

AN ACT

relating to the consequences of a public school's being considered low-performing.

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

SECTION 1. Subsection (f), Section 7.056, Education Code, is amended to read as follows:

(f) A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.131 or 39.132 may receive an exemption or waiver under this section from any law or rule other than:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) a requirement imposed by federal law or rule;

(3) a requirement, restriction, or prohibition imposed by state law or rule relating to:

(A) public school accountability as provided by Subchapters B, C, D, and G, Chapter 39; or

(B) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22; or

(4) textbook selection under Chapter 31.

SECTION 2. Subsection (b), Section 12.013, Education Code, is amended to read as follows:

(b) A home-rule school district is subject to:

1 (1) a provision of this title establishing a criminal
2 offense;

3 (2) a provision of this title relating to limitations
4 on liability; and

5 (3) a prohibition, restriction, or requirement, as
6 applicable, imposed by this title or a rule adopted under this
7 title, relating to:

8 (A) the Public Education Information Management
9 System (PEIMS) to the extent necessary to monitor compliance with
10 this subchapter as determined by the commissioner;

11 (B) educator certification under Chapter 21 and
12 educator rights under Sections 21.407, 21.408, and 22.001;

13 (C) criminal history records under Subchapter C,
14 Chapter 22;

15 (D) student admissions under Section 25.001;

16 (E) school attendance under Sections 25.085,
17 25.086, and 25.087;

18 (F) inter-district or inter-county transfers of
19 students under Subchapter B, Chapter 25;

20 (G) elementary class size limits under Section
21 25.112, in the case of any campus in the district that is considered
22 low-performing under Section 39.132 [~~39.131(b)~~];

23 (H) high school graduation under Section 28.025;

24 (I) special education programs under Subchapter
25 A, Chapter 29;

26 (J) bilingual education under Subchapter B,
27 Chapter 29;

1 (K) prekindergarten programs under Subchapter E,
2 Chapter 29;

3 (L) safety provisions relating to the
4 transportation of students under Sections 34.002, 34.003, 34.004,
5 and 34.008;

6 (M) computation and distribution of state aid
7 under Chapters 31, 42, and 43;

8 (N) extracurricular activities under Section
9 33.081;

10 (O) health and safety under Chapter 38;

11 (P) public school accountability under
12 Subchapters B, C, D, and G, Chapter 39;

13 (Q) equalized wealth under Chapter 41;

14 (R) a bond or other obligation or tax rate under
15 Chapters 42, 43, and 45; and

16 (S) purchasing under Chapter 44.

17 SECTION 3. Subsection (a), Section 29.202, Education Code,
18 is amended to read as follows:

19 (a) A student is eligible to receive a public education
20 grant or to attend another public school in the district in which
21 the student resides under this subchapter if the student is
22 assigned to attend a public school campus:

23 (1) at which 50 percent or more of the students did not
24 perform satisfactorily on an assessment instrument administered
25 under Section 39.023(a) or (c) in any two of the preceding three
26 years; or

27 (2) that was, at any time in the preceding three years,

1 considered [~~identified as~~] low-performing [~~by the commissioner~~]
2 under Section 39.132 [~~Subchapter D, Chapter 39~~].

3 SECTION 4. Subsection (c), Section 39.072, Education Code,
4 is amended to read as follows:

5 (c) The agency shall evaluate against state standards and
6 shall, not later than August 1 of each year, report the performance
7 of each campus in a district and each open-enrollment charter
8 school on the basis of the campus's performance on the indicators
9 adopted under Sections 39.051(b)(1) through (7).

10 SECTION 5. Subchapter G, Chapter 39, Education Code, is
11 amended by amending Section 39.131 and adding Sections 39.132
12 through 39.138 to read as follows:

13 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a district
14 does not satisfy the accreditation criteria, the commissioner shall
15 take any of the following actions, listed in order of severity, to
16 the extent the commissioner determines necessary:

17 (1) issue public notice of the deficiency to the board
18 of trustees;

19 (2) order a hearing conducted by the board of trustees
20 of the district for the purpose of notifying the public of the
21 unacceptable performance, the improvements in performance expected
22 by the agency, and the sanctions that may be imposed under this
23 section if the performance does not improve;

24 (3) order the preparation of a student achievement
25 improvement plan that addresses each academic excellence indicator
26 for which the district's performance is unacceptable, the
27 submission of the plan to the commissioner for approval, and

1 implementation of the plan;

2 (4) order a hearing to be held before the commissioner
3 or the commissioner's designee at which the president of the board
4 of trustees of the district and the superintendent shall appear and
5 explain the district's low performance, lack of improvement, and
6 plans for improvement;

7 (5) arrange an on-site investigation of the district;

8 (6) appoint an agency monitor to participate in and
9 report to the agency on the activities of the board of trustees or
10 the superintendent;

11 (7) appoint a conservator [~~master~~] to oversee the
12 operations of the district;

13 (8) appoint a management team to direct the operations
14 of the district in areas of unacceptable performance or require the
15 district to obtain certain services under a contract with another
16 person;

17 (9) if a district has been rated as academically
18 unacceptable for a period of one year or more, appoint a board of
19 managers to exercise the powers and duties of the board of trustees;
20 or

21 (10) if a district has been rated as academically
22 unacceptable for a period of two years or more:

23 (A) annex the district to one or more adjoining
24 districts under Section 13.054; or

25 (B) in the case of a home-rule school district or
26 open-enrollment charter school, order closure of all programs
27 operated under the district's or school's charter.

1 **(b)** [~~(a-1)~~] This subsection applies regardless of whether a
2 district has satisfied the accreditation criteria. If for a period
3 of one year or more a district has had a conservator [~~master~~] or
4 management team assigned, the commissioner may appoint a board of
5 managers, a majority of whom must be residents of the district, to
6 exercise the powers and duties of the board of trustees.

7 Sec. 39.132. SANCTIONS FOR CAMPUSES. **(a)** [~~(b)~~] If a
8 campus performance is below any standard under Section 39.073(b),
9 the campus is considered a low-performing campus and the
10 commissioner may take any of the following actions, listed in order
11 of severity, to the extent the commissioner determines necessary:

12 (1) issue public notice of the deficiency to the board
13 of trustees;

14 (2) order a hearing conducted by the board of trustees
15 at the campus for the purpose of:

16 **(A)** notifying the public of the unacceptable
17 performance, the improvements in performance expected by the
18 agency, and the sanctions that may be imposed under this section if
19 the performance does not improve within a designated period of
20 time; and

21 **(B)** [~~of~~] soliciting public comment on the initial
22 steps being taken to improve performance;

23 (3) order the preparation of a report regarding the
24 parental involvement program at the campus and a plan describing
25 strategies for improving parental involvement at the campus;

26 (4) order the preparation of a report regarding the
27 effectiveness of the district- and campus-level planning and

1 decision-making committees established under Subchapter F, Chapter
2 11, and a plan describing strategies for improving the
3 effectiveness of those committees;

4 (5) order the preparation of a student achievement
5 improvement plan that addresses each academic excellence indicator
6 for which the campus's performance is unacceptable, the submission
7 of the plan to the commissioner for approval, and implementation of
8 the plan;

9 (6) order a hearing to be held before the commissioner
10 or the commissioner's designee at which the president of the board
11 of trustees, the superintendent, and the campus principal shall
12 appear and explain the campus's low performance, lack of
13 improvement, and plans for improvement;

14 (7) appoint a special campus intervention team to:

15 (A) conduct a comprehensive on-site evaluation
16 of the [~~each low-performing~~] campus to determine the cause for the
17 campus's low performance and lack of progress;

18 (B) recommend actions, including reallocation of
19 resources and technical assistance, changes in school procedures or
20 operations, staff development for instructional and administrative
21 staff, intervention for individual administrators or teachers,
22 waivers from state statute or rule, or other actions the team
23 considers appropriate;

24 (C) assist in the development of a campus plan
25 for student achievement; and

26 (D) assist the commissioner in monitoring the
27 progress of the campus in implementing the campus plan for

1 improvement of student achievement; or

2 (8) if a campus has been a low-performing campus for a
3 period of one year or more, appoint a board of managers composed of
4 residents of the district to exercise the powers and duties of the
5 board of trustees of the district in relation to the campus [~~+~~ ~~or~~

6 ~~(9) if a campus has been a low-performing campus for a~~
7 ~~period of two years or more, order closure of the school program on~~
8 ~~the campus].~~

9 (b) If a campus has been a low-performing campus for a
10 period of two consecutive years or more, the commissioner shall
11 reconstitute the campus. In reconstituting the campus, a special
12 campus intervention team shall be assembled for the purpose of
13 deciding which educators may be retained at that campus. If an
14 educator is not retained, the educator shall be assigned to another
15 position in the district.

16 (1) the educator's employment with the school district
17 may be terminated under Section 21.157, if applicable; or

18 (2) the educator may be assigned to another position
19 in the district.

20 Sec. 39.133. ANNUAL REVIEW. [~~(c)~~] The commissioner shall
21 review annually the performance of a district or campus subject to
22 this subchapter [~~section~~] to determine the appropriate actions to
23 be implemented under this subchapter [~~section~~]. The commissioner
24 must review at least annually the performance of a district for
25 which the accreditation rating has been lowered due to unacceptable
26 student performance and may not raise the rating until the district
27 has demonstrated improved student performance. If the review

1 reveals a lack of improvement, the commissioner shall increase the
2 level of state intervention and sanction unless the commissioner
3 finds good cause for maintaining the current status.

4 Sec. 39.134. COSTS PAID BY DISTRICT. [~~(d)~~] The costs of
5 providing a monitor, conservator [~~master~~], management team, or
6 special campus intervention team shall be paid by the district. If
7 the district fails or refuses to pay the costs in a timely manner,
8 the commissioner may:

9 (1) pay the costs using amounts withheld from any
10 funds to which the district is otherwise entitled; or

11 (2) recover the amount of the costs in the manner
12 provided for recovery of an overallocation of state funds under
13 Section 42.258.

14 Sec. 39.135. CONSERVATOR OR MANAGEMENT TEAM.

15 (a) [~~(e)~~] The commissioner shall clearly define the powers and
16 duties of a conservator [~~master~~] or management team appointed to
17 oversee the operations of the district.

18 (b) At least every 90 days, the commissioner shall review
19 the need for the conservator [~~master~~] or management team and shall
20 remove the conservator [~~master~~] or management team unless the
21 commissioner determines that continued appointment is necessary
22 for effective governance of the district or delivery of
23 instructional services.

24 (c) A conservator [~~master~~] or management team, if directed
25 by the commissioner, shall prepare a plan for the implementation of
26 action under Section 39.131(a)(9) [~~Subsection (a)(9)~~] or (10). The
27 conservator [~~master~~] or management team:

1 (1) may direct an action to be taken by the principal
2 of a campus, the superintendent of the district, or the board of
3 trustees of the district;

4 (2) may approve or disapprove any action of the
5 principal of a campus, the superintendent of the district, or the
6 board of trustees of the district;

7 (3) may not take any action concerning a district
8 election, including ordering or canceling an election or altering
9 the date of or the polling places for an election;

10 (4) may not change the number of or method of selecting
11 the board of trustees;

12 (5) may not set a tax rate for the district; and

13 (6) may not adopt a budget for the district that
14 provides for spending a different amount, exclusive of required
15 debt service, from that previously adopted by the board of
16 trustees.

17 Sec. 39.136. BOARD OF MANAGERS. (a) [~~f~~] A board of
18 managers may exercise all of the powers and duties assigned to a
19 board of trustees of a school district by law, rule, or regulation.
20 This subchapter [~~section~~] applies to a district governed by a board
21 of managers in the same manner that this subchapter [~~section~~]
22 applies to any other district.

23 (b) If the commissioner appoints a board of managers to
24 govern a district, the powers of the board of trustees of the
25 district are suspended for the period of the appointment and the
26 commissioner shall appoint a district superintendent.
27 Notwithstanding any other provision of this code, the board of

1 managers may amend the budget of the district.

2 (c) If the commissioner appoints a board of managers to
3 govern a campus, the powers of the board of trustees of the district
4 in relation to the campus are suspended for the period of the
5 appointment and the commissioner shall appoint a campus principal.
6 Notwithstanding any other provision of this code, the board of
7 managers may submit to the commissioner for approval amendments to
8 the budget of the district for the benefit of the campus. If the
9 commissioner approves the amendments, the board of trustees of the
10 district shall adopt the amendments.

11 (d) A conservator [~~master~~] or a member of a management team
12 appointed to serve on a board of managers may continue to be
13 compensated as determined by the commissioner.

14 (e) At the direction of the commissioner but not later than
15 the second anniversary of the date the board of managers of a
16 district was appointed, the board of managers shall order an
17 election of members of the district board of trustees. The election
18 must be held on a uniform election date on which an election of
19 district trustees may be held under Section 41.001, Election Code,
20 that is at least 180 days after the date the election was ordered.
21 On qualification of members for office, the board of trustees
22 assumes all of the powers and duties assigned to a board of trustees
23 by law, rule, or regulation.

24 Sec. 39.137. SPECIAL CAMPUS INTERVENTION TEAM. [~~(g)~~] A
25 special campus intervention team appointed under this subchapter
26 ~~[section]~~ may consist of teachers, principals, other educational
27 professionals, and superintendents recognized for excellence in

1 their roles and appointed by the commissioner to serve as members of
2 a team.

3 Sec. 39.138. IMMUNITY FROM CIVIL LIABILITY. [~~(h)~~ If the
4 commissioner appoints a board of managers to govern a district, the
5 powers of the board of trustees of the district are suspended for
6 the period of the appointment and the commissioner shall appoint a
7 district superintendent. Notwithstanding any other provision of
8 this code, the board of managers may amend the budget of the
9 district.

10 [~~(i)~~ If the commissioner appoints a board of managers to
11 govern a campus, the powers of the board of trustees of the district
12 in relation to the campus are suspended for the period of the
13 appointment and the commissioner shall appoint a campus principal.
14 Notwithstanding any other provision of this code, the board of
15 managers may submit to the commissioner for approval amendments to
16 the budget of the district for the benefit of the campus. If the
17 commissioner approves the amendments, the board of trustees of the
18 district shall adopt the amendments.

19 [~~(j)~~] An employee, volunteer, or contractor acting on
20 behalf of the commissioner under this subchapter is immune from
21 civil liability to the same extent as a professional employee of a
22 school district under Section 22.051.

23 SECTION 6. Subsection (c), Section 302.006, Labor Code, is
24 amended to read as follows:

25 (c) To be eligible to receive a scholarship awarded under
26 this section, a person must:

27 (1) be employed in a child-care facility, as defined

1 by Section 42.002, Human Resources Code;

2 (2) intend to obtain a credential, certificate, or
3 degree specified in Subsection (b);

4 (3) agree to work for at least 18 additional months in
5 a child-care facility, as defined by Section 42.002, Human
6 Resources Code, that accepts federal Child Care Development Fund
7 subsidies and that, at the time the person begins to fulfill the
8 work requirement imposed by this subdivision, is located:

9 (A) within the attendance zone of a public school
10 campus considered low-performing under Section 39.132 [~~39.131(b)~~],
11 Education Code; or

12 (B) in an economically disadvantaged community,
13 as determined by the commission; and

14 (4) satisfy any other requirements adopted by the
15 commission.

16 SECTION 7. (a) Except as provided by Subsection (b) of
17 this section, this Act applies beginning with the 2004-2005 school
18 year.

19 (b) Subsection (b), Section 39.132, Education Code, as
20 added by this Act, applies beginning with the 2005-2006 school
21 year.

22 SECTION 8. This Act takes effect September 1, 2003.

S.B. No. 618

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 618 passed the Senate on April 1, 2003, by a viva-voce vote; and that the Senate concurred in House amendments on May 30, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 618 passed the House, with amendments, on May 28, 2003, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor