

**160-5-1-.34 GEORGIA SPECIAL NEEDS SCHOLARSHIP PROGRAM.**

**(1) DEFINITIONS.**

**(a) Americans with Disabilities Act, Amendments Act of 2008** - a federal law, codified at 42 U.S.C. § 12101, et seq, that was enacted to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

**(b) Authorized private school** - a private school that has submitted a completed application to the Georgia Department of Education, complies with all program requirements, and has been authorized by the State Board of Education to enroll students in the Georgia Special Needs Scholarship Program per O.C.G.A. § 20-2-2115(f).

**(c) Full-time Equivalent (FTE)** - a student count consisting of six state-funded segments per student authorized under O.C.G.A. § 20-2-161.

**(d) Georgia Department of Education (GaDOE)** - the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation of federal and state mandates. Such management is subject to supervision and oversight by the State Board of Education.

**(e) Georgia Special Needs Scholarship (GSNS)** - the Georgia Special Needs Scholarship Program, O.C.G.A. § 20-2-2110 through O.C.G.A. § 20-2-2118. The GSNS Program allows parents of eligible special needs students to transfer their children to another public school, public school system, state school, or authorized participating private school within Georgia.

**(f) Individuals with Disabilities Education Act (IDEA)** - the federal law, codified at 20 U.S.C. § 1400, et seq, that was enacted to ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living; to ensure that the rights of students with disabilities and their parents are protected; to assist states, localities, educational service agencies, and federal agencies to provide for the education of students with disabilities; and to assess and ensure the effectiveness of efforts to educate students with disabilities.

**(g) Individualized Education Program (IEP)** - a written statement for each student with a disability that is developed, reviewed, and revised in accordance with Individuals with Disabilities Education Act, 20 U.S.C. § 1414(d).

**(h) Public School District** - a local school system pursuant to local board of education control and management. It is also known as a local education agency (LEA).

**(i) Parent(s)** - a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

**(j) Prior school year in attendance** - the reporting of a student as enrolled in a public school for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with O.C.G.A. § 20-2-160.

**(k) Private school** - a nonpublic, sectarian or nonsectarian school, which is accredited or in the process of becoming accredited by one or more of the entities listed:

1. The Georgia Accrediting Commission;
2. The Georgia Association of Christian Schools;
3. The Georgia Private School Accreditation Council;
4. The Association of Christian Schools International;
5. The Southern Association of Colleges and Schools; and/or
6. The Southern Association of Independent Schools.

**(l) Quality Basic Education Formula (QBE Formula)** - the State of Georgia funding formula used for determining the amount of state education funds a public school district earns annually as described in O.C.G.A. § 20-2-161.

**(m) Resident school district** - the public school district in which the student would be enrolled based on his/her residence.

**(n) Scholarship** - a Georgia Special Needs Scholarship awarded pursuant to O.C.G.A. § 20-2-2114 and § 20-2-2116. A scholarship is received when a parent enrolls an eligible student in a private school participating in the GSNS Program.

**(o) State Board of Education (SBOE)** - the constitutional authority which defines education policy for the public K-12 education agencies in Georgia.

**(p) State School** - the Atlanta Area School for the Deaf, Georgia Academy for the Blind or the Georgia School for the Deaf.

**(2) Public School District Requirements.**

(a) The resident school district shall provide specific written notice of the options available under the Georgia Special Needs Scholarship Program to the parent at the initial IEP meeting in which a disability, as defined by IDEA, of the parent's child is identified. Thereafter, the resident school district must annually notify the parent of a student with a disability by letter, electronic means, or other reasonable means of the options available to the parent under the GSNS Program. Notification for the upcoming school year must take place no later than ten business days prior to the last day of the current school year.

**(3) Student Eligibility.**

(a) In order to participate in the GSNS Program, a student must meet all eligibility requirements under O.C.G.A. § 20-2-2114.

1. The student's parent(s) currently resides within Georgia and has been a Georgia resident for at least one year; provided, however, that the one-year residency requirement shall not apply if the student's parent is an active duty military service member stationed in Georgia within the previous year.

2. The student has one or more of the following disabilities:

- (i) Autism;
- (ii) Deaf/blind;
- (iii) Deaf/hard of hearing;
- (iv) Emotional and behavioral disorder;
- (v) Intellectual disability;
- (vi) Orthopedic impairment;
- (vii) Other health impairment;
- (viii) Specific learning disability;
- (ix) Speech-language impairment;
- (x) Traumatic brain injury; or
- (xi) Visual impairment.

3. The student was enrolled and reported by a public school district or public school districts for funding purposes during the preceding October and March FTE program counts of the prior school year in accordance with O.C.G.A. § 20-2-160. The GaDOE

will verify that a student has attended one full school year as required by O.C.G.A. § 20-2-2112(5) unless the student meets the military or medically fragile exceptions.

(i) Parents may request a waiver of the prior school year attendance requirement in accordance with O.C.G.A. § 20-2-2114(a)(3). Requests shall be filed with the State Board of Education.

4. The student received services under an IEP written by a public school in accordance with federal and state laws and regulations at any point during the prior school year.

(b) If a student meets the eligibility criteria, a parent has the right to request a transfer from the student's current public school to:

1. Another public school within their resident school district; or
2. Another public school outside their resident school district; or
3. One of the three State Schools for the blind or deaf, if placement is consistent with the student's IEP; or
4. A private school authorized to participate in the GSNS Program. The student must be accepted for admission to an eligible private school participating in the GSNS Program.

(c) The following students are not eligible for the program:

- (i) Toddler and Pre-K students;
- (ii) Home school students;
- (iii) Students in residential treatment facilities that were privately placed by their parents;
- (iv) Students attending a Department of Juvenile Justice School; and/or
- (v) Students otherwise not eligible per O.C.G.A. § 20-2-2114.

**(4) Private School Eligibility Requirements.**

(a) In order to participate in the GSNS Program, a private school must comply with all requirements under O.C.G.A. §§ 20-2-690 and 20-2-2115.

1. The private school must be physically located in the state of Georgia where students attend classes and have direct contact with the school's teachers.

2. The private school shall either be:

(i) Accredited by one of the entities defined in O.C.G.A. § 20-3-519(6)(A); or

(ii) In the process of becoming accredited. A private school which was in process of receiving accreditation at the time it was authorized by the State Board of Education to participate in the GSNS Program must demonstrate it is making significant progress as defined by the GaDOE in program guidance toward receiving full accreditation by the end of the first school year of its participation. A private school that cannot demonstrate it is making significant progress toward receiving full accreditation with an accrediting agency will be removed from the authorized private school list until the school receives full accreditation from an agency listed in O.C.G.A. § 20-3-519(6)(A)). A private school that does not receive full accreditation by the end of the second year of its participation will be removed from the authorized private school list until the school receives full accreditation from an agency listed in O.C.G.A. § 20-3-519(6)(A).

3. The private school must demonstrate fiscal soundness to the GaDOE by being in operation as a private school in Georgia for at least one full school year or by submitting financial documentation for the school that complies with uniform financial accounting standards established by the GaDOE and conducted by a Certified Public Accountant per O.C.G.A. § 20-2-2115(2).

4. The private school must employ or contract only with teachers who hold a baccalaureate or higher degree or have at least three years of experience in either education or health.

5. The private school must meet applicable state and local health, safety, and welfare laws, codes, and rules.

6. The private school must comply with 42 U.S.C. Section 2000(d), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) Amendments Act of 2008.

7. Before a teacher is assigned an eligible student participating in the GSNS Program, the private school must conduct criminal background checks of such teacher to ensure that potential educational employees have not been convicted of crimes that could invalidate their acceptability for employment. The school shall maintain documentation of this process. The private school shall have protocol in place and take proper administrative action in the event a criminal background check or other inspection reveals criminal history.

8. To be considered for participation in the GSNS Program a private school must submit a completed application by the deadline defined in law O.C.G.A. § 20-2-2115(e).

## **(5) Private School Participation Requirements**

(a) The private school must be physically located in the state of Georgia where students physically attend classes and have direct contact with the school's teachers. The private school must offer a program of instruction sufficient to allow students to maintain regular attendance to meet the minimum compulsory attendance requirements of 180 days of instruction for 4.5 hours per day or its equivalent as required by O.C.G.A. § 20-2-690.

(b) The private school shall provide clear written descriptions of academic progress to the parents of GSNS students during a school year.

(c) The private school shall employ or contract only with teachers who hold a baccalaureate or higher degree or have at least three years of experience in either education or health.

(d) The private school shall annually provide in writing to parents the relevant credentials of the teachers who are teaching their children.

(e) The private school shall report quarterly or as directed by the GaDOE the enrolled roster of eligible and approved scholarship students on dates specified by the GaDOE.

(f) The private school shall administer valid and reliable pre- and post-academic assessments to GSNS students. The private school shall report in writing to the parent and the GaDOE the results of the pre- and post-academic assessments.

(g) The private school shall notify parents of students participating in the GSNS Program immediately if the private school becomes ineligible to participate in the GSNS Program.

(h) The private school shall ensure that requests for information and access to a school for monitoring and evaluation purposes by the GaDOE are provided in a timely manner.

(i) The private school shall annually submit a completed and signed GSNS compliance form as developed by the GaDOE and available in program guidance.

(i) Failure by a private school to comply with any applicable state or federal law or regulation may result in the removal of the school from the Georgia Special Needs Scholarship authorized private school list.

## **(6) Parent Responsibilities for Selecting Eligible Private Schools**

(a) A parent must submit a scholarship application for an eligible student to the GaDOE by September 15, December 15, and February 15 during a school year.

(b) In order to be eligible to receive funds through the GSNS Program, a parent must enroll a child at a private school authorized by the State Board of Education to participate in the GSNS Program by the deadline established annually by the GaDOE.

(c) When selecting a private school which is participating in the GSNS Program, an eligible parent must provide a copy of the scholarship award sheet that applies to the current school year to the authorized private school of choice. If a parent fails to notify a private school of a student's eligibility, the student will not be eligible to receive a scholarship.

(d) A student cannot be dually enrolled at a public and private school and receive a scholarship. Once accepted into a private school, a parent must withdraw his or her child from the public school. The parent may be required to submit appropriate withdrawal documentation to the public school.

(e) Acceptance of scholarship shall have the same effect as a parental refusal to consent to services in a public school pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400, et seq. Acceptance of a scholarship waives a parent's rights under IDEA therefore, a private school is not required to follow a student's IEP developed by the public school. Nonetheless, refusal of services does not meet the standard of revocation under IDEA. (34 C.F.R. § 300.9) Therefore, the regulations regarding proportionate share for students parentally placed in private schools shall apply to students who receive a scholarship under this Rule. (34 C.F.R. §§ 300.132-133 and Ga. Rules & Regs. 160-4-7-.13(3))

(f) When enrolling a student in an eligible private school, the parent assumes full financial responsibility for all educational costs incurred at the eligible private school.

Authority O.C.G.A. §§ 20-2-2110 - 20-2-2118; 20-2-160; 20-2-161; 20-3-519; 49-5-110.

**Adopted:** November 5, 2015

**Effective:** November 25, 2015