

By: Pitts

H.B. No. 3171

A BILL TO BE ENTITLED

AN ACT

relating to reducing compliance monitoring by the Texas Education Agency of school districts and charter schools and programs.

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

SECTION 1. Section 7.021(b)(1), Education Code, is amended to read as follows:

(1) The agency shall administer and monitor compliance with education programs required by federal [~~or state~~] law, including federal funding [~~and state funding~~] for those programs.

SECTION 2. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.027 to read as follows:

Sec. 7.027. LIMITATION ON COMPLIANCE MONITORING. Except as provided by Sections 39.074 and 39.075, the agency shall monitor campuses, programs, and schools granted charters under Chapter 12 and school districts only as necessary to ensure:

(1) compliance with federal law and regulations;

(2) financial accountability, including compliance with grant requirements; and

(3) data integrity for purposes of:

(A) the Public Education Information Management System (PEIMS); and

(B) accountability under Chapter 39.

SECTION 3. Section 29.001, Education Code, is amended to read as follows:

1 Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and
2 modify as necessary, a statewide design, consistent with federal
3 law, for the delivery of services to children with disabilities in
4 this state that includes rules for the administration and funding
5 of the special education program so that a free appropriate public
6 education is available to all of those children between the ages of
7 three and 21. The statewide design shall include the provision of
8 services primarily through school districts and shared services
9 arrangements, supplemented by regional education service centers.
10 The agency shall also develop and implement a statewide plan with
11 programmatic content that includes procedures designed to:

12 (1) ensure state compliance with requirements for
13 supplemental federal funding for all state-administered programs
14 involving the delivery of instructional or related services to
15 students with disabilities;

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

19 (3) periodically assess statewide personnel needs in
20 all areas of specialization related to special education and pursue
21 strategies to meet those needs through a consortium of
22 representatives from regional education service centers, local
23 education agencies, and institutions of higher education and
24 through other available alternatives;

25 (4) ensure that regional education service centers
26 throughout the state maintain a regional support function, which
27 may include direct service delivery and a component designed to

1 facilitate the placement of students with disabilities who cannot
2 be appropriately served in their resident districts;

3 (5) allow the agency to effectively monitor and
4 periodically conduct site visits of all school districts [~~to ensure~~
5 ~~that rules adopted under this section are applied in a consistent~~
6 ~~and uniform manner,~~] to ensure that districts are complying with
7 federal law and regulations [~~those rules,~~] and to ensure that
8 annual statistical reports filed by the districts and not otherwise
9 available through the Public Education Information Management
10 System under Section 42.006[~~7~~] are accurate and complete;

11 (6) ensure that appropriately trained personnel are
12 involved in the diagnostic and evaluative procedures operating in
13 all districts and that those personnel routinely serve on district
14 admissions, review, and dismissal committees;

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

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

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

25 (10) ensure that an individual assigned to act as a
26 surrogate parent for a child with a disability, as provided by 20
27 U.S.C. Section 1415(b) and its subsequent amendments, is required

1 to:

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

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

5 (C) consult with persons involved in the child's
6 education, including teachers, caseworkers, court-appointed
7 volunteers, guardians ad litem, attorneys ad litem, foster parents,
8 and caretakers;

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

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

12 (F) exercise independent judgment in pursuing
13 the child's interests; and

14 (G) exercise the child's due process rights under
15 applicable state and federal law.

16 SECTION 4. Sections 29.010(a) and (c), Education Code, are
17 amended to read as follows:

18 (a) The agency shall adopt and implement a comprehensive
19 system for monitoring school district compliance with federal [~~and~~
20 ~~state~~] laws relating to special education. The monitoring system
21 must provide for ongoing analysis of district special education
22 data and of complaints filed with the agency concerning special
23 education services and for inspections of school districts at
24 district facilities. The agency shall use the information obtained
25 through analysis of district data and from the complaints
26 management system to determine the appropriate schedule for and
27 extent of the inspection.

1 (c) The agency shall develop and implement a system of
2 sanctions for school districts whose most recent monitoring visit
3 shows a failure to comply with major requirements of the
4 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
5 et seq.), federal regulations, [~~state statutes,~~] or agency
6 requirements necessary to carry out federal law or regulations [~~or~~
7 ~~state law~~] relating to special education.

8 SECTION 5. Sections 29.062(a) and (e), Education Code, are
9 amended to read as follows:

10 (a) The legislature recognizes that compliance with this
11 subchapter is an imperative public necessity. Therefore, in
12 accordance with the policy of the state, the agency shall evaluate
13 the effectiveness of programs under this subchapter based on the
14 results of assessment instruments required under Subchapter B,
15 Chapter 39. The agency may combine evaluations under this section
16 with federal accountability measures concerning students of
17 limited English proficiency [~~monitor compliance with state rules by~~
18 ~~inspecting each school district and open-enrollment charter school~~
19 ~~on-site at least every three years~~].

20 (e) If a school district or open-enrollment charter school
21 fails to satisfy appropriate standards adopted by the commissioner
22 for purposes of Subsection (a) [~~or refuses to comply after proper~~
23 ~~notification~~], the agency shall apply sanctions, which may include
24 the removal of accreditation, loss of foundation school funds, or
25 both.

26 SECTION 6. Section 29.123, Education Code, is amended to
27 read as follows:

1 Sec. 29.123. STATE PLAN; ASSISTANCE. The State Board of
2 Education shall develop and periodically update a state plan for
3 the education of gifted and talented students to guide school
4 districts in establishing and improving programs for identified
5 students. The regional education service centers may assist
6 districts in implementing the state plan. In addition to obtaining
7 assistance from a regional education service center, a district may
8 obtain other assistance in implementing the plan. [~~The plan shall
9 be used for accountability purposes to measure the performance of
10 districts in providing services to students identified as gifted
11 and talented.~~]

12 SECTION 7. Section 29.154, Education Code, is amended to
13 read as follows:

14 Sec. 29.154. EVALUATION OF PREKINDERGARTEN PROGRAMS. The
15 commissioner of education, in consultation with the commissioner of
16 human services, shall [~~monitor and evaluate prekindergarten
17 programs as to their developmental appropriateness. The
18 commissioners shall also~~] evaluate the potential for coordination
19 on a statewide basis of prekindergarten programs with
20 government-funded early childhood care and education programs such
21 as child care administered under Chapter 44, Human Resources Code,
22 and federal Head Start programs. That evaluation shall use
23 recommendations contained in the report to the 71st Legislature
24 required by Chapter 717, Acts of the 70th Legislature, Regular
25 Session, 1987. For the purpose of providing cost-effective care for
26 children during the full workday with developmentally appropriate
27 curriculum, the commissioners shall investigate the use of existing

1 child-care program sites as prekindergarten sites. Following the
2 evaluation required by this section, the commissioners, in
3 cooperation with school districts and other program
4 administrators, shall integrate programs, staff, and program sites
5 for prekindergarten, child-care, and federal Head Start programs to
6 the greatest extent possible.

7 SECTION 8. Section 42.151(h), Education Code, is amended to
8 read as follows:

9 (h) Funds allocated under this section, other than an
10 indirect cost allotment established under State Board of Education
11 rule, must be used in the special education program under
12 Subchapter A, Chapter 29. The annual audit of school district
13 fiscal accounts required under Section 44.008 must cover a
14 district's compliance with this subsection.

15 SECTION 9. Section 42.152(c), Education Code, is amended to
16 read as follows:

17 (c) Funds allocated under this section shall be used [~~only~~]
18 to fund supplemental programs and services designed to eliminate
19 any disparity in performance on assessment instruments
20 administered under Subchapter B, Chapter 39, or disparity in the
21 rates of high school completion between students at risk of
22 dropping out of school, as defined by Section 29.081, and all other
23 students. The annual audit of school district fiscal accounts
24 required under Section 44.008 must cover a district's compliance
25 with this subsection. [~~Specifically, the funds, other than an~~
26 ~~indirect cost allotment established under State Board of Education~~
27 ~~rule, which may not exceed 15 percent, may be used only to meet the~~

1 ~~costs of providing a compensatory, intensive, or accelerated~~
2 ~~instruction program under Section 29.081 or an alternative~~
3 ~~education program established under Section 37.008 or to support a~~
4 ~~program eligible under Title I of the Elementary and Secondary~~
5 ~~Education Act of 1965, as provided by Pub. L. No. 103-382 and its~~
6 ~~subsequent amendments, and by federal regulations implementing~~
7 ~~that Act, at a campus at which at least 50 percent of the students~~
8 ~~are educationally disadvantaged. In meeting the costs of providing~~
9 ~~a compensatory, intensive, or accelerated instruction program~~
10 ~~under Section 29.081, a district's compensatory education~~
11 ~~allotment may be used only for costs supplementary to the regular~~
12 ~~education program, such as costs for program and student~~
13 ~~evaluation, instructional materials and equipment and other~~
14 ~~supplies required for quality instruction, supplemental staff~~
15 ~~expenses, salary for teachers of at-risk students, smaller class~~
16 ~~size, and individualized instruction.] A home-rule school district~~
17 or an open-enrollment charter school must use funds allocated under
18 Subsection (a) for a purpose authorized in this subsection but is
19 not otherwise subject to Subchapter C, Chapter 29.
20 [~~Notwithstanding any other provisions of this section:~~

21 ~~(1) to ensure that a sufficient amount of the funds~~
22 ~~allotted under this section are available to supplement~~
23 ~~instructional programs and services, no more than 18 percent of the~~
24 ~~funds allotted under this section may be used to fund disciplinary~~
25 ~~alternative education programs established under Section 37.008,~~
26 ~~and~~

27 ~~(2) the commissioner may waive the limitations of~~

1 ~~Subdivision (1) upon an annual petition, by a district's board and a~~
2 ~~district's site-based decision making committee, presenting the~~
3 ~~reason for the need to spend supplemental compensatory education~~
4 ~~funds on disciplinary alternative education programs under Section~~
5 ~~37.008. The district shall in its petition report the number of~~
6 ~~students in each grade level, by demographic subgroup, not making~~
7 ~~satisfactory progress under the state's assessment system. The~~
8 ~~commissioner will make this waiver request information available~~
9 ~~annually to the public on the agency's website.]~~

10 SECTION 10. Section 42.153(b), Education Code, is amended
11 to read as follows:

12 (b) Funds allocated under this section, other than an
13 indirect cost allotment established under State Board of Education
14 rule, must be used in providing bilingual education or special
15 language programs under Subchapter B, Chapter 29~~[, and must be~~
16 ~~accounted for under existing agency reporting and auditing~~
17 ~~procedures]~~. The annual audit of school district fiscal accounts
18 required under Section 44.008 must cover a district's compliance
19 with this subsection.

20 SECTION 11. Section 42.154(c), Education Code, is amended
21 to read as follows:

22 (c) Funds allocated under this section, other than an
23 indirect cost allotment established under State Board of Education
24 rule, must be used in providing career and technology education
25 programs in grades nine through 12 or career and technology
26 education programs for students with disabilities in grades seven
27 through 12 under Sections 29.182, 29.183, and 29.184. The annual

1 audit of school district fiscal accounts required under Section
2 44.008 must cover a district's compliance with this subsection.

3 SECTION 12. Section 42.156(b), Education Code, is amended
4 to read as follows:

5 (b) Funds allocated under this section, other than the
6 amount that represents the program's share of general
7 administrative costs, must be used in providing programs for gifted
8 and talented students under Subchapter D, Chapter 29, including
9 programs sanctioned by International Baccalaureate and Advanced
10 Placement, or in developing programs for gifted and talented
11 students. The annual audit of school district fiscal accounts
12 required under Section 44.008 must cover a district's compliance
13 with this subsection. [~~Each district must account for the~~
14 ~~expenditure of state funds as provided by rule of the State Board of~~
15 ~~Education. If by the end of the 12th month after receiving an~~
16 ~~allotment for developing a program a district has failed to~~
17 ~~implement a program, the district must refund the amount of the~~
18 ~~allotment to the agency within 30 days.~~]

19 SECTION 13. Sections 7.055(b)(23), 29.062(b)-(d),
20 37.008(m), 42.152(d) and (q)-(s), and 42.154(d), Education Code,
21 are repealed.

22 SECTION 14. This Act applies beginning with the 2003-2004
23 school year.

24 SECTION 15. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2003.