

**CARSON SMITH SCHOLARSHIP AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ changes requirements relating to the application deadline for the Carson Smith Scholarship Program; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-1a-704**, as last amended by Laws of Utah 2011, Chapter 366

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

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

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

(1) The Carson Smith Scholarship Program is created to award scholarships to students



28 with disabilities to attend a private school.

29 (2) To qualify for a scholarship:

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

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

32 (i) an intellectual disability;

33 (ii) a hearing impairment;

34 (iii) a speech or language impairment;

35 (iv) a visual impairment;

36 (v) a serious emotional disturbance;

37 (vi) an orthopedic impairment;

38 (vii) autism;

39 (viii) traumatic brain injury;

40 (ix) other health impairment;

41 (x) specific learning disabilities; or

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

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

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

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

52 (ii) have an IEP; and

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

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

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

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

58 (i) that the student has a disability listed in Subsection (2)(b) and would qualify for

59 special education services, if enrolled in a public school; and

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

62 ~~[(4) (a) To receive a scholarship, the parent of a student shall submit an application for  
63 the scholarship to the school district within which the student is enrolled:]~~

64 ~~[(i) at least 60 days before the date of the first scholarship payment; and]~~

65 ~~[(ii) that contains an acknowledgment by the parent that the selected school is qualified  
66 and capable of providing the level of special education services required for the student.]~~

67 ~~[(b) The board may waive the 60-day application deadline.]~~

68 (4) (a) To receive a full-year scholarship under this part, a parent of a student shall  
69 submit to the school district where the student is enrolled an application on or before the  
70 August 15 immediately preceding the first day of the school year for which the student would  
71 receive the scholarship.

72 (b) The board may waive the full-year scholarship deadline described in Subsection  
73 (4)(a).

74 (c) An application for a scholarship shall contain an acknowledgment by the parent that  
75 the selected school is qualified and capable of providing the level of special education services  
76 required for the student.

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

78 "I acknowledge that:

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

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

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

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

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

89 (c) Acceptance of a scholarship has the same effect as a parental refusal to consent to

90 services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20  
91 U.S.C. Sec. 1400 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

110 (8) A scholarship student may not participate in a dual enrollment program pursuant to  
111 Section [53A-11-102.5](#).

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

116 (10) (a) A school district or charter school shall notify in writing the parents or  
117 guardians of students enrolled in the school district or charter school who have an IEP of the  
118 availability of a scholarship to attend a private school through the Carson Smith Scholarship  
119 Program.

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

121 (i) be provided no later than 30 days after the student initially qualifies for an IEP;  
122 (ii) be provided annually no later than February 1 to all students who have an IEP; and  
123 (iii) include the address of the Internet website maintained by the board that provides  
124 prospective applicants with detailed program information and application forms for the Carson  
125 Smith Scholarship Program.

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

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**Legislative Review Note**  
**as of 2-10-14 6:14 AM**

**Office of Legislative Research and General Counsel**