

CARSON SMITH SCHOLARSHIP PROGRAM

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merlynn T. Newbold

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions of the Carson Smith Scholarships for Students with Special Needs Act.

Highlighted Provisions:

This bill:

- ▶ modifies certain notice requirements for a school district, school within a school district, or charter school that has an enrolled student who has an IEP;
- ▶ requires an approved eligible private school that changes ownership to reapply to the State Board of Education and demonstrate that it continues to meet the eligibility requirements of the program; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1a-704, as last amended by Laws of Utah 2006, Chapter 200

53A-1a-705, as last amended by Laws of Utah 2006, Chapter 200

Be it enacted by the Legislature of the state of Utah:

30 Section 1. Section **53A-1a-704** is amended to read:

31 **53A-1a-704. Scholarship program created -- Qualifications.**

32 (1) The Carson Smith Scholarship Program is created to award scholarships to
33 students with disabilities to attend a private school.

34 (2) To qualify for a scholarship:

35 (a) the student's custodial parent or legal guardian shall reside within Utah;

36 (b) the student shall have one or more of the following disabilities:

37 (i) mental retardation;

38 (ii) a hearing impairment;

39 (iii) a speech or language impairment;

40 (iv) a visual impairment;

41 (v) a serious emotional disturbance;

42 (vi) an orthopedic impairment;

43 (vii) autism;

44 (viii) traumatic brain injury;

45 (ix) other health impairment;

46 (x) specific learning disabilities; or

47 (xi) a developmental delay, provided the student is at least five years of age, pursuant
48 to Subsection (2)(c), and is younger than eight years of age;

49 (c) the student shall be at least five years of age before September 2 of the year in
50 which admission to a private school is sought and under 19 years of age on the last day of the
51 school year as determined by the private school, or, if the individual has not graduated from
52 high school, will be under 22 years of age on the last day of the school year as determined by
53 the private school; and

54 (d) except as provided in Subsection (3), the student shall:

55 (i) be enrolled in a Utah public school in the school year prior to the school year the
56 student will be enrolled in a private school;

57 (ii) have an IEP; and

58 (iii) have obtained acceptance for admission to an eligible private school.

59 (3) The requirements of Subsection (2)(d) do not apply in the following
60 circumstances:

61 (a) the student is enrolled or has obtained acceptance for admission to an eligible
62 private school that has previously served students with disabilities; and

63 (b) an assessment team is able to readily determine with reasonable certainty:

64 (i) that the student has a disability listed in Subsection (2)(b) and would qualify for
65 special education services, if enrolled in a public school; and

66 (ii) for the purpose of establishing the scholarship amount, the appropriate level of
67 special education services which should be provided to the student.

68 (4) (a) To receive a scholarship, the parent of a student shall submit an application for
69 the scholarship to the school district within which the student is enrolled:

70 (i) at least 60 days before the date of the first scholarship payment; and

71 (ii) that contains an acknowledgment by the parent that the selected school is qualified
72 and capable of providing the level of special education services required for the student.

73 (b) The board may waive the 60-day application deadline.

74 (5) (a) The scholarship application form shall contain the following statement:

75 "I acknowledge that:

76 (1) A private school may not provide the same level of special education services that
77 are provided in a public school;

78 (2) I will assume full financial responsibility for the education of my scholarship
79 student if I accept this scholarship;

80 (3) Acceptance of this scholarship has the same effect as a parental refusal to consent
81 to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
82 U.S.C. Sec. 1400 et seq.; and

83 (4) My child may return to a public school at any time."

84 (b) Upon acceptance of the scholarship, the parent assumes full financial
85 responsibility for the education of the scholarship student.

86 (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to
87 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20
88 U.S.C. Sec. 1400 et seq.

89 (d) The creation of the scholarship program or granting of a scholarship does not:

90 (i) imply that a public school did not provide a free and appropriate public education
91 for a student; or

92 (ii) constitute a waiver or admission by the state.

93 (6) (a) A scholarship shall remain in force for three years.

94 (b) A scholarship shall be extended for an additional three years, if:

95 (i) the student is evaluated by an assessment team; and

96 (ii) the assessment team determines that the student would qualify for special
97 education services, if enrolled in a public school.

98 (c) The assessment team shall determine the appropriate level of special education
99 services which should be provided to the student for the purpose of setting the scholarship
100 amount.

101 (d) A scholarship shall be extended for successive three-year periods as provided in
102 Subsections (6)(a) and (b):

103 (i) until the student graduates from high school; or

104 (ii) if the student does not graduate from high school, until the student is age 22.

105 (7) A student's parent, at any time, may remove the student from a private school and
106 place the student in another eligible private school and retain the scholarship.

107 (8) A scholarship student may not participate in a dual enrollment program pursuant to
108 Section 53A-11-102.5.

109 (9) The parents or guardians of a scholarship student have the authority to choose the
110 private school that will best serve the interests and educational needs of that student, which
111 may be a sectarian or nonsectarian school, and to direct the scholarship resources available for
112 that student solely as a result of their genuine and independent private choices.

113 (10) (a) ~~Each~~ A school district ~~and~~ or charter school shall notify in writing the

114 parents or guardians of students enrolled in the school district or charter school who have an
115 IEP of the availability of a scholarship to attend a private school through the Carson Smith
116 Scholarship Program.

117 (b) The notice described under Subsection (10)(a) shall:

118 (i) be provided no later than 30 days after the student initially qualifies for an IEP;

119 (ii) be provided annually no later than February 1 to all students who have an IEP; and

120 (iii) include the address of the Internet website maintained by the board that provides
121 prospective applicants with detailed program information and application forms for the Carson
122 Smith Scholarship Program.

123 (c) A school district, school within a school district, or charter school that has an
124 enrolled student who has an IEP shall post the address of the Internet website maintained by
125 the board that provides prospective applicants with detailed program information and
126 application forms for the Carson Smith Scholarship Program on the school district's or school's
127 website, if the school district or school has one.

128 Section 2. Section **53A-1a-705** is amended to read:

129 **53A-1a-705. Eligible private schools.**

130 (1) To be eligible to enroll a scholarship student, a private school shall:

131 (a) have a physical location in Utah where the scholarship students attend classes and
132 have direct contact with the school's teachers;

133 (b) (i) (A) obtain an audit and report from a licensed independent certified public
134 accountant that conforms with the following requirements:

135 (I) the audit shall be performed in accordance with generally accepted auditing
136 standards;

137 (II) the financial statements shall be presented in accordance with generally accepted
138 accounting principles; and

139 (III) the audited financial statements shall be as of a period within the last 12 months;

140 or

141 (B) contract with a licensed independent certified public accountant to perform an

142 agreed upon procedure as follows:

143 (I) the agreed upon procedure shall be to determine that the private school has
144 adequate working capital to maintain operations for the first full year; and

145 (II) working capital shall be calculated by subtracting current liabilities from current
146 assets; and

147 (ii) submit the audit report or report of the agreed upon procedure to the board when
148 the private school applies to accept scholarship students;

149 (c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

150 (d) meet state and local health and safety laws and codes;

151 (e) disclose to the parent of each prospective student, before the student is enrolled,
152 the special education services that will be provided to the student, including the cost of those
153 services;

154 (f) (i) administer an annual assessment of each scholarship student's academic
155 progress;

156 (ii) report the results of the assessment to the student's parent; and

157 (iii) make the results available to the assessment team evaluating the student pursuant
158 to Subsection 53A-1a-704(6);

159 (g) employ or contract with teachers who:

160 (i) hold baccalaureate or higher degrees;

161 (ii) have at least three years of teaching experience in public or private schools; or

162 (iii) have the necessary special skills, knowledge, or expertise that qualifies them to
163 provide instruction:

164 (A) in the subjects taught; and

165 (B) to the special needs students taught; and

166 (h) provide to parents the relevant credentials of the teachers who will be teaching
167 their students.

168 (2) A private school is not eligible to enroll scholarship students if:

169 (a) the audit report submitted under Subsection (1)(b) contains a going concern

170 explanatory paragraph; or

171 (b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows
172 that the private school does not have adequate working capital to maintain operations for the
173 first full year, as determined under Subsection (1)(b).

174 (3) A home school is not eligible to enroll scholarship students.

175 (4) Residential treatment facilities licensed by the state are not eligible to enroll
176 scholarship students.

177 (5) A private school intending to enroll scholarship students shall submit an
178 application to the board by May 1 of the school year preceding the school year in which it
179 intends to enroll scholarship students.

180 (6) The board shall:

181 (a) approve a private school's application to enroll scholarship students, if the private
182 school meets the eligibility requirements of this section; and

183 (b) make available to the public a list of the eligible private schools.

184 (7) An approved eligible private school that changes ownership shall submit a new
185 application to the board and demonstrate that it continues to meet the eligibility requirements
186 of this section.