



JOY HOFMEISTER

STATE SUPERINTENDENT *of* PUBLIC INSTRUCTION  
OKLAHOMA STATE DEPARTMENT *of* EDUCATION

**MEMORANDUM**

**TO:** The Honorable Members of the State Board of Education  
**FROM:** Joy Hofmeister  
**DATE:** February 25, 2021  
**SUBJECT:** Administrative Rule Promulgation

The State Board of Education will be taking action at the February meeting on the following proposed rule changes pursuant to the *Oklahoma Administrative Procedures Act*, 75 O.S. § 250 *et seq.*:

- (1) Title 210. State Department of Education  
Chapter 10. School Administration and Instructional Services  
Subchapter 15. Textbooks  
**210:10-15-1. Purpose [AMENDED]**  
**210:10-15-3. Provisions for alternate textbook selection [AMENDED]**

The OSDE rules addressing alternate textbook selection are being amended to reflect legislative updates to the school textbook statutes made by House Bill 3466 (2020). Historically, the OSDE's role in textbook selection applied only to the approval of alternate textbooks by school district petition after the State Textbook Committee had already selected the list of approved textbooks. Following legislative changes to 70 O.S. § 16-102, OSDE responsibilities have been added to the initial textbook adoption process, and the rule is being updated accordingly. The new content adds provisions addressing review teams of subject matter experts that the OSDE is responsible for assembling to assist the State Textbook Committee in its selections.

- (2) Title 210. State Department of Education  
Chapter 40. Grants and Programs-In-Aid  
Subchapter 87. Charter Schools  
**210:40-87-3. Distribution and reporting of state appropriated funds to charter schools sponsors and charter schools [AMENDED]**  
**210:40-87-10. Charter school closure fund [NEW]**

Pursuant to House Bill 3369 (2020), the administrative rules for charter schools are being updated to reflect new legislative provisions. HB 3369 amended 70 O.S. § 3-142 to place limits on a charter school sponsor's retention of state funds allocated to the school, and to establish a charter school closure fund intended to reimburse sponsors for eligible costs associated with the closure of a charter school.

- (3) Title 210. State Department of Education  
Chapter 15. Curriculum and Instruction  
Subchapter 13. Special Education  
**210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [AMENDED]**

The State Department of Education (OSDE) rules addressing private school eligibility to participate in the Lindsey Nicole Henry Scholarship Program are being amended to reflect the interpretation and analysis of the Oklahoma Attorney General in Opinion 2020 OK AG 13. Further, because the Opinion determined the current administrative rules at OAC 210:10-15-7(c) are invalid and because the Opinion is binding upon the state official(s) affected by it, OSDE is proposing to amend the administrative rules consistent therewith.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES  
SUBCHAPTER 15. TEXTBOOKS**

**210:10-15-1. Purpose**

Rules in this Subchapter ~~establish a time frame and procedures by which *five or more district boards of education may petition the State Board of Education to add a book or series of textbooks to the approved list selected by the State Textbook Committee*~~[70:16-102(D)] lay out provisions that apply to the selection of textbooks for Oklahoma public schools.

**210:10-15-3. Provisions for ~~alternate textbook selection~~ and alternate textbook selection**

**(a) Subject area textbook review teams.** Pursuant to 70 O.S. § 16-102, each year the State Department of Education (OSDE) shall assemble one or more teams of subject matter experts to assist the State Textbook Committee in reviewing textbooks and instructional materials for the subject areas under review. The subject area review team(s) assembled for each year will correspond with the subject area(s) under review that year in the state Textbook Adoption Cycle, with the number of review teams formed each year contingent on the number of subjects under review. Composition of the subject area review teams shall be consistent with the requirements of 70 O.S. § 16-102(E), and each team shall be selected according to the application process and criteria for the relevant subject area established by the OSDE in coordination with the State Textbook Committee. Subject to the availability of funds appropriated to the OSDE, members of subject area review teams shall be eligible for necessary travel expenses while in the performance of their duties, pursuant to the State Travel Reimbursement Act.

**(b) Rubric for the review of instructional materials.** In reviewing proposed textbooks and other instructional materials, subject area review teams shall apply the appropriate three-tiered rubric developed by the State Textbook Committee in consultation with the OSDE pursuant to 70 O.S. § 16-102(F).

**(c) Recommendations and records.** After completing its review of a textbook or other instructional material under the applicable rubric, and individually scoring each criterion including justification for the rating assigned, each subject area review team shall submit the team's review documentation and recommended rating to the State Textbook Committee. The Committee shall consider, but is not required to accept, the recommended rating of the subject area review team, and may request that the review team provides additional information to support its recommendations. After the Committee has verified that the review process has been conducted in a fair and scrupulous manner, the Committee shall adopt a final rating for each textbook prior to including it on the list of approved textbooks. The completed rubric for each evaluated textbook, including the subject area review team's recommendations, shall be publicly posted on the State Textbook Committee web page housed on the OSDE website.

~~(a)(d) State Board of Education Textbook Petition~~**alternate textbook petition.** *Five or more district boards of education may petition the State Board of Education to add a book or series of textbooks to the approved list selected by the State Textbook Committee* ~~[70:16-102(D)]~~. The State Board of Education Textbook Petition Form is available by writing: State Board of Education, 2500 North Lincoln Boulevard, Oklahoma City, OK 73105-4599, or by calling: (405) 521-3308. Guidance for school districts to petition the State Board for approval of alternate instructional materials may be obtained from the OSDE Office of Accreditation or the agency website.

- (b) ~~(1) Adding petitioned materials to the Approved List~~ **(1) Adding petitioned materials to the list of approved textbooks.** Upon receipt of textbook petition forms for a book, or a series of textbooks, or other applicable instructional materials from five or more district boards of education and upon approval of said petitions by the State Board of Education, the ~~book or series of textbooks~~ materials approved shall be added to the list selected by the State Textbook Committee and maintained pursuant to 70 O.S. § 16-110. The publisher of materials added to the list through this petition process shall enter into a contract in accordance with 70 O.S. § 16-106 and with the same provisions agreed upon by all other publishers.
- (c) ~~(2) Use of state textbook funds for petitioned textbooks.~~ **(2) Use of state textbook funds for petitioned textbooks.** ~~Districts may immediately, upon~~ Upon approval of petitioned materials by the State Board of Education and addition of such materials to the list of approved textbooks, any Oklahoma school district may purchase said the materials approved by petition with state textbook funds. ~~It shall be clearly noted, however, that any district in the state may purchase the materials approved by the State Board of Education.~~
- (d) ~~(3) Restrictions~~ **(3) Conditions for alternate textbook petitions.** The following conditions apply to petitions for alternate instructional material selections.
- (1)(A) The State Board of Education will not consider petitions during the process of deliberation by the State Textbook Committee from the time bids are submitted in the given subject area up for state adoption until the time the final selections for adoption by the State Textbook Committee are announced.
- (2)(B) Any publisher whose textbooks are added to the approved list selected by the State Textbook Committee through petitioning the State Board of Education shall establish and maintain a suitable and convenient depository or depositories in the state of Oklahoma where a stock of their books, or other approved instructional media, to supply all immediate demands shall be kept. For any instructional materials that do not exist in a hard copy form, such as materials accessed solely by means of the internet or through digital storage, the publisher shall provide the State Textbook Committee with copies of the approved materials in one or more appropriate digital storage formats.

## **RULE IMPACT STATEMENT**

### **Chapter 10, Subchapter 15. Textbooks**

**a. What is the purpose of the proposed rule change?**

The State Department of Education (OSDE) rules addressing alternate textbook selection are being amended to reflect legislative updates to the school textbook statutes made by House Bill 3466 (2020). Historically, the OSDE's role in textbook selection applied only to the approval of alternate textbooks by school district petition after the State Textbook Committee had already selected the list of approved textbooks. Following legislative changes to 70 O.S. § 16-102, which added OSDE responsibilities to the initial textbook adoption process, the rule must be updated accordingly. The new content adds provisions addressing review teams of subject matter experts that the OSDE is responsible for assembling to assist the State Textbook Committee in its selections.

**b. What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect the State Department of Education and the State Textbook Committee.

**c. What classes of persons will benefit from the proposed rule change?**

The rule change will benefit Oklahoma students and teachers by ensuring that review teams of subject matter experts will be involved in the evaluation of textbooks approved for Oklahoma schools by the State Textbook Committee.

**d. What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any cost to political subdivisions as a result of the amendment.

**e. What is the probable cost to the agency to implement and enforce the proposed rule change?**

Under 70 O.S. § 16-102(E), review team members will be eligible for reimbursement of traveling expenses pursuant to the State Travel Reimbursement Act, subject to the availability of funds. Additional record keeping, if any, will be performed by existing staff.

**f. What is the economic impact on any political subdivision to implement the proposed rule change?**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** January 7, 2021

**STATUTORY AUTHORITY FOR 210:10-15**

House Bill 3466 (2020)

SECTION 2. AMENDATORY 70 O.S. 2011, Section 16-102, as amended by Section 1, Chapter 75, O.S.L. 2016 (70 O.S. Supp. 2019, Section 16-102), is amended to read as follows:

Section 16-102. A. The State Textbook Committee shall meet at the call of the ~~chairperson~~ chair as often as necessary, with two (2) weeks' public notice, to discharge its responsibilities. If necessary, not later than the first day of December of each year the State Textbook Committee shall meet ~~at the call of the chairperson at the State Capitol and to~~ select textbooks for subjects taught in the public schools of the state ~~up to and including the twelfth grade~~ for grades prekindergarten through twelve, which selections shall be for not more than six (6) years for every textbook.

B. The Committee may suspend any currently pending selection process of textbooks and may extend by at least two (2) years the six-year adoption period of those textbooks currently on the state adopted list, for the purpose of delaying for two (2) years the six-year adoption cycle of subjects.

C. "Textbooks", as used in Sections 16-101 through 16-124 of this title, means instructional materials that are designed for use by pupils as a learning resource. Instructional materials may be printed or nonprinted and may include textbooks, technology-based and other educational materials.

D. "List of textbooks" or "the list", as used in Sections 16-101 through 16-111 of this title, means the official textbook list required by Section 6 of Article XIII of the Oklahoma Constitution. The list shall include the textbooks and other instructional materials selected by the State Textbook Committee for use in the common schools of the state.

E. The State Department of Education, in coordination with the State Textbook Committee, shall approve an application process to assemble annually one or more review teams comprised of subject matter experts for each subject area under review to assist the Committee in reviewing textbooks and instructional materials. The number of review teams shall be contingent on the number of subject areas under review each year. Members of the review teams shall have specific expertise in the subject areas being reviewed that year. Review teams shall consist of no less than twelve members each, but may be as large as is deemed necessary by the State Textbook Committee and the State Department of Education. Subject to the availability of funds within the State Department of Education, members of the review teams shall receive from the Department necessary traveling expenses while in the performance of duties pursuant to the State Travel Reimbursement Act.

F. The Committee shall select textbooks or series of textbooks for each subject, which, to the greatest extent possible, are in its judgment satisfactory. The aligned with the subject matter standards adopted by the State Board of Education pursuant to Section 11-103.6 of this title. The Committee, in consultation with the State Department of Education, shall adopt a rubric to be used by the review teams as a means of evaluating textbooks submitted for review. The rubric

shall contain a three-tiered rating system in which the first tier shall be labeled "Exemplifies Quality", the second tier shall be labeled "Approaching Quality", and the third tier shall be labeled "Not Representing Quality". The rubric shall also include, but not be limited to, criteria for alignment to subject matter standards such that all standards are present and treated with the appropriate depth to support students in learning the skills and information contained in the subject matter standards, as well as usability for teacher planning, learning, assessment and differentiated instruction. The Committee, in consultation with the review teams, may include additional criteria specific to the subject area being reviewed. The rubric shall require each criterion to be scored individually with justification, and shall provide an overall recommendation for the rating.

G. Review teams shall review all materials in accordance with the rubric adopted in subsection F of this section and shall submit the review and recommended rating to the Committee. The Committee shall consider but not be required to accept the recommended rating of the review teams. The Committee may request that the review teams supply additional information to support their recommendations or the Committee may provide its own justification utilizing the adopted rubric.

H. The Committee, having verified that the review process has been conducted in a scrupulous and fair manner, shall adopt a final rating for each textbook prior to including it on the textbook list required by Section 16-110 of this title. The completed rubric for each evaluated textbook, including the review team's recommendations, shall be made publicly available on the State Textbook Committee website.

I. After a final textbook list is published, the State Textbook Committee may determine that unusual or extraordinary circumstances exist in a particular subject area during the period for which textbooks have been selected for that subject area. Unusual or extraordinary circumstances shall include but not be limited to significant new techniques of teaching in a particular subject area or significant new findings or discoveries in a particular subject area. Upon a determination by three-fourths (3/4) of the members of the State Textbook Committee that unusual or extraordinary circumstances exist in a particular subject area, the Committee may select one or more textbooks in that subject area for the remainder of the adoption period.

~~E. J.~~ J. The State Department of Education shall house the website of the State Textbook Committee on its agency website.

K. Five or more district boards of education may petition the State Board of Education to add a book or series of textbooks to the approved list selected by the State Textbook Committee.

L. The State Board of Education shall promulgate rules to implement the method and time frame for handling the petitions in the most expeditious manner.



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID  
SUBCHAPTER 87. CHARTER SCHOOLS**

**210:40-87-3. Distribution and reporting of state appropriated funds to charter school sponsors and charter schools**

(a) **Distribution and disbursement.** Distribution and disbursement of all State Aid allocations and any other state appropriated revenue to a charter school and its sponsor in accordance with the requirements of 70 O.S. § 3-142 shall be conducted in accordance with the following provisions:

(1) **Requirements for distribution of funds; sponsor administrative costs.** The State Department of Education (OSDE) shall not distribute state appropriated funds to a charter school sponsor for disbursement to its charter school until all of the following requirements have been met:

(A) The charter school sponsor must provide the State Department of Education with financial records documenting any state funds retained by the sponsor for administrative services rendered during the previous fiscal year. Fees for administrative services shall comply with the provisions of 70 O.S. § 3-142, not to exceed three percent (3%) of the charter school's State Aid allocation. A sponsor of a charter school shall not retain any additional State Aid allocation or charge the charter school any additional fee above the amounts allowed under 70 O.S. § 3-142(A), unless the additional fees are for services rendered, as evidenced by itemized records detailing the additional services provided and the actual costs of providing the services.

(B) Financial transactions for all state appropriated funds for the previous fiscal year have been reported to the State Department of Education by the charter school sponsor and/or the charter school in accordance with the requirements of 70 O.S. § 5-135.2, with all reports submitted on time and as required by subsection (b) of this Section.

(C) In addition to the above requirements, prior to the charter school's initial year of operation, the charter school sponsor shall ensure that the charter school has met all of the following requirements no later than June 30 prior to the charter school's initial year of operation:

(i) The charter school shall submit a copy of the approved and executed charter school charter and a copy of the approved and executed contract with the sponsor to the State Department of Education;

(ii) The charter school shall provide the State Department of Education with documentation that it has established and will maintain a student information system that meets the requirements of 70 O.S. § 18-200.1;

(iii) The charter school shall provide the State Department of Education with documentation that it has established an approved financial accounting system that meets the requirements of the Oklahoma Cost Accounting System (OCAS); and

(iv) The charter school shall have been issued a county and district identification number from the Accreditation Division of the State Department of Education.

(2) **Distribution to charter school.** A charter school sponsor shall distribute state flow-through funding to the charter school within ten (10) business days from the date of receipt of funds by electronic transfer from the State Department of Education.

(3) **Effect of disbursement.** Disbursement of funds to a charter school from the charter school's sponsor shall result in the charter school having fiscal control over the funds received.

(b) **Reporting requirements.** In addition to any other requirements imposed by statute or rule, including but not limited to 70 O.S. § 5-200, Charter charter school sponsors and charter schools shall meet the following reporting requirements:

(1) **Annual statement of income and expenditures.** Every sponsor of a charter school and every charter school shall annually prepare and submit a statement of actual income and ~~expenditures~~ expenditures as follows, in accordance with Oklahoma Administrative Code 210:25-5-4:

(A) **Charter school sponsors.** No later than September 1 of each year, every sponsor of a charter school shall prepare a statement of actual income and expenditures of the sponsor for the fiscal year that ended on the preceding June 30 and transmit the income and expenditure data to the State Department of Education in accordance with the requirements of 70 O.S. § 5-135.2. At the time of submitting the statement of actual income and expenditures, and upon request at any time by the OSDE or the State Board of Education, the charter school sponsor shall submit financial records documenting any state funds retained by the sponsor for administrative services rendered for the previous year. A sponsor of a charter school shall not retain any additional State Aid allocation or charge the charter school any additional fee above the percentage provided for in the charter sponsorship contract, not to exceed three percent (3%) of the charter school's State Aid appropriation, unless the additional fees are for services rendered.

Documentation for any additional fees above three percent (3%) charged to a charter school by its sponsor shall include the parties' written agreement, itemized records detailing the additional services provided, and the actual costs of providing the services. The State Department of Education (OSDE) shall post the income and expenditure data and the administrative services data on the Department's website in a form that is accessible to the public.

(B) **Charter schools.** No later than September 1 of each year, every charter school shall prepare a statement of actual income and expenditures for the fiscal year that ended on the preceding June 30 and transmit the income and expenditure data to the ~~Department of Education~~ OSDE in accordance with the requirements of 70 O.S. § 5-135, ~~and 70 O.S. § 5-135.2, and Oklahoma Administrative Code 210:25-5-4.~~ The ~~Department of Education~~ OSDE shall post the income and expenditure data and the administrative services data on the Department's website in a form that is accessible to the public. In all financial operations and reporting, each charter school shall be separate and distinct from every other charter school, including those charter schools sponsored by the same entity.

(2) **Financial statement and estimate of needs.** No later than October 1 of each year, every charter school shall prepare and submit the following to its sponsor and the State Department of Education:

(A) A sworn financial statement showing the true fiscal condition of the charter school as of the close of the previous fiscal year ended June 30 that meets the requirements of 68 O.S. § 3002; and

(B) A written itemized statement of estimated needs and probable income from all sources for the current fiscal year that meets the requirements of 68 O.S. § 3002.

(3) **Amendments to charter school charter or sponsorship contract affecting state funding.** Within thirty (30) calendar days of the date of execution of any amendment of a charter school's charter and/or contract for sponsorship, the charter school shall notify the State Department of Education in writing of any modifications to terms of the charter/contract that could affect or potentially affect calculation and/or distribution of state funding. Examples of modifications include, but shall not be limited to amendments to the following terms:

- (A) Requirements and procedures for program and financial audits;
- (B) Grade levels served by the charter school;
- (C) School day of early childhood and kindergarten programs (e.g., half-day or full-day);
- (D) Minimum or maximum numbers of pupils served;
- (E) Participation in state employee benefit programs (e.g., OTRS); and
- (F) Provisions specifying disposition of property acquired by the charter school upon expiration or termination of a contract for sponsorship.

(4) **Required reports upon closure of a charter school.** Upon expiration or termination of contract for charter school sponsorship, or upon failure of the charter school to continue operations, the charter school sponsor shall be responsible for ensuring that the State Department of Education is provided with a final audit that complies with the annual audit requirements of the Oklahoma Public School Audit Law and accompanying regulations, and an itemized statement detailing the disposition of all charter school real and personal property. All statements required pursuant to the provisions of this paragraph shall be provided to the State Department of Education no later than ninety (90) days from the date of termination or expiration of the contract for sponsorship or the last date classes are held by the charter school, whichever occurs first. Eligibility for Charter School Closure Fund reimbursement to a sponsor for costs incurred due to the closure of a charter school shall be governed by 70 O.S. § 3-134 and Oklahoma Administrative Code 210:40-87-10.

#### **210:40-87-10. Charter School Closure Fund**

**(a) Purpose.** This Section lays out contribution requirements, and sponsor reimbursement eligibility provisions, for the Charter School Closure Fund established pursuant to 70 O.S. § 3-142.

**(b) Contributions by charter schools.** As required under the Oklahoma Charter Schools Act, every school year each charter school shall pay to the Charter School Closure Fund five dollars (\$5) per student, based on Average Daily Membership (ADM) as defined by 70 O.S. § 18-107. This payment must be submitted within thirty (30) days of the end of the first nine (9) weeks of the applicable school year. If the Charter School Closure Fund has a balance of one million dollars (\$1,000,000) or more on July 1, no payments to the fund will be required for the upcoming school year.

**(c) Eligibility for reimbursement to a sponsor from the Charter School Closure Fund.** Prior to filing claims with the Office of Management and Enterprise Services (OMES) for reimbursement of costs incurred due to the closure of a charter school under its sponsorship, a charter school sponsor must document that it has fulfilled all duties of a sponsor under the Oklahoma Charter Schools Act and associated rules. Evidence of proper execution of the duties of charter school sponsorship shall be submitted to the State Department of Education (OSDE) for verification and must include all of the following:

(1) A copy of the charter school sponsor's procedure for accepting, approving, and disapproving charter school applications in accordance with 70 O.S. § 3-134(E).

(2) As required by 70 O.S. § 3-134(K), a copy of the charter school sponsor's policies and practices consistent with recognized principles and standards for quality charter authorizing, including:

(A) Organizational capacity and infrastructure;

(B) Soliciting and evaluating charter applications;

(C) Performance contracting;

(D) Ongoing charter school oversight and evaluation; and

(E) Charter renewal decision-making.

(3) Beginning with school year 2020-2021, financial records documenting any state funds retained by the sponsor for administrative services rendered to the charter school. If the state funds retained by the sponsor exceed three percent (3%) of the charter school's State Aid for any school year after 2020-2021, this documentation must include itemized records detailing what additional services were provided by the sponsor and the actual costs of providing the additional services to the charter school.

## **RULE IMPACT STATEMENT**

**210:40-87-3. Distribution and reporting of state appropriated funds [AMENDED]**

**210:40-87-10. Charter school closure fund [NEW]**

a. **What is the purpose of the proposed rule change?**

Pursuant to House Bill 3369 (2020), the administrative rules for charter schools are being updated to reflect new legislative provisions. HB 3369 amended 70 O.S. § 3-142 to place limits on a charter school sponsor's retention of state funds allocated to the school, and to establish a charter school closure fund intended to reimburse sponsors for eligible costs associated with the closure of a charter school. The proposed new rule for the charter school closure fund created by HB 3369 provides that in order to be eligible for reimbursement of costs associated with the closure of a charter school, the school's sponsor must demonstrate that it has fulfilled all the obligations of a sponsoring entity under the Oklahoma Charter Schools Act and associated rules.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect Oklahoma charter schools and their sponsors.

c. **What classes of persons will benefit from the proposed rule change?**

The rule change will benefit charter school sponsors and their stakeholders by ensuring costs associated with the closure of a charter school may be recouped by a sponsor that has acted in accordance with the Charter Schools Act.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

Pursuant to 70 O.S. § 3-142(F), except as otherwise provided by law, "each charter school shall pay to the Charter School Closure Reimbursement Revolving Fund...an amount equal to Five Dollars (\$5.00) per student based on average daily membership...during the first nine (9) weeks of the school year. Each charter school shall complete the payment every school year within thirty (30) days after the first nine (9) weeks of the school year. If the Charter School Closure Reimbursement Revolving Fund has a balance of One Million Dollars (\$1,000,000.00) or more on July 1, no payment shall be required the following school year."

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.

- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** January 7, 2021

**STATUTORY AUTHORITY FOR 210:40-87**

House Bill 3369 (2020)

SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-142, as last amended by Section 6, Chapter 170, O.S.L. 2015 (70 O.S. Supp. 2019, Section 3-142), is amended to read as follows:

Section 3-142. A. For purposes of funding, a charter school sponsored by a board of education of a school district shall be considered a site within the school district in which the charter school is located. The student membership of the charter school shall be considered separate from the student membership of the district in which the charter school is located for the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title. For charter schools sponsored by a board of education of a school district, the sum of the separate calculations for the charter school and the school district shall be used to determine the total State Aid allocation for the district in which the charter school is located. A charter school shall receive from the sponsoring school district, the State Aid allocation and any other state-appropriated revenue generated by its students for the applicable year, less up to ~~five percent (5%)~~ three percent (3%) of the State Aid allocation, which may be retained by the school district as a fee for administrative services rendered. For charter schools sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe and for statewide virtual charter schools sponsored by the Statewide Virtual Charter School Board, the State Aid allocation for the charter school shall be distributed by the State Board of Education and not more than ~~five percent (5%)~~ three percent (3%) of the State Aid allocation may be charged by the sponsor as a fee for administrative services rendered. The State Board of Education shall determine the policy and procedure for making payments to a charter school. The fee for administrative services as authorized in this subsection shall only be assessed on the State Aid allocation amount and shall not be assessed on any other appropriated amounts. A sponsor of a charter school shall not retain any additional State Aid allocation or charge the charter school any additional fee above the amounts allowed by this subsection unless the additional fees are for additional services rendered. The charter school sponsor shall provide to the State Department of Education financial records documenting any state funds retained by the sponsor for administrative services rendered for the previous year.

B. 1. The weighted average daily membership for the first year of operation of a charter school shall be determined initially by multiplying the actual enrollment of students as of August 1 by 1.333. The charter school shall receive revenue equal to that which would be generated by the estimated weighted average daily membership calculated pursuant to this paragraph. At midyear, the allocation for the charter school shall be adjusted using the first quarter weighted average daily membership for the charter school calculated pursuant to subsection A of this section.

2. For the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title, the weighted average daily membership for the first year of operation and each year thereafter of a full-time virtual charter school shall be determined by multiplying the actual enrollment of students as of

August 1 by 1.333. The full-time virtual charter school shall receive revenue equal to that which would be generated by the estimated weighted average daily membership calculated pursuant to this paragraph. At midyear, the allocation for the full-time virtual charter school shall be adjusted using the first quarter weighted average daily membership for the virtual charter school calculated pursuant to subsection A of this section.

C. A charter school shall be eligible to receive any other aid, grants or revenues allowed to other schools. A charter school sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe shall be considered a local education agency for purposes of funding. A charter school sponsored by a board of education of a school district shall be considered a local education agency for purposes of federal funding.

D. A charter school, in addition to the money received from the state, may receive money from any other source. Any unexpended funds may be reserved and used for future purposes. The governing body of a charter school shall not levy taxes or issue bonds. If otherwise allowed by law, the governing body of a charter school may enter into private contracts for the purposes of borrowing money from lenders. If the governing body of the charter school borrows money, the charter school shall be solely responsible for repaying the debt, and the state or the sponsor shall not in any way be responsible or obligated to repay the debt.

E. Any charter school which chooses to lease property shall be eligible to receive current government lease rates.

F. Except as otherwise provided in this subsection, each charter school shall pay to the Charter School Closure Reimbursement Revolving Fund created in subsection G of this section an amount equal to Five Dollars (\$5.00) per student based on average daily membership, as defined by paragraph 2 of Section 18-107 of this title, during the first nine (9) weeks of the school year. Each charter school shall complete the payment every school year within thirty (30) days after the first nine (9) weeks of the school year. If the Charter School Closure Reimbursement Revolving Fund has a balance of One Million Dollars (\$1,000,000.00) or more on July 1, no payment shall be required the following school year.

G. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Charter School Closure Reimbursement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Education from charter schools as provided in subsection F of this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of reimbursing charter school sponsors for costs incurred due to the closure of a charter school. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. The State Department of Education may promulgate rules regarding sponsor eligibility for reimbursement.



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 15. CURRICULUM AND INSTRUCTION  
SUBCHAPTER 13. SPECIAL EDUCATION**

**210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program**

- (a) **Scholarship Requests.** The parent or legal guardian of an eligible student with disabilities who has been admitted to an approved private school may request a Lindsey Nicole Henry Scholarship from the Oklahoma State Department of Education (OSDE).
- (1) A complete Lindsey Nicole Henry Scholarship for Students with Disabilities Application and all required documentation must be submitted by postal mail, email, or fax to the State Department of Education by December 1 of the year that the scholarship is being requested for. Scholarship requests received after December 1 shall be eligible for consideration, but funding for scholarship requests received after December 1 shall not be available until the beginning of the following school year.
  - (2) Upon receipt of a Lindsey Nicole Henry Scholarship request, the State Department of Education shall notify the school district of residence.
  - (3) All recipients of the Lindsey Nicole Henry Scholarship must submit a renewal request for the scholarship each year, by submitting a current Lindsey Nicole Henry Scholarship for Students with Disabilities Application to the State Department of Education. Renewal requests should be submitted in June or July prior to the beginning of the academic year for which the scholarship renewal is requested. If the application is received after the beginning of the school year, the scholarship will be prorated according to the date the renewal request is approved. If a renewal application is not submitted by December 1, the scholarship will be terminated.
  - (4) If the required annual renewal requests and all other required documentation are submitted to the State Department of Education as provided for in this section and in 70 O.S. § 13-101.2, the scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of twenty-two (22), whichever occurs first.
  - (5) 70 O.S. § 13-101.2 provides that acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental revocation of consent under 20 U.S.C. Section 1414(a)(1)(D) and 1414(C) of the Individuals with Disabilities Education Act (IDEA). The State Department of Education will provide a form, available online from the agency website, which a parent/guardian shall complete to indicate that they understand the revocation of consent for service under IDEA. The parent/guardian shall return the completed revocation of consent form to OSDE, and a copy of the form shall be forwarded by OSDE to the school district that most recently served the student.
- (b) **Payments.** Payment of scholarship funds shall be made by the State Department of Education with an individual warrant made payable to the participating student's parent or guardian, and mailed by the Department to the private school where the student is enrolled.
- (1) Upon issuance of a Lindsey Nicole Henry Scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(2) The initial payment shall be made after the State Department of Education verifies acceptance and enrollment at the approved private school. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school.

(3) The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. Failure to comply with this subsection will result in forfeiture of the scholarship.

(c) **Private School Eligibility.** In order to be eligible to accept students on the scholarship, private schools must be accredited by the State Board of Education or another accrediting association approved by the State Board of Education, and meet all other requirements for participating private schools as listed in 70 O.S. § 13-101.2. No out of state schools are eligible to participate in the scholarship program. The State Department of Education shall maintain a list of private schools that have been determined to be eligible to participate in the Lindsey Nicole Henry scholarship program, to be posted on the State Department of Education website and updated each time a school is added to or removed from the program. Participating schools may be required to periodically provide documentation to OSDE demonstrating that they continue to meet the eligibility requirements for participation in the Lindsey Nicole Henry Scholarship Program. A participating school shall not be required to submit documentation of continued eligibility more than one (1) time per year, unless OSDE receives information that a participating school may no longer meet the program eligibility requirements, in which case documentation of continued eligibility may be requested from the school in question upon receipt of such a complaint. Scholarship requests shall only be considered when the parent of an eligible student submits documentation that the student has been admitted to a school that has been approved as of the date the scholarship request is received by the State Department of Education. ~~Schools that wish to participate in the Lindsey Nicole Henry Scholarship Program should note that the antidiscrimination provisions of 42 U.S.C. § 2000d, which a school must comply with in order to participate in the program, incorporate Executive Order 13160 (2000) and prohibit discrimination on the following bases:~~

- ~~\_\_\_\_\_ (1) Race;~~
- ~~\_\_\_\_\_ (2) Sex;~~
- ~~\_\_\_\_\_ (3) Color;~~
- ~~\_\_\_\_\_ (4) National origin;~~
- ~~\_\_\_\_\_ (5) Disability;~~
- ~~\_\_\_\_\_ (6) Religion;~~
- ~~\_\_\_\_\_ (7) Age (except as appropriate in a common education context);~~
- ~~\_\_\_\_\_ (8) Sexual orientation; and~~
- ~~\_\_\_\_\_ (9) Status as a parent.~~

(d) **Student Eligibility.** To be eligible for a Lindsey Nicole Henry Scholarship, a student must meet all of the following criteria:

- (1) Has been identified as a student with a disability, and has had an individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA);
- (2) Has an IEP in effect at the time the scholarship request is received by the State Department of Education;

(3) Has been accepted by a private school approved by the State Department of Education for participation in the Lindsey Nicole Henry scholarship program; and

(4) Falls within one of the following three categories:

(A) Has spent the prior school year in attendance at a public school in Oklahoma; or

(B) Is the child of a member of the United States Armed Forces who transfers to a school in Oklahoma from another state or from a foreign country pursuant to a permanent change of station orders; ~~or~~

(C) Has been provided services under an Individual Family Service Plan (IFSP) through the SoonerStart program, and during transition was evaluated and determined to be eligible for school district services; or,

(5) A student who was in out-of-home placement with the Department of Human Services (DHS), a student who was adopted while in the permanent custody of DHS, or a student who was in out-of-home placement with the Office of Juvenile Affairs (OJA) is eligible to apply for the Lindsey Nicole Henry Scholarship regardless of whether they have been identified as a student with disabilities or whether they have spent the prior school year in attendance at an Oklahoma public school.

(e) **Amount of Scholarship.** The maximum scholarship granted for an eligible student with disabilities shall be equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. For a participating student who is eligible under (d)(5) of this section, the maximum amount of the scholarship shall be equivalent to the total State Aid factors for the applicable school year multiplied by the grade weight and any other factors applicable to the student.

(1) The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary (MEEGS) for the student at the time the request for a scholarship is made by the parent or legal guardian.

(2) The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the Lindsey Nicole Henry Scholarship program.

(3) Within ten (10) days after receiving a scholarship request, the State Department of Education shall notify the participating private school of the amount of the scholarship, provided the total State Aid factors have been determined for the current fiscal year.

(f) **Tracking.** Lindsey Nicole Henry Scholarship students shall be tracked through the computerized record system used by the State Department of Education.

## **RULE IMPACT STATEMENT**

### **210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [AMENDED]**

a. **What is the purpose of the proposed rule change?**

The State Department of Education (OSDE) rules addressing private school eligibility to participate in the Lindsey Nicole Henry Scholarship Program are being amended to reflect the interpretation and analysis of the Oklahoma Attorney General in Opinion 2020 OK AG 13. Further, because the Opinion determined the current administrative rules at OAC 210:10-15-7(c) are invalid and because the Opinion is binding upon the state official(s) affected by it, OSDE is proposing to amend the administrative rules consistent therewith.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect Oklahoma students and private schools in their participation in the Lindsey Nicole Henry Scholarship for Students with Disabilities Program.

c. **What classes of persons will benefit from the proposed rule change?**

The agency is proposing the amendments to the rule as a result of Attorney General Opinion 2020-13 and it is not known what classes of persons will benefit from the proposed rule change.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any cost to political subdivisions as a result of the amendment.

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

The agency does not anticipate a cost to implement and enforce the proposed rule change.

f. **What is the economic impact on any political subdivision to implement the proposed rule change?**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** January 7, 2021

**STATUTORY AUTHORITY FOR 210:15-13-7**

- A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities Program is established to provide a scholarship to a private school of choice for students with disabilities for whom an individualized education program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) or an individualized service plan pursuant to [Section 1-4-704 of Title 10A](#) of the Oklahoma Statutes has been developed at any time prior to notifying the State Department of Education of the intent to participate in the Program and the IEP is in effect at the time the request for a scholarship is received by the State Department of Education. Scholarships shall be awarded beginning with the 2010-2011 school year.
- B. The parent or legal guardian of a public school student with a disability may exercise their parental option and request to have a Lindsey Nicole Henry Scholarship awarded for the child to enroll in and attend a private school in accordance with this section and the scholarship shall be awarded if:
1. The student has spent the prior school year in attendance at a public school in this state. For purposes of this section, "prior school year in attendance" means that the student was enrolled in and reported by a school district for funding purposes during the preceding school year regardless of whether or not the student had an IEP at the time the student was counted for funding purposes. A student who is a child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a permanent change of station orders of the parent shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section. A student who has been provided services under an Individual Family Service Plan through the SoonerStart program and during transition was evaluated and determined to be eligible for school district services shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section. A student who was in out-of-home placement with the Department of Human Services, who was adopted while in the permanent custody of the Department of Human Services or who was in out-of-home placement with the Office of Juvenile Affairs shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section; and
  2. The parent or legal guardian has obtained acceptance for admission of the student to a private school that is eligible for the program as provided in subsection H of this section and has notified the State Department of Education of the request for a scholarship. Requests to participate in the program made after December 1 shall be granted, but funding for scholarships requested after December 1 shall not be available until the beginning of the next school year. The request shall be through a communication directly to the Department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department shall notify the school district upon receipt of the request. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school, graduates from high school or reaches the age of twenty-two (22), whichever occurs first. At any time, the parent or legal guardian of the student may remove the student from the private school and

place the student in another private school that is eligible for the program as provided in subsection H of this section or place the student in a public school.

- C. A student shall be eligible for a scholarship if the parent or legal guardian of the student made a request for a scholarship for the 2010-2011 school year and the student transferred to an eligible private school but was subsequently denied a scholarship because the student did not have an IEP in effect on October 1, 2009, but did meet all other eligibility requirements as set forth in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act.
- D. A student shall not be eligible for a Lindsey Nicole Henry Scholarship if the student is not having regular and direct contact with the private school teachers at the physical location of the private school.
- E. School districts shall notify the parent or legal guardian of a public school student with a disability of all options available pursuant to this section and inform the parent or legal guardian of the availability of information about the program from the State Department of Education through the toll-free telephone number or website. The notification shall be provided with or included in the copy of the "Parents Rights in Special Education: Notice of Procedural Safeguards" document given to parents at least annually or as otherwise required by law.
- F.
  1. Acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental revocation of consent to service pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the IDEA.
  2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the parent or legal guardian shall assume full financial responsibility for the education of the student, including but not limited to transportation to and from the private school.
- G. If the parent or legal guardian requests a Lindsey Nicole Henry Scholarship and the student is accepted by the private school pending the availability of a space for the student, the parent or legal guardian of the student shall notify the State Department of Education before entering the private school and before December 1 in order to be eligible for the scholarship during the school year when a space becomes available for the student in the private school. If notification is made after December 1, payment of the scholarship shall not begin until the next school year.
- H.
  1. To be eligible to participate in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program, a private school shall notify the State Department of Education of its intent to participate. The notice shall specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. The State Department of Education shall approve a private school as eligible to participate in the scholarship program upon determination that the private school:
    - a. meets the accreditation requirements set by the State Board of Education or another accrediting association approved by the State Board of Education. The State Department of Education shall list on its website all accrediting associations approved by the Board,
    - b. demonstrates fiscal soundness by having been in operation for one (1) school year or providing the State Department of Education with a statement by a certified public

accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year by serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department,

- c. complies with the antidiscrimination provisions of 42 U.S.C., Section 2000d,
  - d. meets state and local health and safety laws and codes,
  - e. will be academically accountable to the parent or legal guardian for meeting the educational needs of the student,
  - f. employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught,
  - g. complies with all state laws relating to general regulation of private schools, and
  - h. adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.
2. Upon approval of a private school, the State Department of Education shall provide on its website all information and material submitted by the private school with its application.
- I. 1. Lindsey Nicole Henry Scholarship Program participants shall comply with the following:
    - a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection H of this section and apply for the admission of the child,
    - b. the parent or legal guardian shall request the scholarship no later than December 1 of the school year during which the scholarship is requested,
    - c. any student participating in the scholarship program shall attend throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school,
    - d. the parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause, and
    - e. upon issuance of a scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. A parent or legal guardian who fails to comply with this subparagraph shall forfeit the scholarship.
  2. A participant who fails to comply with this subsection forfeits the scholarship.



J. Provisions governing payment of a Lindsey Nicole Henry Scholarship shall be as follows:

1. The State Department of Education shall calculate the total cost of all scholarships for all eligible students in the state. The State Department of Education shall then reserve or retain from the total amount appropriated to the State Board of Education for State Aid purposes and any other revenue available for allocation for State Aid purposes the total cost for all scholarship payments;
2. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary for the student at the time the request for a scholarship is made by the parent or legal guardian. The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the scholarship program;
3. The amount of the scholarship shall be the amount calculated in paragraph 2 of this subsection or the amount of tuition and fees for the private school, whichever is less, minus up to two and one-half percent (2 1/2%) of the scholarship amount which may be retained by the State Department of Education as a fee for administrative services rendered. The amount of any assessment fee required by the private school and the amount associated with providing services and therapies to address the disabilities of the student may be paid from the total amount of the scholarship. The amount of the scholarship shall be prorated to reflect the number of days remaining in the current school year, if the scholarship request is granted after the beginning of the school year;
4. The State Department of Education shall notify the private school of the amount of the scholarship within ten (10) days after receiving the request for a scholarship, when the total State Aid factors have been determined for the current fiscal year. The initial payment shall be made after the Department verifies admission acceptance and enrollment. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school. Payment shall be made by the Department with an individual warrant made payable to the parent or legal guardian of the student and mailed by the Department to the private school that the parent or legal guardian chooses. The parent or legal guardian shall restrictively endorse the warrant to the private school for deposit into the account of the private school;
5. The State Department of Education shall not be responsible for any additional costs associated with special education and related services incurred by the private school for the student including the cost of teachers, equipment, material, and special costs associated with the special education class;
6. The State Department of Education shall establish a toll-free telephone number or website that provides parents or legal guardians and private schools with information about the program;
7. The State Department of Education shall require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall

retain all records received from a participating private school. The State Department of Education shall post on its website the annual compliance statement for each participating private school; and

8. The State Department of Education shall cross-check the list of participating scholarship students with the public school enrollments prior to each scholarship payment to avoid duplication.
- K.
1. The State Superintendent of Public Instruction shall deny, suspend, or revoke the participation of a private school in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the Superintendent may issue a notice of noncompliance which shall provide the private school with a time frame within which to provide evidence of compliance prior to taking action to suspend or revoke participation in the scholarship program.
  2. If the Superintendent intends to deny, suspend, or revoke the participation of a private school in the scholarship program, the Department shall notify the private school of the proposed action in writing by certified mail and regular mail to the private school's address of record with the Department. The Department shall also notify any parents or legal guardians of scholarship students attending the private school. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this subsection.
  3. The private school that is adversely affected by the proposed action shall have fifteen (15) days from receipt of the notice of proposed action to file with the Department a request for an administrative hearing proceeding pursuant to the Administrative Procedures Act.
  4. Upon receipt of a request for a hearing, the State Board of Education shall commence a hearing within sixty (60) days after the receipt of the formal written request and enter an order within thirty (30) days after the hearing.
  5. The Board may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is an imminent threat to the health, safety, or welfare of the students or fraudulent activity on the part of the private school.
- L. No liability shall arise on the part of the state, the State Board of Education, the State Department of Education or a school district based on the award or use of any scholarship provided through the Lindsey Nicole Henry Scholarships for Students with Disabilities Program.
- M. The inclusion of private schools within options available to public school students in Oklahoma shall not expand the regulatory authority of the state or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements expressly set forth in this section.
- N. If the State Department of Education determines that a school district prior to the effective date of this act has failed to comply with the provisions of the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act and has failed to make full or partial scholarship payments for eligible students, the Department shall have authority to reduce the amount of

State Aid allocated to the school district or require the school district to make repayment to the Department of State Aid allocations in an amount equal to the amount of scholarship payments the school district failed to make. The Department shall make payment to the parent or legal guardian in the amount the school district failed to make in the manner as provided for in subsection J of this section.

- O. The State Department of Education shall annually prepare and post on its website a report of Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The annual report shall include, but not be limited to, the following information:
1. The total number and amount of scholarships awarded and reported for each participating private school;
  2. The total number of scholarships denied;
  3. The total number and amount of scholarship payments suspended for each participating private school; and
  4. Data on participating students, disaggregated by years of participation in the program, grade level, economically disadvantaged status, racial and ethnic groups and disability category.