

1-1 By: Bivins S.B. No. 894
1-2 (In the Senate - Filed March 5, 2003; March 11, 2003, read
1-3 first time and referred to Committee on Education; April 7, 2003,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 9, Nays 0; April 7, 2003, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 894 By: Shapiro

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the reporting and auditing requirements relating to
1-10 school dropouts and to the use of compensatory education funds.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsections (a) and (e), Section 39.055,
1-13 Education Code, are amended to read as follows:

1-14 (a) The commissioner shall develop a process for auditing
1-15 school district dropout records electronically. The commissioner
1-16 shall also develop a system and standards for review of the audit or
1-17 use systems already available at the agency. The system must be
1-18 designed to identify districts that are at high risk of having
1-19 inaccurate dropout records and that, as a result, require on-site
1-20 monitoring of dropout records. If the electronic audit of a
1-21 district's dropout records indicates that a district is not at high
1-22 risk of having inaccurate dropout records, the district may not be
1-23 subject to on-site monitoring under this subsection. If the
1-24 risk-based system indicates that a district is at high risk of
1-25 having inaccurate dropout records, the district is entitled to an
1-26 opportunity to respond to the commissioner's determination before
1-27 on-site monitoring may be conducted. The district must respond not
1-28 later than the 30th day after the date the commissioner notifies the
1-29 district of the commissioner's determination. If the district's
1-30 response does not change the commissioner's determination that the
1-31 district is at high risk of having inaccurate dropout records or if
1-32 the district does not respond in a timely manner, the commissioner
1-33 shall order agency staff to conduct on-site monitoring of the
1-34 [board of trustees of each school district shall have the]
1-35 district's dropout records [audited annually at district expense by
1-36 a public accountant or certified public accountant who:

1-37 [(1) is certified or registered, as appropriate, and
1-38 licensed under Chapter 901, Occupations Code,

1-39 [(2) has successfully completed training provided by
1-40 the agency in auditing school dropout records, and

1-41 [(3) is not an employee of the district].

1-42 (e) ~~[The agency shall review each report of an audit of~~
1-43 ~~dropout records.]~~ The commissioner shall notify the board of
1-44 trustees of a school district of any objection the commissioner has
1-45 to the district's dropout data [report], any violation of sound
1-46 accounting practices or of a law or rule revealed by the data
1-47 [report], or any recommendation by the commissioner concerning the
1-48 data [report]. If the data reflect [report reflects] that a penal
1-49 law has been violated, the commissioner shall notify the county
1-50 attorney, district attorney, or criminal district attorney, as
1-51 appropriate, and the attorney general. The commissioner is
1-52 entitled to access to all district records the commissioner
1-53 considers necessary or appropriate for the review, analysis, or
1-54 approval of district dropout data [a report].

1-55 SECTION 2. Section 42.152, Education Code, is amended by
1-56 amending Subsections (c), (q), and (r) and adding Subsections (q-1)
1-57 through (q-4) to read as follows:

1-58 (c) Funds allocated under this section shall be used ~~[only]~~
1-59 to fund supplemental programs and services designed to eliminate
1-60 any disparity in performance on assessment instruments
1-61 administered under Subchapter B, Chapter 39, or disparity in the
1-62 rates of high school completion between students at risk of
1-63 dropping out of school, as defined by Section 29.081, and all other

2-1 students. Specifically, the funds, other than an indirect cost
 2-2 allotment established under State Board of Education rule, which
 2-3 may not exceed 15 percent, may be used [~~only~~] to meet the costs of
 2-4 providing a compensatory, intensive, or accelerated instruction
 2-5 program under Section 29.081 or an alternative education program
 2-6 established under Section 37.008 or to support a program eligible
 2-7 under Title I of the Elementary and Secondary Education Act of 1965,
 2-8 as provided by Pub. L. No. 103-382 and its subsequent amendments,
 2-9 and by federal regulations implementing that Act, at a campus at
 2-10 which at least 40 [~~50~~] percent of the students are educationally
 2-11 disadvantaged. In meeting the costs of providing a compensatory,
 2-12 intensive, or accelerated instruction program under Section
 2-13 29.081, a district's compensatory education allotment shall [~~may~~]
 2-14 be used [~~only~~] for costs supplementary to the regular education
 2-15 program, such as costs for program and student evaluation,
 2-16 instructional materials and equipment and other supplies required
 2-17 for quality instruction, supplemental staff expenses, salary for
 2-18 teachers of at-risk students, smaller class size, and
 2-19 individualized instruction. A home-rule school district or an
 2-20 open-enrollment charter school must use funds allocated under
 2-21 Subsection (a) for a purpose authorized in this subsection but is
 2-22 not otherwise subject to Subchapter C, Chapter 29. Notwithstanding
 2-23 any other provisions of this section:

2-24 (1) to ensure that a sufficient amount of the funds
 2-25 allotted under this section are available to supplement
 2-26 instructional programs and services, no more than 18 percent of the
 2-27 funds allotted under this section may be used to fund disciplinary
 2-28 alternative education programs established under Section 37.008;
 2-29 [~~and~~]

2-30 (2) the commissioner may waive the limitations of
 2-31 Subdivision (1) upon an annual petition, by a district's board and a
 2-32 district's site-based decision making committee, presenting the
 2-33 reason for the need to spend supplemental compensatory education
 2-34 funds on disciplinary alternative education programs under Section
 2-35 37.008, provided that:

2-36 (A) the [~~The~~] district [~~shall~~] in its petition
 2-37 reports [~~report~~] the number of students in each grade level, by
 2-38 demographic subgroup, not making satisfactory progress under the
 2-39 state's assessment system; and

2-40 (B) the [~~The~~] commissioner makes the [~~will make~~
 2-41 ~~this~~] waiver request information available annually to the public
 2-42 on the agency's website; and

2-43 (3) for purposes of this subsection, a program
 2-44 specifically designed to serve students at risk of dropping out of
 2-45 school, as defined by Section 29.081, is considered to be a program
 2-46 supplemental to the regular education program, and a district may
 2-47 use its compensatory education allotment for such a program.

2-48 (q) The State Board of Education, with the assistance of the
 2-49 state auditor and the comptroller, shall develop and implement by
 2-50 rule [~~a~~] reporting and auditing systems [~~system~~] for district and
 2-51 campus expenditures of compensatory education funds to ensure that
 2-52 compensatory education funds, other than the indirect cost
 2-53 allotment, are spent only to supplement the regular education
 2-54 program as required by Subsection (c). The reporting requirements
 2-55 shall be managed electronically to minimize local administrative
 2-56 costs. A district shall submit the report required by this
 2-57 subsection not later than the 150th day after the last day
 2-58 permissible for resubmission of information required under Section
 2-59 42.006.

2-60 (q-1) The commissioner shall develop a system to identify
 2-61 school districts that are at high risk of having used compensatory
 2-62 education funds other than in compliance with Subsection (c) or of
 2-63 having inadequately reported compensatory education expenditures.
 2-64 If a review of the report submitted under Subsection (q), using the
 2-65 risk-based system, indicates that a district is not at high risk of
 2-66 having misused compensatory education funds or of having
 2-67 inadequately reported compensatory education expenditures, the
 2-68 district may not be required to perform a local audit of
 2-69 compensatory education expenditures and is not subject to on-site

3-1 monitoring under this section.

3-2 (q-2) If a review of the report submitted under Subsection
 3-3 (q), using the risk-based system, indicates that a district is at
 3-4 high risk of having misused compensatory education funds, the
 3-5 commissioner shall notify the district of that determination. The
 3-6 district must respond to the commissioner not later than the 30th
 3-7 day after the date the commissioner notifies the district of the
 3-8 commissioner's determination. If the district's response does not
 3-9 change the commissioner's determination that the district is at
 3-10 high risk of having misused compensatory education funds or if the
 3-11 district does not respond in a timely manner, the commissioner
 3-12 shall:

3-13 (1) require the district to conduct a local audit of
 3-14 compensatory education expenditures for the current or preceding
 3-15 school year;

3-16 (2) order agency staff to conduct on-site monitoring
 3-17 of the district's compensatory education expenditures; or

3-18 (3) both require a local audit and order on-site
 3-19 monitoring.

3-20 (q-3) If a review of the report submitted under Subsection
 3-21 (q), using the risk-based system, indicates that a district is at
 3-22 high risk of having inadequately reported compensatory education
 3-23 expenditures, the commissioner may require agency staff to assist
 3-24 the district in following the proper reporting methods or amending
 3-25 a district or campus improvement plan under Subchapter F, Chapter
 3-26 11. If the district does not take appropriate corrective action
 3-27 before the 45th day after the date the agency staff notifies the
 3-28 district of the action the district is expected to take, the
 3-29 commissioner may:

3-30 (1) require the district to conduct a local audit of
 3-31 the district's compensatory education expenditures; or

3-32 (2) order agency staff to conduct on-site monitoring
 3-33 of the district's compensatory education expenditures.

3-34 (q-4) The commissioner, in the year following a local [an]
 3-35 audit of compensatory education expenditures, shall withhold from a
 3-36 district's foundation school fund payment an amount equal to the
 3-37 amount of compensatory education funds the agency determines were
 3-38 not used in compliance with Subsection (c). The commissioner shall
 3-39 release to a district funds withheld under this subsection when the
 3-40 district provides to the commissioner a detailed plan to spend
 3-41 those funds in compliance with Subsection (c).

3-42 (r) The commissioner shall grant a one-year exemption from
 3-43 the requirements of Subsections (q)-(q-4) [~~Subsection (g)~~]
 3-44 to a school district in which the group of students who have failed to
 3-45 perform satisfactorily in the preceding school year on an
 3-46 assessment instrument required under Section 39.023(a), (c), or (l)
 3-47 subsequently performs on those assessment instruments at a level
 3-48 that meets or exceeds a level prescribed by commissioner rule. Each
 3-49 year the commissioner, based on the most recent information
 3-50 available, shall determine if a school district is entitled to an
 3-51 exemption for the following school year and notify the district of
 3-52 that determination.

3-53 SECTION 3. Subsections (b), (c), and (d), Section 39.055,
 3-54 Education Code, are repealed.

3-55 SECTION 4. Subsection (c), Section 42.152, Education Code,
 3-56 as amended by this Act, applies to the use of compensatory education
 3-57 funds allotted under Chapter 42, Education Code, for any school
 3-58 year, including a school year before September 1, 2003.

3-59 SECTION 5. This Act takes effect September 1, 2003.

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