's address of record with the Department. The Department  
20 shall also notify any parents or legal guardians of scholarship  
21 students attending the private school. The notification shall  
22 include the reasons for the proposed action and notice of the  
23 timelines and procedures set forth in this subsection.

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1           3. The private school that is adversely affected by the  
2 proposed action shall have fifteen (15) days from receipt of the  
3 notice of proposed action to file with the Department a request for  
4 an administrative hearing proceeding pursuant to the Administrative  
5 Procedures Act.

6           4. Upon receipt of a request for a hearing, the State Board of  
7 Education shall commence a hearing within sixty (60) days after the  
8 receipt of the formal written request and enter an order within  
9 thirty (30) days after the hearing.

10          5. The Board may immediately suspend payment of scholarship  
11 funds if it is determined that there is probable cause to believe  
12 that there is an imminent threat to the health, safety, or welfare  
13 of the students or fraudulent activity on the part of the private  
14 school.

15          L. No liability shall arise on the part of the state, the State  
16 Board of Education, the State Department of Education or a school  
17 district based on the award or use of any scholarship provided  
18 through the Lindsey Nicole Henry Scholarships for Students with  
19 Disabilities Program.

20          M. The inclusion of private schools within options available to  
21 public school students in Oklahoma shall not expand the regulatory  
22 authority of the state or any school district to impose any  
23 additional regulation of private schools beyond those reasonably  
24

1 necessary to enforce the requirements expressly set forth in this  
2 section.

3 N. If the State Department of Education determines that a  
4 school district prior to the effective date of this act has failed  
5 to comply with the provisions of the Lindsey Nicole Henry  
6 Scholarships for Students with Disabilities Program Act and has  
7 failed to make full or partial scholarship payments for eligible  
8 students, the Department shall have authority to reduce the amount  
9 of State Aid allocated to the school district or require the school  
10 district to make repayment to the Department of State Aid  
11 allocations in an amount equal to the amount of scholarship payments  
12 the school district failed to make. The Department shall make  
13 payment to the parent or legal guardian in the amount the school  
14 district failed to make in the manner as provided for in subsection  
15 J of this section.

16 O. The State Department of Education shall annually prepare and  
17 post on its website a report of Lindsey Nicole Henry Scholarships  
18 for Students with Disabilities Program. The annual report shall  
19 include, but not be limited to, the following information:

20 1. The total number and amount of scholarships awarded and  
21 reported for each participating private school;

22 2. The total number of scholarships denied;

23 3. The total number and amount of scholarship payments  
24 suspended for each participating private school; and

1        4. Data on participating students, disaggregated by years of  
2 participation in the program, grade level, gender, economically  
3 disadvantaged status, racial and ethnic groups and disability  
4 category.

5        SECTION 2. This act shall become effective November 1, 2019.

6        Passed the House of Representatives the 13th day of March, 2019.

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Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate

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