
A BILL FOR AN ACT

RELATING TO SCHOOL CHOICE SCHOLARSHIP PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature believes that parents are best
2 equipped to make decisions for their children, including the
3 educational setting that will best serve their children's
4 interests and educational needs. Furthermore, it is in the
5 public interest that all students of this State receive a
6 competent education in order to reach their potential and become
7 productive members of society. For many families in the State,
8 available educational choices are inadequate, and more
9 educational options are needed. In particular, funds are needed
10 to assist low-income parents to exercise choice among enhanced
11 educational environments.

12 While some public schools are performing at a satisfactory
13 level, many public schools in this State are performing
14 significantly below relevant national standards, which is
15 causing many students to exit the primary and secondary
16 educational system without the basic skills and knowledge that



1 will enable them to find and hold a job or otherwise become
2 functioning and productive residents of the State.

3 There are many nonpublic schools in Hawaii that are
4 educating students in an effective and efficient manner,
5 however, these educational options are unavailable to many
6 residents due to the cost of enrollment. Yet, students at these
7 nonpublic schools are receiving a quality of education that is
8 at or above the relevant national standards. This quality of
9 education should be accessible to all primary and secondary
10 students in the State. Additionally, these nonpublic schools
11 should enjoy a cooperative relationship with the public school
12 system and employees of the State.

13 This legislature acknowledges that a program enacted for
14 the valid secular purpose of providing educational assistance to
15 low-income children in a demonstrably failing public school
16 system is constitutional under *Zelman v. Simmons-Harris*, 536
17 U.S. 639 (2002), if it is neutral with respect to religion and
18 provides assistance to a broad class of citizens who direct
19 government aid to religious and secular schools solely as a
20 result of their genuine and independent private choices.



1 The purpose of this Act is to offer families an educational
2 choice through the provision of funds for nonpublic school
3 tuition and fees. This program will assist students in their
4 endeavors to become well-educated and productive members of
5 society. The provisions of this Act are in the public interest,
6 for the public benefit, and serve a secular public purpose.

7 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
8 amended by adding a new part to be appropriately designated and
9 to read as follows:

10 **"PART .SCHOOL CHOICE SCHOLARSHIP**

11 **§302A-A Definitions.** For the purposes of this section:

12 "Board" means the board of education.

13 "Department" means the department of education.

14 "Elementary school" means an institutional day or
15 residential school, including a public elementary charter
16 school, or private school, of secular or non-secular nature,
17 that provides elementary education, including kindergarten, as
18 determined under State law.

19 "Eligible entity" or "entity" means any of the following:

20 (A) An educational entity of the State.



1 (B) A nonprofit organization.

2 (C) A consortium of nonprofit organizations.

3 "Eligible student" means a student who:

4 (A) is a resident of the State; and

5 (B) comes from a household whose income does not
6 exceed an amount that is four times the federal
7 poverty line.

8 "Grantee" means an eligible entity that receives a grant.

9 "Parent" means biological or adoptive mother or father, or
10 a legal guardian or other person standing in loco parentis, such
11 as a grandparent or stepparent with whom the child lives, or a
12 person who is legally responsible for the child's welfare.

13 "Poverty line" means the poverty line as defined by the
14 U.S. Office of Management and Budget, and revised annually in
15 accordance with 42 U.S.C. § 9902(2).

16 "Secondary school" means an institutional day or
17 residential school, including a public secondary charter school
18 or private school, of secular or non-secular nature, as
19 determined under State law, except that the term does not
20 include any education beyond grade twelve.



1 **§302A-B General authority.** (a) Funds shall be
2 appropriated to the department to carry out this part. From
3 those funds, the board shall award grants on a competitive basis
4 to eligible entities with approved applications under section
5 302A-C to carry out activities to provide eligible students with
6 expanded school choice opportunities. The board may award a
7 single grant or multiple grants, depending on the quality of
8 applications submitted and the priorities of this part.

9 (b) The board may make grants under this section for a
10 period of not more than 5 years.

11 (c) The board and the governor shall enter into a
12 memorandum of understanding regarding the design of, selection
13 of eligible entities to receive grants under, and implementation
14 of, a program assisted under this part.

15 **§302A-C Applications.** (a) In order to receive a grant
16 under this part, an eligible entity shall submit an application
17 for grant to the board at such time, in such manner, and
18 accompanied by such information as the board may require.



(b) The board may not approve the request of an eligible entity for a grant under this part unless the entity's application includes a detailed description of following:

(1) How the entity will address the priorities described in section 302A-D;

(2) How the entity will ensure that if more eligible students seek admission in the program than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 302A-D;

(3) How the entity will notify parents of eligible students of the expanded choice opportunities and how the entity will ensure that parents receive sufficient information about their options to allow the parents to make informed decisions;

(4) The activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 302A-E(a);



(5) How the entity will determine the amount that will be provided to parents for the tuition, fees, and transportation expenses, if any;

(6) How the entity will seek out private elementary schools and secondary schools in the State to participate in the program, and ensure that participating schools meet the applicable requirements of this part, including those related to the admission of participating eligible students, and provide the information needed for the entity to meet the reporting requirements of this part;

(7) How the entity will ensure that participating schools are financially responsible and will use the funds received under this part effectively;

(8) How the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

(9) An assurance that the entity will comply with all requests regarding any evaluation carried out under section 302A-G.



1 **§302A-D Priorities.** In awarding grants under this part,
2 the board shall give priority to applications from eligible
3 entities that will most effectively:

4 (1) Give priority to eligible students who, in the school
5 year preceding the school year for which the eligible
6 student is seeking a scholarship, attended an
7 elementary school or secondary school identified for
8 improvement, corrective action, or restructuring under
9 section 1116 of the Elementary and Secondary Education
10 Act of 1965 (20 U.S.C. § 6316);

11 (2) Target resources to students and families that lack
12 the financial resources to take advantage of available
13 educational options; and

14 (3) Provide students and families with the widest range of
15 educational options.

16 **§302A-E Use of funds.** (a) Subject to subsections (b) and
17 (c), a grantee shall use the grant funds to provide eligible
18 students with scholarships to pay the tuition, fees, and
19 transportation expenses, if any, to enable them to attend the
20 nonpublic elementary school or secondary school of their choice.



1 Each grantee shall ensure that the amount of any tuition or fees
2 charged by a school participating in the grantee's program under
3 this part to an eligible student participating in the program
4 does not exceed the amount of tuition or fees that the school
5 customarily charges to students who do not participate in the
6 program.

7 (b) A grantee shall make scholarship payments under this
8 part to the parent of the eligible student participating in the
9 program, in a manner which ensures that such payments will be
10 used for the payment of tuition, fees, and transportation
11 expenses (if any), in accordance with this part.

12 (c) The amount of assistance shall be as follows:

13 (1) Subject to the other requirements of this section, a
14 grantee may award scholarships in larger amounts to
15 those eligible students with the greatest need.

16 (2) The amount of assistance provided to any eligible
17 student by a grantee under this part may not exceed
18 the per student calculation, based upon the weighted
19 student formula set forth in section 302A-1303.6, for
20 any academic year.



(d) A grantee may use not more than three percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this part during the year, including:

(1) Determining the eligibility of students to participate;

(2) Providing information about the program and the schools involved to parents of eligible students;

(3) Selecting students to receive scholarships;

(4) Determining the amount of scholarships and issuing the scholarships to eligible students;

(5) Compiling and maintaining financial and programmatic records; and

(6) Providing funds to assist parents in meeting expenses that might otherwise preclude the participation of their child in the program.

§302A-F Nondiscrimination. (a) An eligible entity or a school participating in any program under this part shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.



1 (b) Notwithstanding any other provision of law, the
2 prohibition of sex discrimination in subsection (a) shall not
3 apply to a participating school that is operated by, supervised
4 by, controlled by, or connected to a religious organization to
5 the extent that the application of subsection (a) is
6 inconsistent with the religious tenets of the school.

7 (c) Notwithstanding subsection (a) or any other provision
8 of law, a parent may choose and a school may offer a single sex
9 school, class, or activity.

10 (d) Notwithstanding any other provision of law, a school
11 participating in any program under this part that is operated
12 by, supervised by, controlled by, or connected to, a religious
13 organization may exercise its discretion in matters of
14 employment consistent with title VII of the Civil Rights Act of
15 1964, 42 U.S.C. 2000e-1 et seq., including the exemptions in
16 such title.

17 (e) Notwithstanding any other provision of law, funds made
18 available under this part to eligible students that are received
19 by a participating school, as a result of their parents' choice,
20 shall not, consistent with the first amendment of the United



1 States Constitution, necessitate any change in the participating
2 school's teaching mission, require any participating school to
3 remove religious art, icons, scriptures, or other symbols, or
4 preclude any participating school from retaining religious terms
5 in its name, selecting its board members on a religious basis,
6 or including religious references in its mission statements and
7 other chartering or governing documents.

8 (f) A scholarship, or any other form of support provided
9 to parents of eligible students, under this part shall be
10 considered assistance to the student and shall not be considered
11 assistance to the school that enrolls the eligible student. The
12 amount of any scholarship, or other form of support provided to
13 parents of an eligible student, under this part shall not be
14 treated as income of the parents for purposes of State tax laws
15 or for determining eligibility for any other State program.

16 **§302A-G Evaluations.** (a) The board, directly or by
17 grant, contract, or cooperative agreement, shall:

18 (1) Conduct an evaluation using the strongest possible
19 research design for determining the effectiveness of



the programs funded under this part that addresses the issues described in subsection (b); and

(2) Disseminate information on the impact of the programs in increasing the student academic achievement of participating students, as well as other appropriate measures of student success, and on the impact of the programs on students and schools in the State.

(b) The issues set forth in subsection (a) shall include the following:

(1) A comparison of the academic achievement of students who participate in the programs funded under this part with the academic achievement of students of similar backgrounds who do not participate in such programs, including a consideration of school factors that may contribute to any differences in their academic achievement;

(2) The success of the programs in expanding choice options for parents;

(3) The reasons parents choose for their children to participate in the programs;



(4) A comparison of the retention rates, dropout rates, and, if appropriate, graduation and college admission rates of students who participate in the programs funded under this part with the retention rates, dropout rates, and, if appropriate, graduation and college admission rates of students of similar backgrounds who do not participate in such programs.

(5) The impact of the program on public elementary schools and secondary schools in the State.

(6) A comparison of the safety of the schools attended by students who participate in the programs and the schools attended by students who do not participate in the programs.

(7) Such other issues as the board considers appropriate for inclusion in the evaluation.

(c) The board shall submit the following to the legislature:

(1) Annual interim reports not later than December 1 of each year for which a grant is made under this part on



1 the progress and preliminary results of the evaluation
2 of the programs funded under this part; and

3 (2) A final report not later than one year after the final
4 year for which a grant is made under this part on the
5 results of the evaluation of the programs funded under
6 this part.

7 (d) All reports and underlying data gathered pursuant to
8 this section shall be made available to the public upon request,
9 in a timely manner following submission of the applicable report
10 under subsection (c), except that personally identifiable
11 information shall not be disclosed or made available to the
12 public.

13 (e) The amount expended by the board to carry out this
14 section for any fiscal year may not exceed three percent of the
15 total amount appropriated to carry out this part for the year.

16 **§302A-H Reporting requirements.** (a) Each grantee
17 receiving funds under this part during a year shall submit a
18 report to the board not later than July 30 of the following year
19 regarding the activities carried out with the funds during the
20 preceding year.



(b) In addition to the reports required under subsection (a), each grantee shall, not later than September 1 of the year during which the second academic year of the grantee's program is completed and each of the next two years thereafter, submit a report to the board regarding the data collected in the previous two academic years concerning:

(1) The academic achievement of students participating in the program;

(2) The graduation and college admission rates of students who participate in the program, where appropriate; and

(3) Parental satisfaction with the program.

No report under this subsection may contain any personally identifiable information.

(c) Each grantee shall ensure that each school participating in the grantee's program under this part during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on the following matters:

(1) The student's academic achievement, as measured by a comparison with the aggregate academic achievement of



1 other participating students at the student's school
2 in the same grade or level, as appropriate, and the
3 aggregate academic achievement of the student's peers
4 at the student's school in the same grade or level, as
5 appropriate; and

6 (2) The safety of the school, including the incidence of
7 school violence, student suspensions, and student
8 expulsions.

9 No report under this subsection may contain any personally
10 identifiable information, except as to the student who is the
11 subject of the report to that student's parent.

12 (d) The board shall submit to the legislature an annual
13 report on the findings of the reports submitted under this
14 section.

15 **§302A-I Other requirements for participating schools. (a)**

16 Each school participating in a program funded under this part
17 shall comply with all requests for data and information
18 regarding evaluations conducted under section §302A-G.



(b) A participating school may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

(c) Each participating school shall:

(1) Ensure that participating eligible students receive comparable academic assessments in the same grade levels as those provided to State public school students, and ensure, to the maximum extent possible, that the assessment results are capable of being compared to determine the relative achievement levels between participating eligible students and State public school students in the same grades; and

(2) Ensure academic assessment results containing any personally identifiable information shall be disclosed only to the parents of the student taking the assessment."

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:



JAN 25 2022



H.B. NO. 2326

Report Title:

Relating to school choice scholarship program

Description:

Provides students access to nonpublic schools through school choice scholarship program, which provides grants to eligible entities to allocate funds to eligible students for enrollment in nonpublic schools based upon financial need.

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