

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4945

By Delegates Espinosa, Hornby, Chiarelli,
Householder, Mazzocchi, W. Clark, Hite, Smith,
Hardy, Statler, and Ellington

[Introduced January 19, 2024; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-9A-25 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §18-31-2, §18-31-3, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-
3 10, and §18-31-11 of said code; and to amend said code by adding thereto a new section,
4 designated §18-31-2a, all relating generally to the Hope Scholarship Program; providing
5 that the annual Hope Scholarship Program appropriation calculation will be based on the
6 estimated number of participating students instead of the number of participating students
7 in the prior year; providing that Hope Scholarship students have certain educational
8 privileges made available to other nonpublic school students; clarifying that Hope
9 Scholarship funds may only be utilized for expenses incurred in a Kindergarten through
10 secondary school education; specifying that a microschool can be a participating school;
11 permitting the State Treasurer to appear by designee at Hope Scholarship Board
12 meetings; requiring parental agreement to include provisions requiring parents to notify the
13 Board if a student reenrolls in public school or graduates from a secondary school
14 program; clarifying that all records and personally identifying information of a Hope
15 Scholarship student, applicant, or parent is confidential and not subject to disclosure
16 pursuant to the West Virginia Freedom of Information Act; clarifying that a kindergarten-
17 level applicant's Hope Scholarship participation does not commence if the student does
18 not begin kindergarten-level education that school year; clarifying that a public charter
19 school may invoice a Hope Scholarship student for educational services; requiring
20 education service providers conducting background screenings of employees and other
21 persons in contact with students to certify screening results to the board; and clarifying that
22 providers may not assess increased or additional fees against Hope Scholarship students
23 based on participation in the program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-25. Funding for Hope Scholarship Program.

1 (a) Notwithstanding any other provision of this article to the contrary, for fiscal year 2023
2 and each fiscal year thereafter, in addition to all other amounts required by this article, the
3 Department of Education shall include in its budget request, and the Governor shall include in
4 each budget bill submitted to the Legislature, an appropriation to the Department of Education for
5 the greater of an amount not less than two percent of net public school enrollment adjusted for
6 state aid purposes or the total number of eligible Hope Scholarship applications received by the
7 ~~Hope Scholarship Board, if available~~ of estimated Hope Scholarship applications for the fiscal
8 year, multiplied by the prior year's statewide average net state aid allotted per pupil. The Hope
9 Scholarship Board shall certify the estimated number of Hope Scholarship applications for the
10 fiscal year to the Department of Education by December 10 of each year. The amount
11 appropriated shall be transferred by the Department of Education to the Hope Scholarship Board
12 to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 *et seq.* of
13 this code except as otherwise provided in this section. The Governor shall also provide in each
14 budget for the reappropriation for expenditure during the ensuing fiscal year the unused
15 accumulated balance in the Hope Scholarship Fund. ~~to the Department of Education that was not~~
16 ~~transferred to the Hope Scholarship Board due to an accumulated balance from prior years as~~
17 ~~provided under subsection (b) of this section.~~

18 (b) ~~Each fiscal year, the amount required to be requested and included in the budget bill for~~
19 ~~appropriation under subsection (a) of this section shall be reduced by the sum of:~~

20 (1) ~~Any unused accumulated amounts transferred to the Hope Scholarship Board for these~~
21 ~~purposes from previous years. and~~

22 ~~(2) Any unused appropriations made to the Department of Education for these purposes~~
23 ~~that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior~~
24 ~~years.~~

25 (b) Each fiscal year, the amount required to be requested and included in the budget bill for
26 appropriation under subsection (a) of this section shall be reduced by an amount equal to the
27 unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from
28 previous years.

ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.

§18-31-2. Definitions.

1 The following words have the meanings ascribed to them unless the context clearly
2 indicates a different meaning:

3 ~~(1)~~ "Account" or "scholarship" means a Hope Scholarship account, awarded pursuant to
4 this article, to which funds are allocated by the board to the parent or parents of an eligible Hope
5 Scholarship student in order to pay qualifying elementary and secondary education expenses to
6 educate the student pursuant to the requirements and conditions of this article;

7 ~~(2)~~ "Board" means the Hope Scholarship Board created pursuant to §18-31-3 of this code;

8 ~~(3)~~ "Curriculum" means a complete course of study for a particular elementary or
9 secondary education content area or grade level, including any supplemental materials required
10 by the curriculum;

11 ~~(4)~~ "Education service provider" means a person or organization that receives payments
12 from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship
13 students;

14 ~~(5)~~ "Eligible recipient" means a child who:

15 (A) Is a resident of this state; and

16 (B) Is enrolled full-time and attending a public elementary or secondary school program in
17 this state for at least 45 calendar days during an instructional term at the time of application and

18 until an award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a
19 public elementary or secondary school program in this state for the entire instructional term the
20 previous year, or is eligible at the time of application to enroll in a kindergarten program in this state
21 pursuant to §18-8-1a of this code, except that if on July 1, 2024, the participation rate of the
22 combined number of students in the Hope Scholarship Program and students eligible who have
23 applied to participate in the Hope Scholarship program during the previous school year is less than
24 five percent of net public school enrollment adjusted for state aid purposes for the previous school
25 year, then, effective July 1, 2026, a child is considered to meet the requirements of this paragraph
26 if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program
27 or public elementary or secondary school program in this state at the time of application;

28 ~~(6)~~ "Hope scholarship funds" means the moneys deposited in a Hope Scholarship
29 student's account in accordance with the requirements of this article.

30 ~~(7)~~ "Hope scholarship student" means a student who receives a scholarship pursuant to
31 this article;

32 ~~(8)~~ "Parent" means a biological parent, legal guardian, custodian, or other person with
33 legal authority to act on behalf of an eligible recipient or Hope Scholarship student;

34 ~~(9)~~ "Participating school" means any private school or microschool that provides education
35 to elementary and/or secondary students and has notified the board of its intention to participate in
36 the program and comply with the program's requirements;

37 ~~(10)~~ "Resident school district" means the county school district in which the student
38 resides; and

39 ~~(11)~~ "Treasurer" means the West Virginia State Treasurer.

§18-31-2a. Educational privileges and programs available to Hope Scholarship students.

1 (a) Notwithstanding any provision of this Code to the contrary, a Hope Scholarship student
2 that pursues an individualized instructional program shall have the same privileges and access to

3 programs that this code makes available to students exempt from compulsory school attendance
4 pursuant to §18-8-1(c) of this code, including but not limited to:

5 (1) The ability to receive a diploma from the student's secondary educational program
6 administrator, according to the requirements of §18-8-12 of this code;

7 (2) The ability to receive the PROMISE scholarship, according to the requirements of
8 §18C-7-1 et seq. of this code;

9 (3) The ability to receive a work permit without prior review by a school administrator,
10 pursuant to §21-6-3 of this code; and

11 (4) The ability to participate in an ACE program, according to the requirements in
12 §18-2E-11 of this code.

13 (b) Notwithstanding any provision of this Code to the contrary, a Hope Scholarship student
14 that attends a participating school shall have the same privileges and access to programs
15 available to students exempt from compulsory school attendance pursuant to §18-8-1 of this code
16 by virtue of attendance of a nonpublic school, including but not limited to:

17 (1) The ability to receive a diploma from the student's school administrator, according to
18 the requirements of §18-8-12 of this code;

19 (2) The ability to receive the PROMISE scholarship, according to the requirements of
20 §18C-7-1 et. seq. of this code; and

21 (3) The ability to participate in an ACE program, according to the requirements in
22 §18-2E-11 of this code.

23 (c) Nothing in this section may be construed as subjecting homeschool students or
24 nonpublic school students not participating in the Hope Scholarship Program to the requirements
25 of this article.

**§18-31-3. West Virginia Hope Scholarship board; members; terms; compensation;
proceedings generally.**

1 (a) The West Virginia Hope Scholarship Program shall be administered by the West
2 Virginia Hope Scholarship Board.

3 (b) The board shall consist of nine members and include the following:

4 (1) The State Treasurer or his or her designee;

5 (2) The State Auditor, or his or her designee;

6 (3) The State Attorney General, or his or her designee;

7 (4) The State Superintendent of Schools, or his or her designee;

8 (5) The Chancellor of Higher Education, or his or her designee;

9 (6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee;

10 and

11 (7) Three members appointed by the Governor with the advice and consent of the Senate
12 who are parents of Hope Scholarship students, or for the initial appointments of board members
13 following the effective date of this article, parents who intend to apply for the Hope Scholarship on
14 behalf of eligible recipients, to be appointed as follows:

15 (A) Only state residents are eligible for appointment to the board;

16 (B) The members shall reside in geographically diverse areas of the state;

17 (C) Members shall be initially appointed to staggered terms as follows:

18 (i) One member appointed by the Governor to a one-year term;

19 (ii) One member appointed by the Governor to a two-year term; and

20 (iii) One member each appointed by the Governor to a three-year term.

21 After the initial staggering of terms, appointed board members shall serve for three-year
22 terms and are eligible for reappointment at the expiration of their terms; and

23 (D) If there is a vacancy among appointed members, the vacancy shall be filled by
24 appointment to the unexpired term of a person meeting the requirements of this section by the
25 Governor with the advice and consent of the Senate. Members of the board shall serve until the
26 later of the expiration of the term for which the member was appointed or the appointment of his or
27 her successor.

28 (c) Members of the board shall serve without compensation. The board may reimburse
29 members for all reasonable and necessary expenses, including travel expenses, actually incurred
30 by board members in the conduct of their official duties. Any expense reimbursements shall be
31 made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to
32 state employees.

33 (d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may
34 provide office space and staff to the board upon request of the board.

35 (e) The State Superintendent of Schools may provide staff to the board, upon request of
36 the board.

37 (f) A majority of the members of the board constitutes a quorum for the transaction of the
38 business of the board.

39 (g) Members of the board are subject to the ethical standards and financial disclosure
40 requirements of the West Virginia Governmental Ethics Act in chapter 6B of this code.

§18-31-5. Award of Hope Scholarships.

1 (a) The Hope Scholarship Program is established to provide the option for a parent to
2 better meet the individual elementary and secondary education needs of his or her eligible child.
3 The program shall be operational no later than July 1, 2022.

4 (b) The board shall create a standard application form that a parent can submit to establish
5 his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal
6 education savings account to be used for qualifying education expenses on behalf of the eligible
7 recipient as provided for in §18-31-7 of this code. Information about scholarship funds and the
8 application process shall be made available on the board's website.

9 (c) The board shall make such applications available no later than March 1, 2022 and shall
10 begin accepting applications immediately thereafter. The board may update the application as
11 needed. The board shall issue an award letter to eligible recipients within 45 days of receipt of a
12 completed application and all required documentation.

13 (d) The board shall approve an application for a Hope Scholarship if all of the following
14 circumstances are met:

15 (1) A parent submits an application for a Hope Scholarship in accordance with the
16 legislative rules promulgated by the board;

17 (2) A student on whose behalf the parent is applying is an eligible recipient, as provided for
18 in §18-31-2(5) of this code;

19 (3) The parent signs an agreement with the board, promising to do all of the following:

20 (A) To provide an education for the eligible recipient in at least the subjects of reading,
21 language, mathematics, science, and social studies;

22 (B) To use the Hope Scholarship funds exclusively for qualifying expenses incurred in
23 providing the student an elementary or secondary education as provided for in §18-31-7 of this
24 code;

25 (C) To comply with the rules and requirements of the Hope Scholarship program; and

26 (D) To afford the Hope Scholarship student opportunities for educational enrichment such
27 as organized athletics, art, music, or literature; and

28 (E) To notify the Hope Scholarship Board immediately and cease use of Hope Scholarship
29 funds upon the student's reenrollment in a public school or when the student graduates from or
30 otherwise successfully completes a secondary school program; and

31 (4) The board confirms with the West Virginia Department of Education that the student
32 satisfies §18-31-2(5)(B) of this code: *Provided*, That if the department does not reply within 30
33 days, this criteria is considered satisfied.

34 (e) ~~An application for a Hope Scholarship is~~ All records accepted or maintained by the
35 Board containing personally identifying information of a Hope Scholarship student, applicant, or
36 parent are confidential and not a public record subject to release pursuant to the West Virginia
37 Freedom of Information Act, as codified in §29B-1-1 *et seq.* of this code.

§18-31-6. Funding of Hope Scholarships; program and expense funds.

1 (a) There is hereby created in the State Treasury a special revenue fund designated and
2 known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by
3 the Treasurer and shall consist of funds transferred by the Department of Education in accordance
4 with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment
5 of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including
6 accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not
7 revert to the General Revenue Fund but shall remain in the fund and be expended as provided by
8 this section.

9 (b) The amount of Hope Scholarship funds made available to an eligible recipient on a
10 yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share
11 allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions
12 of subsection (c) of this section: *Provided*, That the amount of the funding to an eligible recipient
13 who is awarded a Hope Scholarship account for less than a full fiscal year shall be prorated based
14 on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On
15 or prior to the submission of the Department of Education's budget request each year, the board
16 shall notify the Department of Education of the ~~total number of eligible Hope Scholarship~~
17 ~~applications received by the board~~ estimated number of Hope Scholarship applications for the
18 fiscal year for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of
19 this code.

20 (c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth
21 in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred
22 annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection
23 (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the
24 number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer
25 may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program

26 Expense Fund in an amount equal to the administrative costs associated with the increase in Hope
27 Scholarship accounts.

28 (d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be
29 subject to the execution of the parental agreement required by §18-31-5 of this code. Upon
30 execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this
31 code, one half of the total annually required deposit shall be made no later than August 15 of every
32 year into an eligible recipient's Hope Scholarship account, and one half of the total annually
33 required deposit shall be made no later than January 15 of every year. Any funds remaining in a
34 Hope Scholarship account at the end of the fiscal year may be carried over to the next fiscal year
35 upon successful renewal of the account.

36 (e) Funds deposited in a student's Hope Scholarship account, other than those funds
37 expended on transportation services pursuant to §18-31-7(11) of this code, do not constitute
38 taxable income to the parent or the Hope Scholarship student.

39 (f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship
40 account in accordance with the provisions of this section unless any of the following conditions
41 have occurred:

42 (1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws
43 from the Hope Scholarship Program;

44 (2) The board determines that a student is no longer eligible for a Hope Scholarship;

45 (3) The board suspends or revokes participation in the Hope Scholarship Program for
46 failure to comply with the requirements of this article;

47 (4) The Hope Scholarship student successfully completes a secondary education program
48 or does not commence kindergarten-level education in the year that eligibility is based on the
49 student's kindergartener status; or

50 (5) The Hope Scholarship student reaches 21 years of age.

51 (g) If any of the conditions in subsection (f) of this section occur, the board shall notify the
52 parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to
53 adequately address the condition or conditions upon which closure is based or does not respond
54 within 30 calendar days of receipt of notice, the board shall close the account and any remaining
55 moneys shall be returned to the state.

56 (h)(1) There is hereby created in the State Treasury a special revenue fund designated and
57 known as the West Virginia Hope Scholarship Program Expense Fund. The account shall consist
58 of moneys received pursuant to this section; moneys, if any, transferred from special revenue
59 funds administered by the Treasurer; or any governmental or private grants and any state general
60 fund appropriations, if any, for the Hope Scholarship Program. All interest and other returns
61 derived from the deposit and investment of moneys in the Hope Scholarship Program Expense
62 Fund shall be credited to the fund. Any balance, including accrued interest and other returns,
63 remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund
64 but shall remain in the fund and be expended as provided by this section.

65 (2) All expenses incurred by the Treasurer or the board in developing and administering
66 the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship
67 Expense Fund.

§18-31-7. Qualifying expenses for Hope Scholarship accounts.

1 (a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their
2 student's Hope Scholarship account only for the following qualifying expenses to educate the
3 student:

4 (1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this
5 code, including without limitation, individual classes and extracurricular activities and programs:
6 Provided, That notwithstanding §18-5G-3 of this code, a public charter school may invoice a Hope
7 Scholarship student's account for said services;

8 (2) Tuition and fees at a participating school;

9 (3) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such
10 tutoring services are not provided by a member of the Hope Scholarship student's immediate
11 family;

12 (4) Fees for nationally standardized assessments, advanced placement examinations, any
13 examinations related to college or university admission, and tuition and/or fees for preparatory
14 courses for the aforementioned exams;

15 (5) Tuition and fees for programs of study or the curriculum of courses that lead to an
16 industry-recognized credential that satisfies a workforce need;

17 (6) Tuition and fees for nonpublic online learning programs;

18 (7) Tuition and fees for alternative education programs;

19 (8) Fees for after-school or summer education programs;

20 (9) Educational services and therapies, including, but not limited to, occupational,
21 behavioral, physical, speech-language, and audiology therapies;

22 (10) Curriculum as defined in §18-31-2 of this code;

23 (11) Fees for transportation paid to a fee-for-service transportation provider for the student
24 to travel to and from an education service provider; and

25 (12) Any other ~~qualified~~ qualifying expenses as approved by the board established
26 pursuant to §18-31-3 of this code.

27 (b) Hope Scholarship funds may only be used for educational purposes in accordance with
28 subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be
29 enrolled, full- or part-time, in either a private school or nonpublic online school.

30 (c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or
31 student in any manner. Any refund or rebate for goods or services purchased with Hope
32 Scholarship funds shall be credited directly to a student's Hope Scholarship account.

33 (d) Nothing in this section prohibits the parents of a Hope Scholarship student from making
34 payments for the costs of educational goods and services not covered by the funds in their

35 student's Hope Scholarship account. However, personal deposits into a Hope Scholarship
36 account are not permitted.

§18-31-8. Renewal of Hope Scholarship accounts; participation in public school system.

1 (a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis.
2 Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously
3 qualified for a Hope Scholarship account remains eligible to apply for renewal until one of the
4 conditions set forth in §18-31-6(f) occurs: *Provided*, That the board shall verify with the
5 Department of Education the following information by July 1 of every year:

6 (1) A list of all active Hope Scholarship Accounts;

7 (2) The resident school district of each Hope Scholarship student;

8 (3) For a Hope Scholarship student who chooses to attend a participating school, annual
9 confirmation of his or her continued attendance at a nonpublic school that complies with all
10 requirements that other nonpublic school students must comply with; and

11 (4) For a Hope Scholarship student who chooses an individualized instructional program:

12 (A) (i) He or she has annually taken a nationally normed standardized achievement test of
13 academic achievement in the subject areas of reading, language, and mathematics, and when
14 available for the student's grade-level, science and social studies;

15 (ii) The mean of the child's test results in the subject areas ~~of reading, language,~~
16 ~~mathematics, science, and social studies~~ tested for any single year is within or above the fourth
17 stanine or, if below the fourth stanine, show improvement from the previous year's results; and

18 (iii) The child's test results are reported to the county superintendent; or

19 (B) (i) A certified teacher conducts a review of the student's academic work annually;

20 (ii) The certified teacher determines that the student is making academic progress
21 commensurate with his or her age and ability; and

22 (iii) The certified teacher's determination is reported to the county superintendent.

23 (b) Each county superintendent shall submit the test results and determinations reported to
24 him or her pursuant to subsection (a) of this section to the Department of Education each year on
25 or before June 15.

26 (c) If a parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify
27 the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent
28 chooses not to renew or does not respond within 30 calendar days of receipt of notice, the board
29 shall close the account and any remaining moneys shall be returned to the state.

30 (d) If an eligible recipient decides to return to the Hope Scholarship Program after failing to
31 renew, they must reapply.

32 (e) The board, in consultation with the Department of Education, may adopt rules and
33 policies to provide the least disruptive process for Hope Scholarship students who desire to stop
34 receiving Hope Scholarship payments and return full-time to a public school.

35 (f) The board, in consultation with the Department of Education, may adopt rules and
36 policies for Hope Scholarship students who want to continue to receive services provided by a
37 public school or district, including individual classes and extracurricular programs, in combination
38 with an individualized instructional program. The board, in consultation with the Department of
39 Education, shall ensure that any public school or school district providing such services receives
40 the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of
41 total instruction provided to the student by the public school or school district. County boards shall
42 charge tuition to Hope Scholarship students who enroll for services in a public school within the
43 county. Hope Scholarship students who enroll for services part-time in public school shall not be
44 included in net enrollment for state aid funding purposes under §18-9A-2 of this code. Nothing in
45 this subsection prohibits a Hope Scholarship student from using the funds deposited in his or her
46 account on both services provided by a public school or district, including but not limited to a public
47 charter school, and other qualifying expenses as provided for in §18-31-7 of this code.

§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

1 (a) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et*
2 *seq.* of this code for the auditing of individual Hope Scholarship accounts and shall conduct or
3 contract for the random auditing of individual Hope Scholarship accounts as needed to ensure
4 compliance with the requirements of this article and rules promulgated pursuant to this article.

5 (b) As part of the auditing process, the board may remove a parent or eligible recipient from
6 the Hope Scholarship program and close a Hope Scholarship account for failure to comply with the
7 terms of the parental agreement required by §18-31-5 of this code, failure to comply with the
8 applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of
9 Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair
10 process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship
11 program and a parent or Hope Scholarship student may appeal the decision to make the student
12 ineligible for funds to the board.

13 ~~(c) The board may conduct or contract for the audit of education service providers~~
14 ~~accepting payments from Hope Scholarship accounts, if it determines that the education service~~
15 ~~provider has:~~

16 ~~(1) Intentionally and substantially misrepresented information or failed to refund any~~
17 ~~overpayments in a timely manner; or~~

18 ~~(2) Routinely failed to provide students with promised educational goods or services.~~

19 (c) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et*
20 *seq.* of this code for the auditing of education service providers and shall conduct or contract for
21 the random auditing of individual providers as needed to ensure compliance with the requirements
22 of this article and rules promulgated pursuant to this article.

23 (d) If the board determines that an education service provider has intentionally and
24 substantially misused Hope Scholarship funds, the board may bar the education service provider
25 from continuing to receive payments. The board shall create procedures to ensure that a fair

26 process exists to determine whether an education service provider may be barred from receiving
27 payment from Hope Scholarship accounts and an education service provider may appeal a
28 decision to bar it from receiving payments to the board. If the board bars an education service
29 provider from receiving payments from Hope Scholarship accounts, it shall notify parents and
30 students of its decision as quickly as possible.

31 (e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it
32 may refer suspected cases to the State Auditor for purposes of investigation, collection, and
33 potential criminal investigation.

§18-31-11. Requirements for and rights of education service providers.

1 (a) To be eligible to accept payments from a Hope Scholarship account, an education
2 service provider shall:

3 (1) Submit notice to the board that they wish to participate in the Hope Scholarship
4 Program;

5 (2) Provide participating parents with a receipt for all qualifying educational expenses for
6 the Hope Scholarship student;

7 (3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students
8 in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in
9 accordance with §18-31-7(c) of this code;

10 (4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. 1981;

11 (5) ~~Agree to~~ Submit any employee or other person who will have contact with Hope
12 Scholarship ~~student~~ students receiving services from the provider to a criminal background check;
13 and certify that said background check does not indicate conviction of a felony involving violence
14 to the person and that the employee or other person is not on a federal or state sex offender
15 registry.

16 (6) In the case of a participating school, provide notice of each Hope Scholarship student's
17 enrollment annually to the county superintendent of any student for which a student's tuition is
18 being paid through the Hope Scholarship Program.

19 (b) This article does not limit the independence or autonomy of an education service
20 provider or make the actions of an education service provider the actions of the state government.

21 (c) Education service providers shall be given maximum freedom to provide for the
22 educational needs of Hope Scholarship students without governmental control.

23 (d) A participating school or education service provider is not required to alter its creed,
24 practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose
25 parents pay tuition or fees from a Hope Scholarship account pursuant to this article: Provided,
26 That an education service provider is prohibited from requiring a student or family to pay tuition,
27 costs, or fees above or in addition to the provider's regular tuition or fee schedule based in whole
28 or in part upon a student or family member's participation in the Hope Scholarship program.

29 (e) This article does not expand the regulatory authority of the state, its officers, or any
30 school district to impose any additional regulation of education service providers beyond those
31 necessary to enforce the requirements of the program.

NOTE: The purpose of this bill is to make several specific changes in the Hope Scholarship Program; including that the annual Hope Scholarship Program appropriation calculation will be based on the estimated number of participating students instead of the number of participating students in the prior year; and clarifying that providers may not assess increased or additional fees against Hope Scholarship students based on participation in the program.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.