

By: Dutton, Huberty, Guillen, Toth, et al.

H.B. No. 3880

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a student's eligibility for special education services  
3 provided by a school district, including services for dyslexia and  
4 related disorders.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act may be cited as the Beckley Wilson Act.

7 SECTION 2. Section 7.028(a), Education Code, is amended to  
8 read as follows:

9 (a) Except as provided by Section 21.006(k), 22.093(l),  
10 22.096, 28.006, 29.001(5), 29.010(a), [~~38.003~~] or 39.057, the  
11 agency may monitor compliance with requirements applicable to a  
12 process or program provided by a school district, campus, program,  
13 or school granted charters under Chapter 12, including the process  
14 described by Subchapter F, Chapter 11, or a program described by  
15 Subchapter B, C, D, E, F, H, or I, Chapter 29, or Subchapter A,  
16 Chapter 37, only as necessary to ensure:

- 17 (1) compliance with federal law and regulations;
- 18 (2) financial accountability, including compliance  
19 with grant requirements;
- 20 (3) data integrity for purposes of:
- 21 (A) the Public Education Information Management  
22 System (PEIMS); and
- 23 (B) accountability under Chapters 39 and 39A; and
- 24 (4) qualification for funding under Chapter 48.

1 SECTION 3. Section 7.102(c)(28), Education Code, is amended  
2 to read as follows:

3 (28) The board shall develop and update, as necessary,  
4 guidance information for school districts on evidence-based  
5 practices for intervention and instruction of students with  
6 ~~[approve a program for testing students for]~~ dyslexia and related  
7 disorders and incorporate in the information input from a  
8 broad-based dialogue with educators and experts in the field of  
9 reading and dyslexia and related disorders from across the state.  
10 The guidance information may not address:

11 (A) the evaluation and identification of  
12 students with dyslexia or a related disorder; or

13 (B) how intervention and instruction are to be  
14 accessed by a student ~~[as provided by Section 38.003].~~

15 SECTION 4. Section 11.252(a), Education Code, is amended to  
16 read as follows:

17 (a) Each school district shall have a district improvement  
18 plan that is developed, evaluated, and revised annually, in  
19 accordance with district policy, by the superintendent with the  
20 assistance of the district-level committee established under  
21 Section 11.251. The purpose of the district improvement plan is to  
22 guide district and campus staff in the improvement of student  
23 performance for all student groups in order to attain state  
24 standards in respect to the achievement indicators adopted under  
25 Section 39.053(c). The district improvement plan must include  
26 provisions for:

27 (1) a comprehensive needs assessment addressing

1 district student performance on the achievement indicators, and  
2 other appropriate measures of performance, that are disaggregated  
3 by all student groups served by the district, including categories  
4 of ethnicity, socioeconomic status, sex, and populations served by  
5 special programs, including students in special education programs  
6 under Subchapter A, Chapter 29;

7 (2) measurable district performance objectives for  
8 all appropriate achievement indicators for all student  
9 populations, including students in special education programs  
10 under Subchapter A, Chapter 29, and other measures of student  
11 performance that may be identified through the comprehensive needs  
12 assessment;

13 (3) strategies for improvement of student performance  
14 that include:

15 (A) instructional methods for addressing the  
16 needs of student groups not achieving their full potential;

17 (B) evidence-based practices that address the  
18 needs of students for special programs, including:

19 (i) suicide prevention programs, in  
20 accordance with Subchapter G, Chapter 38, which include a parental  
21 or guardian notification procedure;

22 (ii) conflict resolution programs;

23 (iii) violence prevention programs; and

24 (iv) special education [~~dyslexia~~  
25 ~~treatment~~] programs;

26 (C) dropout reduction;

27 (D) integration of technology in instructional

1 and administrative programs;

2 (E) positive behavior interventions and support,  
3 including interventions and support that integrate best practices  
4 on grief-informed and trauma-informed care;

5 (F) staff development for professional staff of  
6 the district;

7 (G) career education to assist students in  
8 developing the knowledge, skills, and competencies necessary for a  
9 broad range of career opportunities;

10 (H) accelerated education; and

11 (I) implementation of a comprehensive school  
12 counseling program under Section 33.005;

13 (4) strategies for providing to elementary school,  
14 middle school, junior high school, and high school students, those  
15 students' teachers and school counselors, and those students'  
16 parents information about:

17 (A) higher education admissions and financial  
18 aid opportunities, including state financial aid opportunities  
19 such as the TEXAS grant program and the Teach for Texas grant  
20 program established under Chapter 56;

21 (B) the need for students to make informed  
22 curriculum choices to be prepared for success beyond high school;  
23 and

24 (C) sources of information on higher education  
25 admissions and financial aid;

26 (5) resources needed to implement identified  
27 strategies;

1 (6) staff responsible for ensuring the accomplishment  
2 of each strategy;

3 (7) timelines for ongoing monitoring of the  
4 implementation of each improvement strategy;

5 (8) formative evaluation criteria for determining  
6 periodically whether strategies are resulting in intended  
7 improvement of student performance;

8 (9) the policy under Section 38.0041 addressing sexual  
9 abuse and other maltreatment of children; and

10 (10) the trauma-informed care policy required under  
11 Section 38.036.

12 SECTION 5. Section 21.003, Education Code, is amended by  
13 adding Subsection (b-1) to read as follows:

14 (b-1) A person may be employed by a school district to  
15 provide services to students with dyslexia and related disorders,  
16 including a therapist, practitioner, specialist, or  
17 interventionist, without holding a certificate or permit issued  
18 under Subchapter B in special education if the person:

19 (1) holds the appropriate license, including a license  
20 issued under Chapter 403, Occupations Code;

21 (2) holds a certification issued by the appropriate  
22 association or has received training from an appropriate training  
23 provider, including an academic language practitioner or therapist  
24 certified by the Academic Language Therapy Association; or

25 (3) meets the applicable training requirements for the  
26 position adopted by the commissioner by rule.

27 SECTION 6. Section 28.006(g-2), Education Code, is amended

1 to read as follows:

2 (g-2) In accordance with a notification program developed  
3 by the commissioner by rule, a school district shall notify the  
4 parent or guardian of each student determined, on the basis of a  
5 screening under Section 29.0031 [~~38.003~~] or other basis, to be at  
6 risk for [~~have~~] dyslexia or a related disorder, or determined, on  
7 the basis of reading instrument results, to be at risk for dyslexia  
8 or other reading difficulties, of the program maintained by the  
9 Texas State Library and Archives Commission providing students with  
10 reading disabilities the ability to borrow audiobooks free of  
11 charge.

12 SECTION 7. Section 29.001, Education Code, is amended to  
13 read as follows:

14 Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and  
15 modify as necessary, a statewide design, consistent with federal  
16 law, for the delivery of services to children with disabilities in  
17 this state that includes rules for the administration and funding  
18 of the special education program so that a free appropriate public  
19 education is available to all of those children between the ages of  
20 three and 21. The statewide design shall include the provision of  
21 services primarily through school districts and shared services  
22 arrangements, supplemented by regional education service centers.  
23 The agency shall also develop and implement a statewide plan with  
24 programmatic content that includes procedures designed to:

25 (1) ensure state compliance with requirements for  
26 supplemental federal funding for all state-administered programs  
27 involving the delivery of instructional or related services to

1 students with disabilities;

2 (2) facilitate interagency coordination when other  
3 state agencies are involved in the delivery of instructional or  
4 related services to students with disabilities;

5 (3) periodically assess statewide personnel needs in  
6 all areas of specialization related to special education and pursue  
7 strategies to meet those needs through a consortium of  
8 representatives from regional education service centers, local  
9 education agencies, and institutions of higher education and  
10 through other available alternatives;

11 (4) ensure that regional education service centers  
12 throughout the state maintain a regional support function, which  
13 may include direct service delivery and a component designed to  
14 facilitate the placement of students with disabilities who cannot  
15 be appropriately served in their resident districts;

16 (5) allow the agency to effectively monitor and  
17 periodically conduct site visits of all school districts to ensure  
18 that rules adopted under this section and Section 29.0031 are  
19 applied in a consistent and uniform manner, to ensure that  
20 districts are complying with those rules, and to ensure that annual  
21 statistical reports filed by the districts and not otherwise  
22 available through the Public Education Information Management  
23 System under Sections 48.008 and 48.009 are accurate and complete;

24 (6) ensure that appropriately trained personnel are  
25 involved in the diagnostic and evaluative procedures operating in  
26 all districts and that those personnel routinely serve on district  
27 admissions, review, and dismissal committees;

1           (7) ensure that an individualized education program  
2 for each student with a disability is properly developed,  
3 implemented, and maintained in the least restrictive environment  
4 that is appropriate to meet the student's educational needs;

5           (8) ensure that, when appropriate, each student with a  
6 disability is provided an opportunity to participate in career and  
7 technology and physical education classes, in addition to  
8 participating in regular or special classes;

9           (9) ensure that each student with a disability is  
10 provided necessary related services;

11           (10) ensure that an individual assigned to act as a  
12 surrogate parent for a child with a disability, as provided by 20  
13 U.S.C. Section 1415(b), is required to:

14                   (A) complete a training program that complies  
15 with minimum standards established by agency rule;

16                   (B) visit the child and the child's school;

17                   (C) consult with persons involved in the child's  
18 education, including teachers, caseworkers, court-appointed  
19 volunteers, guardians ad litem, attorneys ad litem, foster parents,  
20 and caretakers;

21                   (D) review the child's educational records;

22                   (E) attend meetings of the child's admission,  
23 review, and dismissal committee;

24                   (F) exercise independent judgment in pursuing  
25 the child's interests; and

26                   (G) exercise the child's due process rights under  
27 applicable state and federal law; [~~and~~]



1 (11) ensure that each district develops a process to  
2 be used by a teacher who instructs a student with a disability in a  
3 regular classroom setting:

4 (A) to request a review of the student's  
5 individualized education program;

6 (B) to provide input in the development of the  
7 student's individualized education program;

8 (C) that provides for a timely district response  
9 to the teacher's request; and

10 (D) that provides for notification to the  
11 student's parent or legal guardian of that response;

12 (12) ensure the integration of technology to  
13 accommodate students with dyslexia and related disorders; and

14 (13) ensure that training opportunities, including  
15 continuing education that satisfies the requirements of Section  
16 21.054(b):

17 (A) are accessible to school districts by  
18 developing a list of training opportunities regarding dyslexia and  
19 related disorders that comply with the knowledge and practice  
20 standards of an international organization on dyslexia; and

21 (B) assist an educator or dyslexia service  
22 provider in understanding and recognizing dyslexia and providing  
23 instruction that is systematic, explicit, and evidence-based to  
24 meet the educational needs of students with dyslexia.

25 SECTION 8. Section 29.002, Education Code, is amended to  
26 read as follows:

27 Sec. 29.002. DEFINITIONS [~~DEFINITION~~]. In this

1 subchapter[, "special services" means]:

2 (1) "Special [special] education" means specially  
3 designed instruction that is provided at no cost to the parent or  
4 person standing in parental relation to meet the unique needs of a  
5 student with a disability. [~~which may be provided by professional~~  
6 ~~and supported by paraprofessional personnel in the regular~~  
7 ~~classroom or in an instructional arrangement described by Section~~  
8 ~~48.102; and]~~

9 (2) "Student with a disability" means a student  
10 evaluated in accordance with the Individuals with Disabilities  
11 Education Act (20 U.S.C. Section 1400 et seq.) as having:

12 (A) an intellectual disability, a hearing  
13 impairment including deafness, a visual impairment including  
14 blindness, a serious emotional disturbance, an orthopedic  
15 impairment, autism, a traumatic brain injury, a speech or language  
16 impairment, deaf-blindness, multiple disabilities, any other  
17 health impairment, or a specific learning disability and who, as a  
18 result of the disability, needs special education;

19 (B) noncategorical early childhood developmental  
20 delays that prevent the student from being adequately or safely  
21 educated in a public school without receiving special education; or

22 (C) dyslexia or a related disorder and who, as a  
23 result of the dyslexia or the related disorder, needs special  
24 education [~~related services, which are developmental, corrective,~~  
25 ~~supportive, or evaluative services, not instructional in nature,~~  
26 ~~that may be required for the student to benefit from special~~  
27 ~~education instruction and for implementation of a student's~~

1 ~~individualized education program~~].

2 SECTION 9. Section 29.003(b), Education Code, is amended to  
3 read as follows:

4 (b) A student is eligible to participate in a school  
5 district's special education program if the student:

6 (1) is not more than 21 years of age and is identified  
7 as a student with [~~and has~~] a visual or hearing [~~auditory~~]  
8 impairment [~~that prevents the student from being adequately or~~  
9 ~~safely educated in public school without the provision of special~~  
10 ~~services~~]; [~~or~~]

11 (2) is at least three years of age but not more than 21  
12 years of age and has been identified as a student with a disability  
13 other than a visual or hearing impairment; [~~and has one~~] or

14 (3) is at least three years of age but not more than  
15 five years of age and the [~~following disabilities that prevents~~  
16 ~~the~~] student is a student evaluated as having noncategorical early  
17 childhood developmental delays as described by Section  
18 29.002(2)(B) [~~from being adequately or safely educated in public~~  
19 ~~school without the provision of special services~~]:

20 [~~(A) physical disability,~~

21 [~~(B) intellectual or developmental disability,~~

22 [~~(C) emotional disturbance,~~

23 [~~(D) learning disability,~~

24 [~~(E) autism,~~

25 [~~(F) speech disability, or~~

26 [~~(G) traumatic brain injury~~].

27 SECTION 10. Subchapter A, Chapter 29, Education Code, is

1 amended by adding Section 29.0031 to read as follows:

2 Sec. 29.0031. DYSLEXIA AND RELATED DISORDERS. (a) A school  
3 district shall:

4 (1) screen students for dyslexia and related  
5 disorders;

6 (2) notify the parent of or person standing in  
7 parental relation to each student who is determined to be at risk  
8 for dyslexia or a related disorder that the student is at risk; and

9 (3) make a good faith effort to ensure that the notice  
10 provided under Subdivision (2):

11 (A) is clear and easy to understand;

12 (B) is in the recipient's native language; and

13 (C) includes information about the student's  
14 data and measurements that led to the determination that the  
15 student is at risk for dyslexia or a related disorder.

16 (b) On determining that a student is at risk for dyslexia or  
17 a related disorder, the school district shall implement an  
18 evidence-based reading instruction program as an intervention as  
19 part of the district's multi-tiered systems of support under  
20 Section 26.0081 that, to the extent possible, incorporates training  
21 provided to teachers under Section 21.4552. The district shall  
22 determine the form, content, and timing of a program provided under  
23 this subsection, subject to requirements for the program  
24 established by the commissioner by rule. The program adopted under  
25 this subsection may not be used to delay an evaluation for special  
26 education services under Section 29.004.

27 (c) The commissioner shall adopt rules as necessary to

1 implement this section. The rules must:

2 (1) require a universal screening for each student for  
3 dyslexia and related disorders:

4 (A) at the end of the school year in  
5 kindergarten; and

6 (B) before the end of the school year in first  
7 grade;

8 (2) establish, in coordination with experts and  
9 educators in the field of reading and dyslexia and related  
10 disorders from across the state, the screening requirements under  
11 Subsection (a);

12 (3) establish the requirements for reading  
13 instruction programs provided under Subsection (b); and

14 (4) establish the personnel required to administer  
15 dyslexia intervention and specialized instruction support.

16 SECTION 11. Section 30.001(b), Education Code, is amended  
17 to read as follows:

18 (b) The commissioner, with the approval of the State Board  
19 of Education, shall develop and implement a plan for the  
20 coordination of services to children with disabilities in each  
21 region served by a regional education service center. The plan must  
22 include procedures for:

23 (1) identifying existing public or private  
24 educational and related services for children with disabilities in  
25 each region;

26 (2) identifying and referring children with  
27 disabilities who cannot be appropriately served by the school

1 district in which they reside to other appropriate programs;

2 (3) assisting school districts to individually or  
3 cooperatively develop programs to identify and provide appropriate  
4 services for children with disabilities;

5 (4) expanding and coordinating services provided by  
6 regional education service centers for children with disabilities;  
7 ~~and~~

8 (5) providing for special education ~~[services]~~,  
9 including special seats, books, instructional media, and other  
10 supplemental supplies and services required for proper  
11 instruction; and

12 (6) ensuring services provided for students with  
13 dyslexia and related disorders align with guidance on  
14 evidence-based practices developed by the State Board of Education  
15 under Section 7.102(c)(28).

16 SECTION 12. Section 30.002(g), Education Code, is amended  
17 to read as follows:

18 (g) To facilitate implementation of this section, the  
19 commissioner shall develop a system to distribute from the  
20 foundation school fund to school districts or regional education  
21 service centers a special supplemental allowance for each student  
22 with a visual impairment and for each student with a serious visual  
23 disability and another medically diagnosed disability of a  
24 significantly limiting nature who is receiving special education  
25 services through any approved program. The supplemental allowance  
26 may be spent only for special education ~~[services]~~ uniquely  
27 required by the nature of the student's disabilities and may not be

1 used in lieu of educational funds otherwise available under this  
2 code or through state or local appropriations.

3 SECTION 13. Section 37.146(a), Education Code, is amended  
4 to read as follows:

5 (a) A complaint alleging the commission of a school offense  
6 must, in addition to the requirements imposed by Article 45.019,  
7 Code of Criminal Procedure:

8 (1) be sworn to by a person who has personal knowledge  
9 of the underlying facts giving rise to probable cause to believe  
10 that an offense has been committed; and

11 (2) be accompanied by a statement from a school  
12 employee stating:

13 (A) whether the child is eligible for or receives  
14 special education [~~services~~] under Subchapter A, Chapter 29; and

15 (B) the graduated sanctions, if required under  
16 Section 37.144, that were imposed on the child before the complaint  
17 was filed.

18 SECTION 14. Section 48.103, Education Code, is amended by  
19 amending Subsections (b) and (c) and adding Subsection (c-1) to  
20 read as follows:

21 (b) A school district is entitled to an allotment under  
22 Subsection (a) only for a student who:

23 (1) is receiving services for dyslexia or a related  
24 disorder in accordance with:

25 (A) an individualized education program  
26 developed for the student under Section 29.005; or

27 (B) a plan developed for the student under

1 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);

2 (2) is receiving instruction that:

3 (A) meets applicable dyslexia intervention  
4 components [~~program criteria~~] established by the State Board of  
5 Education or agency; and

6 (B) is provided by a person with specific  
7 training in providing that instruction; or

8 (3) is permitted, on the basis of having dyslexia or a  
9 related disorder, to use modifications in the classroom or  
10 accommodations in the administration of assessment instruments  
11 under Section 39.023.

12 (c) A school district shall: [~~may~~]

13 (1) receive funding for a student under this section  
14 and Section 48.102 if the student satisfies the requirements of  
15 both sections;

16 (2) allocate money received under Subdivision (1) to  
17 the district's special education budget; and

18 (3) prioritize the use of money received under  
19 Subdivision (1) for the employment and retention of district  
20 employees who are specially trained to evaluate, identify, and  
21 provide services for dyslexia and related disorders, including a  
22 person described by Section 21.003(b-1).

23 (c-1) A school district may only use funding received under  
24 this section to supplement the district's special education budget  
25 and not to offset or deduct from the district's special education  
26 budget.

27 SECTION 15. The following provisions of the Education Code



1 are repealed:

- 2 (1) Section 38.003;
- 3 (2) Section 38.0031; and
- 4 (3) Section 38.0032.

5 SECTION 16. (a) This Act applies beginning with the  
6 2021-2022 school year.

7 (b) As soon as is practicable after the effective date of  
8 this Act, the commissioner of education shall adopt rules necessary  
9 to implement this Act using a negotiated rulemaking process under  
10 Chapter 2008, Government Code.

11 (c) As soon as is practicable after the effective date of  
12 this Act, each school district shall notify the parent or person  
13 standing in parental relation to a student who has been identified  
14 as having dyslexia or a related disorder and who received dyslexia  
15 intervention and instructional support in accordance with Section  
16 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) during the  
17 2020-2021 school year of the parent's or person's right to request a  
18 full individual evaluation under Section 29.004, Education Code.

19 (d) Not later than September 1, 2021, the Texas Education  
20 Agency shall provide informal guidance to school districts on the  
21 evaluation and identification of students with dyslexia or a  
22 related disorder in accordance with this Act.

23 SECTION 17. This Act takes effect immediately if it  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2021.