

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2014-49
HOUSE BILL 712

AN ACT TO REVISE AND CLARIFY THE SPECIAL EDUCATION SCHOLARSHIPS FOR CHILDREN WITH DISABILITIES AND TO EXEMPT CERTAIN SCHOOLS FROM CHILD CARE LICENSURE REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1H of Article 9 of Chapter 115C of the General Statutes is retitled as "Special Education Scholarships for Children With Disabilities."

SECTION 2. G.S. 115C-112.5 reads as rewritten:

"§ 115C-112.5. Definitions.

The following definitions apply in this Part:

- (1) Authority. – The North Carolina State Education Assistance Authority.
- (1a) Child with a disability. – As defined in G.S. 115C-106.3(1).
- (1b) Disability. – As defined in G.S. 115C-106.3(2).
- (1c) Educational technology. – As defined by the Authority, an item, piece of equipment, material, product, or system which may be purchased commercially off the shelf, modified, or customized and that is used primarily for educational purposes for a child with a disability.
- (2) Eligible student. – A child ~~with a disability~~ under the age of 22 who meets all of the following criteria:
 - a. ~~Requires an Individualized Education Plan.~~ Is a child with a disability.
 - b. ~~Receives special education or related services on a daily basis.~~ Is eligible to attend a North Carolina public school pursuant to G.S. 115C-366.
 - c. Has not been placed in a nonpublic school or facility by a public agency at public expense.
 - d. Has not ~~spent any time~~ been enrolled in a postsecondary institution as a full-time student taking at least 12 hours of academic credit.
 - e. Has not received a high school diploma.
 - f. Meets at least one of the following requirements:
 1. Was enrolled in a North Carolina public school during the previous semester.
 2. Received special education or related services through the North Carolina public schools as a preschool child with a disability during the previous semester.
 3. ~~Received~~ Was approved for a scholarship grant for the previous semester.
 4. ~~Is eligible for initial enrollment in kindergarten or the first grade in a North Carolina public school.~~ Is a child who is identified as a child with a disability prior to the end of the year of initial enrollment in kindergarten or first grade. An award by the Authority based on eligibility under this sub-subdivision shall be conditional. If documentation is not provided to the Authority that the child is a child with a disability prior to the end of the year of initial enrollment, (i) no reimbursement shall be awarded and (ii) the child shall not



- qualify the following year as an eligible student under sub-sub-subdivision 3. of this section.
- (3) Nonpublic school. – A school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter as identified by the Division of Nonpublic Education, Department of Administration.
 - (3a) Related services. – As defined in G.S. 115C-106.3(18).
 - (4) Scholarship grants. – Scholarships. – Grants Funds awarded by the Authority to eligible students-students to be used to receive special education on a daily basis while attending either a nonpublic school or a North Carolina public school for which payment of tuition is required.
 - (5) Special education. – Specially designed instruction to meet the unique needs of a child with a disability. The term includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings."

SECTION 3. G.S. 115C-112.6 reads as rewritten:

"§ 115C-112.6. ~~Scholarship grants.~~ Scholarships.

(a) Scholarship Applications. – The Authority shall make available no later than May 1 annually applications to eligible students for the award of ~~scholarship grants to attend any nonpublic school and to receive special education and related services in a nonpublic school setting.~~ scholarships. Information about ~~scholarship grants~~scholarships and the application process shall be made available on the Authority's Web site. The Authority shall give priority in awarding ~~scholarship grants~~scholarships to eligible students who received a scholarship grant during the previous semester. Except as otherwise provided by the Authority for prior scholarship grant recipients, ~~scholarship grants~~scholarships shall be awarded to eligible students in the order in which the applications are received.

(a1) Web Site Availability. – Information about scholarships and the application process shall be made available on the Authority's Web site. The Authority shall also include information on the Web site notifying parents that federal regulations adopted under IDEA provide that no parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(b) Scholarship Awards. – ~~Scholarship grants~~Scholarships awarded to eligible students shall be for amounts of not more than three thousand dollars (\$3,000) per semester per eligible student. Eligible students awarded ~~grants~~scholarships may not be enrolled in a public school-school to which that student has been assigned as provided in G.S. 115C-366. ~~Scholarship grants~~Scholarships shall be awarded only for the reimbursement of ~~tuition and special education and related services, including those services provided to home schooled students.~~tuition, special education, related services, and educational technology, as provided in subsection (b1) of this section. The Authority shall notify parents in writing of their eligibility to receive scholarships for costs that will be incurred during the spring semester of the following year by December 1 and for costs incurred during the fall semester of that year by July 1.

(b1) Scholarship Reimbursements. – Scholarship reimbursement shall be provided as follows:

- (1) Preapproval process. – Prior to the start of each school semester, the parent of an eligible student may submit documentation of the tuition, special education, related services, or educational technology the parent anticipates incurring costs on in that semester for preapproval by the Authority.
- (2) Reimbursement submissions. – Following the conclusion of each school semester, the parent of an eligible student shall submit to the Authority any receipts or other documentation approved by the Authority to demonstrate the costs incurred during the semester. In addition, parents shall provide documentation of the following to seek reimbursement:
 - a. Tuition reimbursement. – Parents may only receive reimbursement for tuition if the parent provides documentation that the student was enrolled in nonpublic school or public school for which payment of tuition is required for no less than 75 days of the semester for which the parent seeks reimbursement. Tuition reimbursement shall not be provided for home schooled students.

- b. Special education reimbursement. – Parents may only receive reimbursement for special education if the parent provides documentation that the student received special education for no less than 75 days of the semester for which the parent seeks reimbursement. Special education reimbursement shall not be provided for special education instruction provided to a home schooled student by a member of the household of a home school, as defined in G.S. 115C-563(a).
- c. Related services reimbursement. – Parents may only receive reimbursement for related services if the parent provides documentation that the student also received special education for no less than 75 days of the semester for which the parent seeks reimbursement for the related services. Related services reimbursement shall not be provided for related services provided to a home schooled student by a member of the household of a home school, as defined in G.S. 115C-563(a).
- d. Educational technology reimbursement. – Parents may only receive reimbursement for educational technology if the parent provides documentation that the student used the educational technology for no less than 75 days of the semester for which the parent seeks reimbursement.

~~Parents may only receive reimbursement for related services provided to home schooled students if the parent provides documentation that the student received related services for no less than 75 days of the semester for which the parent seeks reimbursement. The Authority shall notify parents in writing of their eligibility to receive scholarship grants for costs that will be incurred during the spring semester of the following year by December 1 and for costs incurred during the fall semester of that year by July 1. Following the conclusion of each school semester, the parent of an eligible student shall submit to the Authority any receipts or other documentation approved by the Authority to demonstrate the costs incurred during the semester as well as documentation that the student was enrolled in the nonpublic school for no less than 75 days of the semester for which the parent seeks reimbursement for tuition or documentation that related services were provided to a home schooled student for no less than 75 days of the semester for which the parent seeks reimbursement for related services.~~

(3) Scholarship award. – The Authority shall award a scholarship grant in the amount of costs demonstrated by the parent up to the maximum amount. If the costs incurred by the parent do not meet the maximum amount, the Authority shall use the remainder of those funds for the award of ~~scholarship grants~~scholarships to eligible students for the following semester. The Authority shall award ~~scholarship grants~~scholarships to the parents of eligible students at least semiannually.

(c) Student Reevaluation. – After an eligible student's initial receipt of a ~~scholarship grant~~scholarship, the Authority shall ensure that the student is reevaluated at least every three years by the local educational agency in order to verify that the student continues to be a child with a disability.

(d) Rule Making. – The Authority shall establish rules and regulations for the administration and awarding of ~~scholarship grants~~scholarships. The Authority shall annually develop a list of educational technology for which scholarships may be used and shall provide ~~scholarship recipients with information about the list.~~

SECTION 4. G.S. 115C-112.6 is amended by adding a new subsection to read:

"(e) Public Records Exception. – Scholarship applications and personally identifiable information related to eligible students receiving scholarships shall not be a public record under Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable information means any information directly related to a student or members of a student's household, including the name, birthdate, address, Social Security number, telephone number, e-mail address, financial information, or any other information or identification number that would provide information about a specific student or members of a specific student's household."

SECTION 5. G.S. 115C-112.7 reads as rewritten:

"§ 115C-112.7. **Verification of eligibility.**

(a) The Authority may seek verification of information on any application for ~~scholarship grants~~scholarships from eligible students. If a parent fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship ~~grant~~ to the eligible student.

(b) Parents of applicants for ~~scholarship grants~~scholarships shall authorize the Authority to access any information held by the local educational agency that is needed for verification efforts."

SECTION 6. G.S. 115C-112.8 reads as rewritten:

"§ 115C-112.8. Authority reporting requirements.

(a) The Authority shall report annually, no later than October 1, to the Joint Legislative Education Oversight Committee on the Special Education ~~Scholarship Grants~~Scholarships for Children with Disabilities.

(b) The annual report shall include all of the following information:

- (1) Total number, age, and grade level of eligible students receiving ~~scholarship grants~~scholarships.
- (2) Total amount of scholarship ~~grant~~ funding awarded.
- (3) Nonpublic schools in which scholarship ~~grant~~ recipients are enrolled and the number of scholarship ~~grant~~ students at that school.
- (4) The type of special education or related services for which ~~scholarship grants~~scholarships were awarded."

SECTION 7. Article 9 of Chapter 115 of the General Statutes is amended by adding a new section to read:

"§ 115C-112.9. Duties of State Board of Education.

The State Board, as part of its duty to monitor all local educational agencies to determine compliance with this Article and IDEA as provided in G.S. 115C-107.4, shall ensure that local educational agencies do the following:

- (1) Conduct evaluations requested by a child's parent or guardian of suspected children with disabilities, as defined in G.S. 115C-107.3, in a timely manner as required by IDEA.
- (2) Provide reevaluations to identified children with disabilities receiving scholarships as provided in Part 1H of this Article at the request of the parent or guardian to ensure compliance with G.S. 115C-112.6(c)."

SECTION 8. G.S. 110-86 reads as rewritten:

"§ 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

...
(2) Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

...
f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by national or regional accrediting agencies with early childhood standards and that operate (i) a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site; site or (ii) a child care facility for more than six and one-half hours per day, but do not receive NC Pre-K or child care subsidy funding;

...."

SECTION 9. Section 4 of this act becomes effective July 29, 2013. The remainder of this act is effective when it becomes law, and Sections 1 through 7 apply to grants awarded beginning with the 2014-2015 school year.

In the General Assembly read three times and ratified this the 26th day of June, 2014.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 11:33 a.m. this 1st day of July, 2014