

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 478

Short Title: Support Students with Disabilities Act. (Public)

Sponsors: Representatives Lofton, Bradford, Hawkins, and Willis (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

March 28, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PROGRAM FOR LOCAL SCHOOL ADMINISTRATIVE UNITS TO APPLY TO THE DEPARTMENT OF PUBLIC INSTRUCTION FOR ONGOING EXTRAORDINARY COSTS OF CHILDREN WITH DISABILITIES, INCLUDING FOR PLACEMENT OF STUDENTS IN SETTINGS OUTSIDE THE SCHOOL SYSTEM TO REDUCE THE USE OF MODIFIED DAY, HOMEBOUND, AND HOSPITALIZED PLACEMENTS, AND TO REQUIRE AN ANNUAL REPORT ON THE MONITORING OF STUDENTS IN HOMEBOUND, MODIFIED DAY, AND HOSPITAL PLACEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Program Established. – Beginning with the 2023-2024 fiscal year, the Department of Public Instruction shall establish a grant program for local school administrative units to apply for funds from the Special State Reserve Fund (SSRF) for children with disabilities for the purpose of covering the extraordinary costs of certain students with disabilities, including costs associated with the placement of students in private schools with approved nonpublic education programs providing special education in accordance with a student's individualized education program (IEP). The grant program shall provide funds for students with disabilities on an ongoing basis according to the students' IEPs. The grant program established by this act shall be administered separately from the grant program funded from the SSRF available to local school administrative units for high costs related to emergency situations for children with disabilities in a school year. Funds administered pursuant to this act shall be to supplement and not supplant existing federal, State, and local funding for children with disabilities.

SECTION 1.(b) Applications. – A local school administrative unit may apply for grant funds for a student with disabilities served by the unit for extraordinary costs associated with services provided to the student, including for a placement in a private school that has an approved nonpublic education program providing special education in accordance with a student's IEP. To be eligible for a grant, the local school administrative unit must demonstrate that the total cost of the services equals or exceeds four times the State average per pupil expenditure for children with disabilities in the prior fiscal year. The local school administrative unit shall provide documentation to the Department of Public Instruction to support the funding request. The student's IEP must support the determination of the services, including if the placement of the student is at a private school. Grant funds shall be student-specific and follow the student for special education and related services provided within the State. The Department shall require documentation for renewal of the grant for each school year with a request for funds



1 for the student. The Department shall reimburse seventy-five percent (75%) of the extraordinary
2 costs and disburse funds in quarterly amounts to providers on an approved list from the
3 Department.

4 For the purposes of this act, extraordinary costs shall only include costs directly
5 attributable to providing the special education services on the student's IEP, such as salary of
6 educational personnel; salary of related services personnel; costs for specialized books, materials,
7 or equipment; tuition costs; and consultant costs, if directly attributable to the student's
8 instructional program. Extraordinary costs shall not include administrative or overhead costs, the
9 costs of adapting classrooms or materials that are used by more than one student, nor the costs
10 associated with evaluation, development of the IEP, or service coordination for the student with
11 disabilities.

12 **SECTION 1.(c) Oversight.** – The Department of Public Instruction shall ensure that,
13 if a student who is covered by grant funds is placed in a private school that has an approved
14 nonpublic education program providing special education in accordance with a student's
15 individualized education program (IEP), the school is approved by the Department as adhering
16 to State and federal laws governing education services for students with disabilities and State and
17 federal laws governing seclusion and restraint of students. The student's local school
18 administrative unit shall remain legally responsible for ensuring the student is receiving a free
19 appropriate public education (FAPE) in the least restrictive environment (LRE) while the student
20 is placed in the private school, as required by State and federal laws governing education services
21 for students with disabilities, and the unit shall conduct an annual review of the student's IEP and
22 any interim reviews requested by the student's parent or legal guardian for purposes of
23 educational decision making in accordance with federal and State laws. Prior to approving a
24 renewal of the grant for a particular student, the Department shall ensure that the annual review
25 of the student's IEP has been completed and the student's parent or legal guardian, for purposes
26 of educational decision making, has received the notice of procedural safeguards required by
27 State and federal laws governing education services for students with disabilities.

28 **SECTION 1.(d) Appropriation.** – There is appropriated from the General Fund to
29 the Special State Reserve Fund the sum of one million dollars (\$1,000,000) in recurring funds
30 for the 2023-2024 school year for the Department of Public Instruction to implement the grant
31 program established pursuant to this section.

32 **SECTION 1.(e) Report.** – By March 15, 2024, the Department of Public Instruction
33 shall report to the Joint Legislative Education Oversight Committee, the House Appropriations
34 Education Committee, the Senate Appropriations on Education/Higher Education Committee,
35 and the Fiscal Research Division on the amount of grant applications for the 2023-2024 school
36 year, the amount of grant funds awarded, the types of out-of-school system placements and
37 service providers, and the type of extraordinary costs reimbursed.

38 **SECTION 2.(a) G.S. 115C-107.5 reads as rewritten:**
39 **"§ 115C-107.5. Annual reports.**

40 The State Board shall report no later than October 15 of each year to the Joint Legislative
41 Education Oversight Committee on the implementation of this Article and the educational
42 performance of children with disabilities. The report may be filed electronically. Each annual
43 report shall include the following information:

44 ...

45 (4) A summary analysis of the following data to be monitored and collected by
46 the Department of Public Instruction on students with disabilities in each local
47 school administrative unit on a monthly basis:

48 a. The number of new and continued homebound placements.

49 b. The number of new and continued modified day placements.

50 c. The number of new and continued Home/Hospital, Separate Schools,
51 and Residential placements.

1 d. The number of new and continued PRTF placements.
2 The data collected by the Department under this subdivision shall be
3 disaggregated by gender, race, ethnicity, disability, grade level, and school
4 within a local school administrative unit. The report may reflect deidentified
5 data for individual students, when available, regarding disciplinary outcomes,
6 length of homebound, modified day, or institutionalized placements,
7 including total number of homebound, modified day, and institutionalized
8 placements over the course of a student's public school enrollment, and over
9 the current and two prior school years, and the regular education, special
10 education, and related services being received (i) prior to and (ii) during the
11 homebound, modified day, or an institutionalized setting placement. The
12 report shall also include any findings by the Office of Special Education
13 Programs that relate to the implementation of a free and public education in
14 the State, including any findings of noncompliance or deficiencies."

15 **SECTION 2.(b)** The State Board of Education shall submit the information required
16 pursuant to G.S. 115C-107.5(4), as enacted by this section, beginning with the report submitted
17 to the Joint Legislative Education Oversight Committee by October 15, 2024.

18 **SECTION 3.** This act becomes effective July 1, 2023.