



Ohio Revised Code Section 3310.41 Autism scholarship program.

Effective: October 3, 2023

Legislation: House Bill 33

(A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program or an education plan developed by the school district under division (G) of this section and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Formula ADM" has the same meaning as in section 3317.02 of the Revised Code.

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated. "Parent" also includes the custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency.

(6) "Qualified special education child" is a child who was either enrolled in or eligible to enter school in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this



section is first sought and for whom any of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child that includes services related to autism.

(c) The child has been diagnosed as autistic by a physician or psychologist.

(7) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education and workforce to participate in the program established under this section.

(8) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department shall pay a scholarship under section 3317.022 of the Revised Code to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the department. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program or education plan and that is operated by an alternative public provider or by a registered private provider, and to pay for other services agreed to by the provider and the parent of a qualified special education child that are not included in the individualized education program or education plan but are associated with educating the child. Upon agreement with the parent of a qualified special education child, the alternative public provider or the registered private provider may modify the services provided to the child. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the



child is entitled to attend school, to receive the services prescribed in the child's individualized education program or education plan once the individualized education program or education plan is finalized and any other services agreed to by the provider and the parent of a qualified special education child. The services provided under the scholarship shall include an educational component or services designed to assist the child to benefit from the child's education.

A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the department shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child.

Except for development of the child's individualized education program or education plan, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, as defined in section 3323.01 of the Revised Code, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the autism scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code.

A child attending a special education program with a scholarship under this section shall continue to



be entitled to transportation to and from that program in the manner prescribed by law.

(C) As prescribed in division (A)(2)(h) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM of the district in which the child is entitled to attend school and not in the formula ADM of any other school district.

(D) A scholarship shall not be paid under section 3317.022 of the Revised Code to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by rule of the department for the program established under this section.

(E) The department shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

The rules also shall specify that intervention services under the autism scholarship program may be provided by a qualified, credentialed provider, including, but not limited to, all of the following:

- (1) A behavior analyst certified by a nationally recognized organization that certifies behavior analysts;
- (2) A psychologist licensed to practice in this state under Chapter 4732. of the Revised Code;
- (3) An independent school psychologist or school psychologist licensed to practice in this state under Chapter 4732. of the Revised Code;
- (4) Any person employed by a licensed psychologist, licensed independent school psychologist, or licensed school psychologist, while carrying out specific tasks, under the licensee's supervision, as an extension of the licensee's legal and ethical authority as specified under Chapter 4732. of the Revised Code who is ascribed as "psychology trainee," "psychology assistant," "psychology intern," or other appropriate term that clearly implies their supervised or training status;



- (5) Unlicensed persons holding a doctoral degree in psychology or special education from a program approved by the department;
- (6) A "registered behavior technician" as described under rule 5123-9-41 of the Administrative Code working under the supervision and following the intervention plan of a certified Ohio behavior analyst or a behavior analyst certified by a nationally recognized organization that certifies behavior analysts;
- (7) A "certified Ohio behavior analyst" under Chapter 4783. of the Revised Code;
- (8) Any other qualified individual as determined by the department.
- (F) The department shall provide reasonable notice to all parents of children receiving a scholarship under the autism scholarship program, alternative public providers, and registered private providers of any amendment to a rule governing, or change in the administration of, the autism scholarship program.
- (G) If a child qualifies for the autism scholarship program pursuant to a diagnosis under division (A)(6)(c) of this section and does not have an individualized education program that includes services related to autism, the school district in which the child is entitled to attend school shall develop an education plan for the child.
- (H) Not later than the thirtieth day of June each year, each alternative public provider and registered private provider enrolling students receiving autism scholarships shall submit to the department, in a form and manner prescribed by the department, the tuition rates charged by the provider for the following school year.
- (I) The department shall not require the parent of a student who applies for or receives a scholarship under this section to complete any kind of income verification regarding the student's family income.