

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 89

By: Senator Hester
By: Representative Evans

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING THE SUCCEED SCHOLARSHIP PROGRAM; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING THE SUCCEED SCHOLARSHIP
PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-41-901(a), concerning definitions applicable to the Succeed Scholarship Program, is amended to read as follows:

(a) As used in this ~~section~~ subchapter:

(1) "Foster care" means the care of a child by a group home or group facility on a twenty-four-hour-a-day basis away from the home of the child's parent or parents;

(2) "Foster parent" means the responsible official or officials of a group home or group facility that provides foster care to a child; ~~and~~

(3) "Parent" means a student's parent or foster parent; and

(4) "Student with a disability" means students who have been:

(A) Identified by a public school district as having a disability consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 et seq.; or

(B) Medically diagnosed by a licensed physician as a child with a disability under the Individuals with Disabilities Education Act, 20



U.S.C. § 1401(3)(A).

SECTION 2. Arkansas Code § 6-41-901(b), concerning the establishment of and the intention behind the Succeed Scholarship Program, is amended to read as follows:

(b) The Succeed Scholarship Program is established and intended to provide a scholarship to a private school of choice for:

- (1) Students in foster care as defined in this section; or
- (2) Students with ~~disabilities who have either an~~ a disability.
 - ~~(A) Individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; or~~
 - ~~(B) Individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10).~~

SECTION 3. Arkansas Code § 6-41-902(a), concerning student eligibility for the Succeed Scholarship Program, is amended to read as follows:

(a) A parent or legal guardian of a ~~public school~~ student in this state may apply for a Succeed Scholarship to enroll his or her child in ~~a~~ an approved private school in this state if:

(1)(A) The student is currently enrolled in a public school and has attended public school for at least one (1) full academic year.

(B) Subdivision (a)(1)(A) of this section does not apply if:

(i) The student is a dependent of an active duty member of any branch of the United States Armed Forces; or

(ii) The superintendent of the student's resident school district in this state waives the requirement;

(2) The student:

(A) Is in foster care as defined in § 6-41-901 or has been in the foster care system and achieved permanency through adoption, reunification, or permanent guardianship;

(B) Has ~~an individualized education program in accordance with~~ been identified by a public school district as having a disability consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as evidenced by written notice of the decision from the public school district, or has been medically diagnosed by a licensed physician as a

child with a disability under 20 U.S.C. § 1401(3)(A); or

(C) Participated in the Succeed Scholarship Program during the prior school year and has not yet graduated from high school or attained twenty-one (21) years of age; ~~or~~

~~(D) Has an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10);~~

(3) The student has been accepted for admission into a private school in this state that is eligible to participate in the ~~Succeed Scholarship Program~~ Succeed Scholarship Program program;

(4) The parent has notified the student's current school district of the request for a scholarship at least sixty (60) days before the date of the first scholarship payment; and

(5)(A) For students in foster care, the Department of Human Services approves the student's placement in the private school.

(B) The department shall approve the student's placement in the private school if a determination is made that placement in the private school is in the best interest of the student.

SECTION 4. Arkansas Code § 6-41-903(a)(2), concerning private school eligibility for participation in the Succeed Scholarship Program, is amended to read as follows:

(2) ~~If the private school intends to enroll students with disabilities who have an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., or an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10), the notice~~ The notice shall specify the grade levels and services that the private school has available for students with ~~severe disabilities~~ a disability who are participating in the ~~Succeed Scholarship Program~~ Succeed Scholarship Program program.

SECTION 5. Arkansas Code § 6-41-903(d)(2), concerning private school eligibility for participation in the Succeed Scholarship Program, is amended to read as follows:

(2)(A) A student ~~with an individual education plan or an individualized service plan that provides for~~ who is determined by the private school to need an exemption to standardized testing due to the nature

of the student's disability is not required to take the test required under subdivision (d)(1)(A) of this section.

(B) A list, in a deidentified format, of students ~~with an individual education plan that provides for~~ with an exemption to standardized testing under subdivision (d)(2)(A) of this section shall be provided annually to the state board or its designee.

SECTION 6. Arkansas Code § 6-41-905(b), concerning scholarship payments and funding under the Succeed Scholarship Program, is amended to read as follows:

(b)(1) The amount of the scholarship shall be the amount calculated under subsection (a) of this section or the amount of tuition and fees for the private school, whichever is less.

(2)(A) As used in this subsection, "tuition and fees" means expenses determined by a private school to be necessary for the education of a student and required to be paid by a student who is enrolled in the private school, including without limitation expenses related to enrollment, supplies, equipment, access to technology, and services.

(B) "Tuition and fees" does not include optional expenses payable to a third party.

SECTION 7. Arkansas Code § 6-41-906(a), concerning rules and duties of the State Board of Education in relation to the Succeed Scholarship Program, is amended to read as follows:

(a)(1) The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program, including without limitation rules concerning the method for applying for a scholarship, that are in the best interest of students.

(2)(A) The state board may promulgate rules and develop a process to award scholarships using a lottery selection process if parent applications exceed the number of available scholarships.

(B)(i) Twenty (20) scholarships shall be reserved for students in foster care during the initial lottery each year if a lottery selection process is used.

(ii) Any remaining scholarships shall be made available to students with a disability through the lottery process if fewer

than twenty (20) students in foster care apply for a scholarship and are eligible for a scholarship before the initial lottery.

(C) A weighted lottery may only be used when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

SECTION 8. Arkansas Code § 6-41-908(a)(10), concerning the biennial study of the Succeed Scholarship Program, is amended to read as follows:

(10) The number of students ~~with individualized education programs under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.,~~ who are enrolled in the ~~Succeed Scholarship Program~~ program and have been exempted from standardized testing requirements under § 6-41-903; and

APPROVED: 4/19/21