



LEAH VUKMIR

STATE SENATOR

Assembly Bill 751

ASSEMBLY COMMITTEE *on* EDUCATION

Thursday, Jan. 28, 2016

Chairman Thiesfeldt, committee members, thank you for taking the time to hear my testimony on Assembly Bill 751.

In the 2015-17 biennial budget, the legislature created Wisconsin's special needs scholarship program. This program gives more options to families with children who have special needs so they can find a school that will best provide for the varied needs their kids have. I've worked with Rep. Jagler on this issue for many years, and we are both very proud to have this program come to life next school year.

However, before the special needs scholarship program begins, there are a few tweaks that need to be made to the program so the Department of Public Instruction can implement it as we originally intended. Many of the changes to the bill were inspired by concerns that the department had, and a few came from some advocates and families who have supported special needs vouchers for a long time.

Most of Assembly Bill 751 is technical. Among other changes, this bill cleans up the accrediting agencies so all of the choice programs are consistent, and it clarifies the requirement that students receiving this voucher must have a current and up-to-date individualized education plan that is in effect and renewed every three years. This bill eliminates the random selection of applicants and replaces it with a first-come, first-served system that will allow students to transfer into this program at any time of the school year. This way families who need to find a remedy for their child's schooling won't have to wait until an open enrollment period.

The bill also adds the bad actor provision, which is in other voucher programs, into this program, allowing the state superintendent to withhold payment of a voucher when schools aren't in compliance with the provisions of the special needs scholarship program.

But to me, the most important part of this bill is that it fixes the lookback provision that allows families who left public schools and found another school for their children in the last five years to apply for the new program. I have constituents who have been advocating for the special needs scholarship for years who would currently be ineligible for this program due to this drafting error. Under this bill, the five-year lookback would work as originally intended.

Thank you again for taking the time to hear my testimony. Please reach out to me if you have any questions, and I encourage you to support Assembly Bill 751.

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**Assembly Committee on Education
January 28, 2016**

**Department of Public Instruction Testimony
Assembly Bill 751**

I want to thank Chairman Thiesfeldt and members of the committee for the opportunity to testify before you today on Assembly Bill 751 (AB 751). My name is Jennifer Kammerud, Policy Advisor for the Department of Public Instruction (DPI) and with me today is Tricia Collins, Director of the School Management Services Team.

2015 Act 55 created a new Special Needs Scholarship program beginning in the 2016-17 school year. Under this program, a child for whom an Individualized Education Program (IEP) is in place is allowed to receive a scholarship in the amount of \$12,000 to attend a participating private school of their choice, provided the child had previously been denied enrollment in a non-resident district via the state's public school open enrollment program. There is no income eligibility test for the scholarship, nor are there limits on the number of eligible children that may receive a scholarship.

As the department began its work to implement this new program there were some provisions that presented challenges to implementation. We appreciated the opportunity to work with Representative Jagler and Senator Vukmir on these specific provisions. Specifically, we requested the following changes that are reflected in the bill.

- *Under s. 115.7915(2)(d)*, the law refers to an individualized education program or services plan having “been completed” for the child. The term “been completed” means the IEP has ended and is a reference to prior IEP’s or service plans. AB 715 amends this language to ensure an IEP “is in effect.”
- *Under s. 115.7915(2)(e)*, the law refers to a child having “attended” a public school. The word “attended” has a different meaning than enrolled. Using the term “attended” could have unintended consequences, for example, prohibiting a child from receiving a scholarship if that child had been truant or had missed school, even on an excused absence. AB 715 changes the reference from “attended” to “enrolled.”
- *Under s. 115.7915(2)(f)*, the law refers to a child, or the child’s parent on behalf of the child, submitting an application for a scholarship. This language would seem to allow a child to submit an application without parent or guardian permission. AB 715 adjusts the language so only parents, guardians, emancipated minors or students over the age of 18 can apply.

- *Under s. 115.7915(5)(c)*, the law requires the resident school board of a child receiving a scholarship to ensure that the child's IEP team reevaluates the child. A school board cannot compel a parent to submit to a reevaluation for a student who is not enrolled in a school in the school district. AB 715 would instead accomplish a required reevaluation by creating a new eligibility requirement. Under this requirement the parent would need to consent to a reevaluation of their child by the resident school district's IEP team once every three years in order to receive a scholarship. The three year provision is consistent with reevaluation requirements for public school students who have an IEP in effect.
- *Under s. 115.7915 (2)(f) and s. 115.7915(3)(b)*, the law required both an ongoing enrollment process and a random selection process respectively. It is not possible to run both processes at the same time. DPI recommended choosing one method or the other. AB 715 reflects an ongoing enrollment process.
- *Under s. 115.7915(4)(b)*, the law requires DPI to notify the child's resident school board that the child has been awarded a scholarship upon notification under s. 115.9715(3)(c), which refers to the private school's notice to DPI that it has accepted a child's application to attend with a scholarship. This provision would have required DPI to award a scholarship to a child prior to verifying the child's eligibility. AB 715 inserts language that explicitly states "pending verification that all eligibility requirements are met."
- *Under s. 115.7915(4m)(e)*, the law states that if, upon reevaluation of a child, the IEP team "unanimously determines" that a child receiving a scholarship is no longer a child with a disability, then the child is no longer eligible to receive the scholarship beginning in the school term following the determination. It is against federal law to require an IEP team to make unanimous determinations. AB 715 removes the word unanimously from this section and additionally requires the parent to be notified of their dispute resolution rights under federal law.
- *Under s. 115.7915(6)(h)2.*, the law requires a participating private school to provide a record of the implementation of the child's IEP or services plan, including an evaluation of the child's progress, to the school board of the school district in which the child resides in the form and manner prescribed by DPI. AB 715 instead requires the private school to provide records within five days.

Thank you again for the opportunity to testify. The department believes the changes described above will improve the technical administration of the program. At this time we would be happy to answer any questions you may have.

Testimony on AB 751: Special Needs Scholarship Program
Sally Flaschberger, Lead Special Education Advocate

Good Morning. Thank you for allowing DRW to testify this morning on the changes to the Special Needs Scholarship Program proposed in AB 751. Disability Rights Wisconsin is Wisconsin's Protection and Advocacy agency for people with disabilities. A major focus of our work both individually and systemically across the state focuses on special education and the rights of students with disabilities. I appreciate the opportunity to testify today and offer some simple suggestions for changes to the bill that will provide greater parent notification of progress relating to the delivery of special education services under the special needs scholarship program.

Disability Rights Wisconsin has long understood the concerns raised by the parents who are struggling with their current school districts and their desire to find an alternative for their child. We work closely with many of these parents to find solutions that hold school districts accountable to educate students with disabilities. In the vast majority of cases, we are able to assist these families to come to a resolution between the parent and the school district. But some families are unable to reach agreement and continue to look for other options. This program will give those families new options.

DRW is pleased to see the following included in the current bill:

- The requirement of that private school will need to follow all health and safety practices including those under Wisconsin ACT 125 for the use of seclusion and restraint.
- The requirement that a child will be re-evaluated every three years to continue to be determined eligible as a student with a disability to receive the enhanced special needs scholarship payment and remain in the program.
- The ability for families to choose this option throughout the school year and not just at one specific enrollment period.

DRW knows that families of students with disabilities look for consistent, accurate information about their child's progress in school and want to know that quality special education and other related services that they have agreed to are being provided. This fact is no different for a parent attending a public or a private school.

There is one change made in AB 751 that likely was meant to be a technical fix, but actually reduces the amount of information available about a child's programming. We are asking for a simple change to the bill that can help parents.

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Specifically, the bill eliminates a required report that would automatically provide a record of the implementation of a child's individualized education program or services plan and include an evaluation of the child's progress, to the school board of the school district in which the child resides. DPI has already created a form for this purpose in preparation for the administration of this program. The bill makes this reporting to a school board optional and we suspect it will not be requested by a school board very frequently. However, this report would contain valuable and more specific information for a parent.

Therefore, we suggest the language from the school board reporting requirement not be deleted but shifted instead to the parent reporting requirement, using the form already prepared for this purpose by DPI. The current statutory language requires the private school to regularly report to the parents on the child's progress but it does not provide the same level of guidance and a format for this reporting as was included in the required school board report.

We offer suggested amended language in our written testimony:

115.7915(6)(i) (i) Regularly report to the parent of a child attending the private school and receiving a scholarship under this section a record of the implementation of the child's individualized education program or services plan under subd. 1., including an evaluation of the child's progress, in the form and manner prescribed by the department ~~on the child's progress~~

Thank you for considering the addition of this amended language.



AMERICAN FEDERATION
for Children

January 28, 2016

Rep. Jeremy Thiesfeldt
Room 16 West, State Capitol
Madison, WI 53708

Dear Chairman Thiesfeldt and Committee Members,

Over the course of the last several years, this committee and others have heard from a number of families whose special need students have been discriminated against by public school districts in the open enrollment program.

As part of the last budget, Senator Vukmir worked with Representative Jagler to give these families another educational option. Their budget motion was designed to give another educational choice to families facing this sort of discrimination in the future and to those families who have been denied open enrollment in the last five years. Unfortunately, when the motion was turned into statutory language, a mistake made many of these previous families ineligible – including some of the very families who came to the State Capitol again and again seeking another educational option.

Assembly Bill 751 corrects this mistake and gives these families the chance to get a Special Needs Scholarship. In addition, the legislation makes a number of clarifications and improvements that make the new Special Needs Scholarship Program easier for families to participate and simpler for the Department of Public Instruction to implement.

We would like to thank Senator Vukmir, Representative Jagler and the Department of Public Instruction for working together to make these corrections and improvements before families start applying for this new program. We encourage the members of this Committee and the Legislature to swiftly adopt these changes as the application period is nearing. Thank you.

Sincerely,

Scott R. Jensen
Senior Advisor
American Federation for Children