

SA2004RF0012

STANLEY LEE HARPER
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February 12, 2004

Via Hand Delivery

The Honorable Bill Lockyer
Attorney General of the State of California
c/o Tricia Knight, Initiative Coordinator
1300 I Street
Sacramento, California 95814

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FEB 13 2004
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE
SA 2004RF0012

Re: Request for Title and Summary - California Scholarship Opportunity Act
Initiative Constitutional Amendment

Dear Attorney General Lockyer:

I am the proponent of a proposed measure entitled the "California Scholarship Opportunity Act," a copy of which is attached hereto. Pursuant to Article II, Section 10(d) of the California Constitution and California Elections Code Section 9002, I request that a title and summary be prepared for the attached proposed measure. Enclosed is a check for \$200.

I am a registered voter in the State of California. My address as registered to vote is set forth on an attachment page. I request that this address be used to verify my status as a registered voter, but otherwise to be kept confidential pursuant to your policy. I have signed and attached to this letter the Declaration required by Elections Code Section 9608. You are hereby authorized to direct all inquiries and correspondence relative to this proposed measure to our attorney as follows:

Dana W. Reed, Esq.
Reed & Davidson, LLP
520 South Grand Avenue, Suite 700
Los Angeles, California 90071-2665
Telephone: (213) 624-6200
Facsimile: (213) 623-1692
E-mail: Danareed@politicallaw.com

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Attorney General of the State of California
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Thank you for your assistance in this matter.

Sincerely,

~~Stanley Lee~~ Harper
Proponent
Telephone: (661) 391-5627

Enclosures

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Stanley Lee Harper, acknowledge that it is a misdemeanor under state law (California Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

STANLEY LEE HARPER

Dated this ___ day of February, 2004

RECEIVED
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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Text of Proposed Law

CALIFORNIA SCHOLARSHIP OPPORTUNITY ACT

CONSTITUTIONAL AMENDMENT

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative expressly amends the Constitution by adding a section thereto. New provisions proposed to be added are printed in *italic type* to indicate they are new.

SECTION 1. Title. This measure shall be known and may be cited as the "California Scholarship Opportunity Act."

SECTION 2. Findings and declarations. The people find and declare as follows:

(a) Meeting the educational needs of children attending any public school that is identified as an underperforming school is of great importance to the future welfare of California.

(b) The state's school and district accountability system must be supported and expanded, especially as it relates to opportunities for students to transfer from schools that are failing to properly educate such students to schools that can provide a better education for the students.

(c) Scholarship opportunities should be made available in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school when the parent chooses to apply the equivalent of the public education funds generated by the parent's child to the cost of tuition in the eligible private school.

(d) The scholarship program provided pursuant to this measure is a grant of aid to parents for the education of their children. The decision by a parent to accept a scholarship and how it is used is not the decision of the state, but an exercise of independent parental judgment.

(e) Education is a paramount responsibility of the state.

(f) The economic and social viability of California depends on a well educated citizenry.

(g) The state is responsible for providing a uniform, safe, secure, efficient, and high-quality system that allows the opportunity for children to obtain a high-quality education.

(h) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children.

(i) Providing a broader range of educational options to parents and utilizing existing resources and educational structures may help children improve their academic achievement.

(j) Citizens of the state need to be assured that their taxpayer dollars are being invested in schools that are performing well and are providing the children of this state with high-quality educational opportunities that allow each child to develop to his or her potential.

(k) A child should not be compelled, against the wishes of the child's parent, to remain in a public school determined to be an underperforming school.

(l) The scholarship program provided pursuant to this measure is not intended to establish, support, promote, or in any way endorse any religion. The people intend only to provide the parents of schoolchildren with the financial means to make their own school choices, not to promote or disadvantage any particular class of schools.

SECTION 3. Addition of Section 17 to Article IX of Constitution.
Section 17 is hereby added to Article IX of the Constitution to read in its entirety as follows:

Section 17. (a) A Scholarship Opportunity Program is established in the state.

(b) Commencing with the fiscal year following the effective date of this section, the parents of school age children who are starting kindergarten or who were enrolled for the previous school year in any of the grades kindergarten through 11, inclusive, in a public school that constitutes an underperforming school shall receive, upon request, a scholarship opportunity for purposes of providing the parents with additional choices in the type of

educational setting in which to enroll their children. For the purposes of this section, an “underperforming school” shall mean a school that scores below the fiftieth percentile on the standardized achievement tests administered pursuant to the provisions of the Public Schools Accountability Act (Section 52050 and following of the Education Code) or its designated successor.

(c) The State Department of Education shall administer and provide for implementation of the Scholarship Opportunity Program pursuant to rules and regulations developed and adopted by the State Board of Education upon consultation with the Superintendent of Public Instruction. Such rules and regulations shall, without limitation, include the following procedures and guidelines:

(1) A parent of an eligible student who chooses to enroll the student in an eligible nonpublic school may apply for and receive a scholarship for the costs of the educational services offered by the school redeemable by the school from the department.

(2) The value of each scholarship issued pursuant to the Scholarship Opportunity Program shall be determined by the department, which value shall be equal to (A) the average per pupil allocation of state revenues to the local educational agency or school district in which the eligible student is residing for that school year, or (B) the actual cost of tuition and fees at the eligible nonpublic school for which the eligible student will begin participating in the program, whichever is less.

(3) Each scholarship issued pursuant to the Scholarship Opportunity Program shall continue to be provided to the student for attendance at an eligible nonpublic school until the student completes the highest grade level offered at the school which the student is attending, or until the student withdraws from the school. The parent of an eligible student participating in the program at an eligible nonpublic school with the highest grade level offered at such school being the eighth grade, which student continues participation in the program through the eighth grade, may reapply for participation in the program by the student provided that the public school

the student would otherwise be required to attend constitutes an underperforming school. If the public school that the student would otherwise be required to attend does not constitute an underperforming school, then the student shall not be considered eligible for further participation in the program.

(4) A parent may withdraw an eligible student from a participating eligible nonpublic school at any time during the school year and may either (A) enroll the student in a public school, or (B) enroll the student in another participating eligible nonpublic school that has space for the student and has accepted the student for admission.

(d) To be eligible to participate in the Scholarship Opportunity Program and accept eligible students for enrollment in the program, each nonpublic school shall meet all of the following criteria:

(1) The school shall file with the Superintendent of Public Instruction a statement certifying that it satisfies the minimum legal requirements that applied to private schools on January 1, 2004.

(2) The school complies with all applicable state and local health and safety laws and codes.

(3) For schools operating for fewer than three years at the time of filing the certification set forth in paragraph (1), the school shall demonstrate fiscal soundness by providing a statement by a certified public accountant confirming that the school is insured and that the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such statement, the school may post with the department a surety bond or letter of credit for the amount equal to the Scholarship Opportunity Program funds the school anticipates receiving each year.

(4) For at least two years immediately prior to the school's participation in the program, the school shall have administered to the students attending the school a

nationally recognized and developed standardized test or tests and shall provide or make available to each parent of any eligible student who has been accepted by the school for participation in the program, the results of all such tests for the two years immediately prior to the school year in which the eligible student will begin participating in the program at that school.

(5) The school complies with the anti-discrimination provisions of Section 2000d of Title 42 of the United States Code. Nothing precludes the establishment of same gender schools or classrooms.

(6) To the extent permitted by the California Constitution and the Constitution of the United States, the school does not advocate unlawful behavior, and does not advocate or foster hatred of any person or group.

(7) The school agrees not to compel any student attending the school on a scholarship issued pursuant to the Scholarship Opportunity Program to profess a specific ideological belief, to pray, or to worship.

(8) The school does not deliberately provide false or misleading information about the school.

(9) No person convicted of any felony or crime involving moral turpitude, any offense involving lewd or lascivious conduct, or any offense involving molestation or other abuse of a child, shall own, contract with, or be employed by the school.

(10) A high school shall certify either that (A) the school has obtained notice from the University of California, California State University, or any private college or university accredited by a regional accreditation agency or an accrediting agency recognized by the state, that coursework completed by a pupil at the high school in one or more academic subjects designated by the institution issuing notice will fulfill the institution's admission requirements in the designated subject or subjects if a pupil's grades and the duration of study are acceptable, or (B) the school has received either accreditation or provisional accreditation from a regional accreditation agency or an accrediting agency recognized by the state.

(d) Each eligible nonpublic school choosing to participate in the Scholarship Opportunity Program shall comply with the following requirements:

(1) The school shall provide for an open enrollment session in order for eligible students to register for the program. The length of such enrollment session shall be no less than thirty (30) days; and prior to the beginning of the session, the school shall provide proper notification to the public in a timely manner that shall include all necessary information relative to the dates, times, and location of such enrollment session.

(2) If the total number of eligible students seeking admission to the school pursuant to the program exceeds the capacity of the school as determined by the school, the school shall conduct an admissions lottery, to be monitored by the State Department of Education, which shall include all eligible students such that each eligible student has an equal and entirely random chance to be selected for admission.

(3) The school shall prepare a statement of financial condition that lists the revenues, expenses, and debts of the school. These documents shall be provided to parents upon request.

(e) No school shall be required to accept any eligible student if such student has been subjected to any disciplinary action for behavioral problems at any school that the student previously attended as certified by such school.

(f) Upon the acceptance of any eligible student for enrollment in the program, for each year of participation in the program, the school shall require all students attending the school to take, at a minimum, all nationally normed tests that are required to be taken by students in public schools as part of the state's testing program and that provide individual student scores, for the purposes of monitoring academic improvement. The composite results of test scores of the students whose parents accepted scholarships for each grade level tested shall be released to the public. Individual results shall be released only to the students' parents and the school that the student attends.

(g) Expenditures for scholarships issued pursuant to the Scholarship Opportunity Program shall count toward the minimum funding requirements for education established by Section 8 and 8.5 of Article XVI. Students enrolled in eligible nonpublic schools participating in the Scholarship Opportunity Program shall not be counted toward enrollment in public schools for purposes of Sections 8 and 8.5 of Article XVI.

(h) Scholarships issued pursuant to the Scholarship Opportunity Program are grants of aid to children through their parents, and not to the schools in which the children are enrolled. Such scholarships shall not constitute taxable income.

SECTION 4. Effective date. The California Scholarship Opportunity Act and all provisions thereof shall, unless otherwise expressly herein provided, take effect and become operative on the date the Secretary of State certifies the results of the election at which the California Scholarship Opportunity Act was approved.

SECTION 5. Further implementation. The Legislature shall pass all laws necessary to carry out the provisions of the Scholarship Opportunity Act.

SECTION 6. Amendment. The California Scholarship Opportunity Act may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All amendments to the California Scholarship Opportunity Act shall be to further the California Scholarship Opportunity Act and must be consistent with its purposes.

SECTION 7. Liberal construction. The provisions of the California Scholarship Opportunity Act shall be liberally construed to effectuate its purposes of providing parents of students attending underperforming schools with alternatives for their children to obtain a high-quality education.

SECTION 8. Severability. If any provision of the California Scholarship Opportunity Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of the California Scholarship Opportunity Act are severable.