

Effective 5/12/2015

53A-1a-704 Scholarship program created -- Qualifications.

- (1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.
- (2) To qualify for a scholarship:
 - (a) the student's custodial parent or legal guardian shall reside within Utah;
 - (b) the student shall have one or more of the following disabilities:
 - (i) an intellectual disability;
 - (ii) a hearing impairment;
 - (iii) a speech or language impairment;
 - (iv) a visual impairment;
 - (v) a serious emotional disturbance;
 - (vi) an orthopedic impairment;
 - (vii) autism;
 - (viii) traumatic brain injury;
 - (ix) other health impairment;
 - (x) specific learning disabilities; or
 - (xi) a developmental delay, provided the student is at least three years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;
 - (c) the student shall be at least three years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and
 - (d) except as provided in Subsection (3), the student shall:
 - (i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;
 - (ii) have an IEP; and
 - (iii) have obtained acceptance for admission to an eligible private school.
- (3) The requirements of Subsection (2)(d) do not apply in the following circumstances:
 - (a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and
 - (b) an assessment team is able to readily determine with reasonable certainty:
 - (i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and
 - (ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.
- (4)
 - (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the LEA where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.
 - (b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).
 - (c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.
- (5)
 - (a) The scholarship application form shall contain the following statement:

"I acknowledge that:

- (1) A private school may not provide the same level of special education services that are provided in a public school;
 - (2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;
 - (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and
 - (4) My child may return to a public school at any time."
- (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.
 - (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
 - (d) The creation of the scholarship program or granting of a scholarship does not:
 - (i) imply that a public school did not provide a free and appropriate public education for a student; or
 - (ii) constitute a waiver or admission by the state.
- (6)
- (a) A scholarship shall remain in force for three years.
 - (b) A scholarship shall be extended for an additional three years, if:
 - (i) the student is evaluated by an assessment team; and
 - (ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.
 - (c) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.
 - (d) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (b):
 - (i) until the student graduates from high school; or
 - (ii) if the student does not graduate from high school, until the student is age 22.
- (7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.
- (8) A scholarship student may not participate in a dual enrollment program pursuant to Section 53A-11-102.5.
- (9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.
- (10)
- (a) An LEA shall notify in writing the parents or guardians of students enrolled in the LEA who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.
 - (b) The notice described under Subsection (10)(a) shall:
 - (i) be provided no later than 30 days after the student initially qualifies for an IEP;
 - (ii) be provided annually no later than February 1 to all students who have an IEP; and
 - (iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

- (c) An LEA or school within an LEA that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the LEA's or school's website, if the LEA or school has one.

Amended by Chapter 374, 2015 General Session