

1-1 By: Shapiro, et al. S.B. No. 1000
1-2 (In the Senate - Filed February 28, 2007; March 7, 2007,
1-3 read first time and referred to Committee on Education;
1-4 April 2, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 3; April 2, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1000 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the accessibility of services for certain students with
1-11 autism or autism spectrum disorder and to the training of and
1-12 support for educators serving students with autism.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 29, Education Code, is amended by adding
1-15 Subchapter J to read as follows:

1-16 SUBCHAPTER J. AUTISM SERVICES ACCESSIBILITY PROGRAM

1-17 Sec. 29.351. DEFINITIONS. In this subchapter:

1-18 (1) "Parent" includes a guardian, custodian, or other
1-19 person with authority to act on behalf of a student.

1-20 (2) "Program" means the autism services accessibility
1-21 program for students described by this subchapter.

1-22 (3) "Qualifying school" means a nongovernmental
1-23 community-based educational establishment that provides for the
1-24 educational needs of students with autism. The term does not
1-25 include a school that provides education in a home setting or that
1-26 limits enrollment to relatives of the school's staff.

1-27 Sec. 29.352. PROGRAM. An eligible student under Section
1-28 29.353 may, at the option of the student's parent:

1-29 (1) attend any public school in the district in which
1-30 the student resides;

1-31 (2) attend a public school in a district other than the
1-32 district in which the student resides; or

1-33 (3) access services as provided by Section 29.356
1-34 through a qualifying school.

1-35 Sec. 29.353. ELIGIBLE STUDENT. (a) A student is eligible
1-36 to participate in the program if:

1-37 (1) the student is eligible to receive public school
1-38 services and is eligible under Section 29.003 to participate in a
1-39 school district's special education program;

1-40 (2) the student has been diagnosed with autism or
1-41 autism spectrum disorder; and

1-42 (3) an individualized educational program has been
1-43 developed for the student under Section 29.005.

1-44 (b) Each school year, a school district shall:

1-45 (1) provide written notice of the program to the
1-46 parent of a student who is eligible to participate in the program
1-47 under Subsection (a); and

1-48 (2) allow the parent an opportunity to enroll the
1-49 student in the program.

1-50 (c) A student who establishes eligibility under this
1-51 section may continue participating in the program until the earlier
1-52 of the date the student graduates from high school or the student's
1-53 22nd birthday.

1-54 Sec. 29.354. TRANSFER OF STATE AID BETWEEN SCHOOL
1-55 DISTRICTS. (a) Except as provided by Section 29.355, an eligible
1-56 student who as provided by Section 29.352(2) attends a public
1-57 school in a school district other than the district in which the
1-58 student resides is included in the average daily attendance of the
1-59 district in which the student resides for purposes of Chapters 41
1-60 and 42.

1-61 (b) The commissioner shall deduct an amount equal to the
1-62 amount of funding to which the school district in which the eligible
1-63 student resides is entitled under Chapter 42 for that student from

2-1 the total state aid to which that district is entitled and shall
 2-2 transfer that amount to the district in which the student is
 2-3 enrolled.

2-4 (c) If a student resides in a school district that does not
 2-5 receive state aid under Chapter 42, the district in which the
 2-6 student resides shall purchase attendance credits under Section
 2-7 41.093 in an amount equal to the amount of funding the district
 2-8 would receive for the student under Chapter 42 if the district were
 2-9 entitled to state aid under that chapter, and the commissioner
 2-10 shall transfer that amount to the school district in which the
 2-11 student is enrolled.

2-12 Sec. 29.355. STATE AID IN CERTAIN CIRCUMSTANCES. An
 2-13 eligible student who as provided by Section 29.352(2) attends a
 2-14 public school in a school district other than the district in which
 2-15 the student resides is counted in the average daily attendance of
 2-16 the school district in which the student attends school if the total
 2-17 amount of state aid that the enrolling district would receive by
 2-18 counting the student in the district's average daily attendance is
 2-19 greater than the amount of state aid the district would receive as a
 2-20 result of receiving a transfer of funds from the district in which
 2-21 the student resides under Section 29.354.

2-22 Sec. 29.356. FINANCING OF SERVICES PROVIDED BY QUALIFYING
 2-23 SCHOOL. (a) For a student who attends a qualifying school under
 2-24 this subchapter, a qualifying school is entitled to an annual
 2-25 amount of funding that is equal to the amount of funding to which
 2-26 the school district in which the student resides would be entitled
 2-27 under Chapter 42 for the student. The agency shall directly
 2-28 distribute the funding to the qualifying school.

2-29 (b) For an eligible student to participate in the program,
 2-30 the parent of the student must apply to the agency on behalf of the
 2-31 student not later than a date specified by the commissioner. The
 2-32 application must specify the qualifying school the student plans to
 2-33 attend and demonstrate that the student has been accepted for
 2-34 admission by that school. On receiving the application from the
 2-35 parent of an eligible student, the agency shall determine a
 2-36 student's eligibility in accordance with rules adopted under
 2-37 Section 29.364. If the agency determines that the student is
 2-38 eligible for participation in the program, the agency shall notify
 2-39 the student's parent of the student's eligibility.

2-40 (c) The agency shall direct the distribution of funds to the
 2-41 qualifying school the student attends on a schedule adopted by the
 2-42 agency after educational services have been provided. The agency
 2-43 shall require that the qualifying school submit documentation of
 2-44 the student's attendance before the agency directs funds to the
 2-45 qualifying school.

2-46 (d) A student who attends a qualifying school under this
 2-47 subchapter is included in the average daily attendance of the
 2-48 school district in which the student resides for purposes of
 2-49 determining the amount of the student's program funding. The
 2-50 amount of the student's program funding is deducted from the total
 2-51 state aid to which the school district is entitled. If a student
 2-52 resides in a school district that does not receive state aid under
 2-53 Chapter 42, the school district shall purchase attendance credits
 2-54 under Section 41.093 in an amount equal to the amount of the
 2-55 student's program funding.

2-56 (e) The student's program funding is the entitlement of the
 2-57 student, under the supervision of the student's parent, and not
 2-58 that of any school.

2-59 (f) A qualifying school may not share a student's program
 2-60 funding with or refund or rebate a student's program funding to the
 2-61 parent or the student in any manner.

2-62 (g) A student's program funding may not be financed by money
 2-63 appropriated from the available school fund.

2-64 Sec. 29.357. PARTICIPATION BY QUALIFYING SCHOOLS. (a) To
 2-65 participate in the program, a qualifying school must:

2-66 (1) either:

2-67 (A) be accredited by an accrediting association
 2-68 recognized by the commissioner to accredit nongovernmental schools
 2-69 in this state; or

3-1 (B) have filed an application for accreditation
 3-2 by an accrediting association described by Paragraph (A) that has
 3-3 not been withdrawn, denied, or left pending for more than three
 3-4 years;

3-5 (2) not advocate or foster unlawful behavior or teach
 3-6 hatred of any person or group on the basis of race, ethnicity,
 3-7 national origin, or religion;

3-8 (3) comply with all health and safety laws applicable
 3-9 to nongovernmental schools; and

3-10 (4) hold a valid occupancy permit if required by the
 3-11 municipality in which the school is located.

3-12 (b) A qualifying school must comply with all state laws
 3-13 applicable to nongovernmental schools regarding criminal
 3-14 background checks for employees and may not employ a person who is
 3-15 not authorized under state law to work in a nongovernmental school.

3-16 Sec. 29.358. ADMISSIONS. (a) A qualifying school chosen
 3-17 by an eligible student's parent under this subchapter may not deny
 3-18 admission by discriminating on the basis of the student's race,
 3-19 ethnicity, or national origin and must comply with the requirements
 3-20 of:

3-21 (1) 42 U.S.C. Section 2000d et seq. with respect to
 3-22 nondiscrimination on the basis of race, color, or national origin;
 3-23 and

3-24 (2) Section 504, Rehabilitation Act of 1973 (29 U.S.C.
 3-25 Section 794), with respect to nondiscrimination on the basis of
 3-26 disability.

3-27 (b) Except as provided by this subsection, a qualifying
 3-28 school that has more qualified program applicants for attendance
 3-29 under this subchapter than available positions must fill the
 3-30 available program positions by a random selection process. To
 3-31 achieve continuity in education, a school may give preference among
 3-32 program applicants to a previously enrolled student and to other
 3-33 students residing in the same household as a previously enrolled
 3-34 student.

3-35 (c) A qualifying school may submit a written request for
 3-36 student records from the public school previously attended by an
 3-37 eligible student. Not later than the 10th working day after the
 3-38 date the public school receives the request, the public school
 3-39 shall deliver to the qualifying school a copy of the school's
 3-40 complete student records for that student, including attendance
 3-41 records, disciplinary records, past results of any assessment
 3-42 instruments administered to the student, the student's
 3-43 individualized educational program, and any other comprehensive
 3-44 assessments from each school the student previously attended. A
 3-45 public school that is required to release student records under
 3-46 this subsection shall comply with any applicable provision of the
 3-47 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
 3-48 Section 1232g).

3-49 Sec. 29.359. ACADEMIC ACCOUNTABILITY. (a) Each school
 3-50 year, a qualifying school shall establish academic goals for each
 3-51 eligible student enrolled in the school. The goals must be
 3-52 developed in a manner similar to an individualized education
 3-53 program developed under Section 29.005. At least every six weeks,
 3-54 the school shall provide a report to the student's parent
 3-55 describing the student's progress toward achieving the academic
 3-56 goals developed for the student under this subsection.

3-57 (b) Each qualifying school that enrolls a student under this
 3-58 subchapter shall annually administer in the spring:

3-59 (1) the appropriate assessment instrument required
 3-60 under Section 39.023; or

3-61 (2) a nationally norm-referenced assessment
 3-62 instrument approved by the agency.

3-63 (c) The school shall provide:

3-64 (1) the student's results on assessment instruments
 3-65 required under Subsection (b) to the student's parent; and

3-66 (2) the aggregated results of the assessment
 3-67 instruments required under Subsection (b) to the public.

3-68 Sec. 29.360. FINANCIAL SOLVENCY. The commissioner may
 3-69 adopt rules requiring a qualifying school that accepts funding

4-1 under this subchapter to demonstrate financial solvency.

4-2 Sec. 29.361. QUALIFYING SCHOOL AUTONOMY. (a) A qualifying
4-3 school that accepts funding under this subchapter is not an agent or
4-4 arm of the state or federal government.

4-5 (b) Except as provided by this subchapter, the
4-6 commissioner, the agency, the State Board of Education, or any
4-7 other state agency may not regulate the educational program of a
4-8 qualifying school that accepts funding under this subchapter.

4-9 (c) A qualifying school that accepts funding under this
4-10 subchapter is not required to implement an individualized education
4-11 program developed for the student under Section 29.005. The
4-12 student's parent and the qualifying school are responsible for
4-13 determining the services and educational program to be provided to
4-14 the student in accordance with the academic goals developed for the
4-15 student under Section 29.359(a).

4-16 Sec. 29.362. RESPONSIBILITIES OF PARENT AND STUDENT.

4-17 (a) It is the responsibility of the parent of an eligible student
4-18 to:

4-19 (1) locate and select a qualifying school;

4-20 (2) apply for admission to the qualifying school; and

4-21 (3) for participation in the program, apply in the
4-22 manner provided under Section 29.356.

4-23 (b) A student participating in the program must comply with
4-24 the student code of conduct of the qualifying school the student
4-25 attends. A student must attend the qualifying school each school
4-26 day unless the student is excused by the school for illness or other
4-27 good cause.

4-28 Sec. 29.363. TRANSFER. (a) An eligible student
4-29 participating in the program may transfer to a public school or
4-30 another qualifying school in the manner authorized by commissioner
4-31 rule. If a student transfers to another school under this section
4-32 after the beginning of the school year, the commissioner shall
4-33 prorate the amount of the student's program funding between the
4-34 qualifying schools or the qualifying school and the school
4-35 district, as applicable, according to the length of the student's
4-36 attendance at each school.

4-37 (b) The commissioner may adopt rules regarding the
4-38 frequency with which a parent may transfer an eligible student from
4-39 a qualifying school to another qualifying school or to a public
4-40 school.

4-41 Sec. 29.364. RULES. (a) The commissioner shall adopt
4-42 rules as necessary to implement, administer, and enforce the
4-43 program, including rules regarding:

4-44 (1) the calculation and distribution of payments for
4-45 qualifying schools;

4-46 (2) application and approval procedures for
4-47 qualifying school and student participation in the program,
4-48 including time lines for the application and approval procedures;
4-49 and

4-50 (3) student transfers under Section 29.363.

4-51 (b) A rule adopted under this section is binding on any
4-52 other state or local governmental entity, including a political
4-53 subdivision, as necessary to implement, administer, and enforce the
4-54 program.

4-55 Sec. 29.365. PROGRAM COMPLIANCE. (a) The agency shall
4-56 enforce this subchapter and any rule adopted under this subchapter
4-57 and may withhold funds from any district or qualifying school that
4-58 violates this subchapter or a rule adopted under this subchapter.

4-59 (b) The commissioner may revoke a qualifying school's
4-60 permission to participate in the program if the commissioner
4-61 determines that the school:

4-62 (1) has not met the requirements provided by this
4-63 subchapter;

4-64 (2) has intentionally and substantially
4-65 misrepresented information required by this subchapter; or

4-66 (3) has failed to refund to the state in a timely
4-67 manner any overpayment of program funding made to the school.

4-68 (c) If the commissioner revokes a qualifying school's
4-69 permission to participate in the program under Subsection (b), the

5-1 agency shall immediately notify the parent of an eligible student
5-2 attending the school of the revocation.

5-3 Sec. 29.366. LIABILITY. The agency is not civilly liable
5-4 for any action arising as the result of a student's participation in
5-5 the program.

5-6 Sec. 29.367. EVALUATION OF PROGRAM. (a) The commissioner
5-7 shall designate an impartial organization with experience in
5-8 evaluating programs similar to the program established under this
5-9 subchapter to conduct an annual evaluation of the program. The
5-10 evaluation must be conducted without the use of state funds.

5-11 (b) An evaluation under this section must compare
5-12 differences between qualifying schools and public schools and must
5-13 include consideration of:

5-14 (1) student satisfaction;
5-15 (2) parent satisfaction;
5-16 (3) behavioral problems of program students attending
5-17 qualifying schools as compared with students attending public
5-18 schools;

5-19 (4) class size;
5-20 (5) the fiscal impact to the state and school
5-21 districts;

5-22 (6) academic performance by comparable students as
5-23 measured by an assessment instrument required under Section
5-24 29.359(b);

5-25 (7) factors resulting in more than 25 percent of
5-26 eligible students in a school district attending a different school
5-27 district or a qualifying school under this subchapter; and

5-28 (8) the practices of a qualifying school that
5-29 contribute to any change in student behavior or academic
5-30 performance.

5-31 (c) The evaluation must apply appropriate analytical and
5-32 behavioral science methodologies to ensure public confidence in the
5-33 evaluation.

5-34 (d) Not later than December 1, 2010, the commissioner shall
5-35 submit to each member of the legislature a copy of the evaluation
5-36 conducted under this section.

5-37 (e) School districts and qualifying schools shall cooperate
5-38 with the organization conducting the evaluation and shall provide
5-39 student assessment instrument results and any other information
5-40 necessary to complete the evaluation in compliance with any
5-41 applicable provision of the Family Educational Rights and Privacy
5-42 Act of 1974 (20 U.S.C. Section 1232g).

5-43 (f) The agency may accept grants to assist in funding the
5-44 evaluation.

5-45 Sec. 29.368. APPLICATION OF SUNSET ACT. (a) The autism
5-46 services accessibility program is subject to Chapter 325,
5-47 Government Code (Texas Sunset Act), as if the program were a state
5-48 agency. Unless continued in existence as provided by that chapter,
5-49 the program is abolished and this chapter expires September 1,
5-50 2017.

5-51 (b) To the extent Chapter 325, Government Code, imposes a
5-52 duty on a state agency under review, the agency shall perform that
5-53 duty as it relates to the program.

5-54 SECTION 2. Subchapter B, Chapter 8, Education Code, is
5-55 amended by adding Section 8.058 to read as follows:

5-56 Sec. 8.058. AUTISM SERVICES ACCESSIBILITY AND TRAINING
5-57 COORDINATION INITIATIVE. (a) In this section, "initiative" means
5-58 the autism services accessibility and training coordination
5-59 initiative established under this section.

5-60 (b) The agency shall select and contract with a regional
5-61 education service center to implement an initiative to coordinate
5-62 services and training on a statewide basis for educators who serve
5-63 students with autism.

5-64 (c) The regional education service center selected under
5-65 Subsection (b) shall coordinate with the agency to establish and
5-66 maintain the initiative. The initiative shall include training,
5-67 technical assistance, and support for educators who serve students
5-68 with autism. Each regional education service center shall assist
5-69 the selected service center in the coordination of services and

6-1 training under this section.

6-2 (d) The regional education service center selected by the
6-3 agency under Subsection (b) shall:

6-4 (1) study current training options available at the
6-5 regional education service centers and other entities in the state
6-6 for educators who serve students with autism;

6-7 (2) study the access given to educators who serve
6-8 students with autism to attend training programs;

6-9 (3) develop appropriate training for educators who
6-10 serve students with autism, including scientifically based
6-11 training;

6-12 (4) coordinate the delivery of training on a statewide
6-13 basis, including the use of stipends for educators who attend
6-14 training programs;

6-15 (5) coordinate with other service centers to deliver
6-16 and implement the training; and

6-17 (6) develop procedures for school districts to use in
6-18 determining the training needs of educators who serve students with
6-19 autism, including:

6-20 (A) evaluating student count and distribution;

6-21 (B) conducting an inventory of staff knowledge;

6-22 (C) conducting an inventory of staff resources;

6-23 and

6-24 (D) conducting an evaluation of community and
6-25 regional resources.

6-26 (e) The regional education service center selected under
6-27 Subsection (b) shall:

6-28 (1) develop a guidebook for educators and parents
6-29 regarding appropriate practices and policies for providing
6-30 services for students with autism, which must include:

6-31 (A) diagnostic considerations;

6-32 (B) instructional and behavioral management

6-33 strategies;

6-34 (C) recommended instructional practices; and

6-35 (D) suggestions for developing an individualized
6-36 education program for a student with autism; and

6-37 (2) develop and maintain an Internet website to
6-38 provide information regarding services available in this state for
6-39 educators who serve students with autism and parents of students
6-40 with autism, which must include information regarding:

6-41 (A) the diagnosis of autism;

6-42 (B) current research on autism;

6-43 (C) recommended instructional practices for
6-44 students with autism;

6-45 (D) state and national autism organizations,
6-46 including contact information; and

6-47 (E) state and national conferences addressing
6-48 the needs of students with autism.

6-49 (f) The regional education service center selected under
6-50 Subsection (b) shall collaborate with the Texas Council on Autism
6-51 and Pervasive Developmental Disorders in administering the
6-52 initiative.

6-53 (g) The commissioner may adopt rules as necessary to
6-54 implement the initiative.

6-55 SECTION 3. The Texas Education Agency shall expend not more
6-56 than \$125,000 in each fiscal year to implement the provisions of
6-57 this Act.

6-58 SECTION 4. (a) The Texas Education Agency shall make the
6-59 autism services accessibility program under Subchapter J, Chapter
6-60 29, Education Code, as added by this Act, available for
6-61 participation beginning with the 2008-2009 academic school year.

6-62 (b) As soon as practicable, the commissioner of education
6-63 shall adopt and implement rules necessary for the administration of
6-64 the autism services accessibility program.

6-65 SECTION 5. This Act takes effect September 1, 2007.

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