

By: Zaffirini

S.B. No. 548

A BILL TO BE ENTITLED

1 AN ACT
2 relating to public school accountability for bilingual education
3 and English as a second language and other special language
4 programs.

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

6 SECTION 1. Section 29.062, Education Code, is amended by
7 amending Subsections (a), (d), and (e) and adding Subsections
8 (a-1), (b-1), (b-2), (d-1), and (f) to read as follows:

9 (a) The legislature recognizes that compliance with this
10 subchapter is an imperative public necessity. Therefore, in
11 accordance with the policy of the state, the agency shall evaluate
12 the effectiveness of programs under this subchapter based on the
13 following, disaggregated by campus and school district or
14 open-enrollment charter school:

15 (1) the academic excellence indicators adopted under
16 Section 39.051(a), including the results of assessment
17 instruments;

18 (2) the results of monitoring under Subsection (b);

19 (3) the results of analysis under Subsection (b-1);

20 and

21 (4) the accomplishment of annual improvement goals
22 designated under Subsection (d)(2).

23 (a-1) The agency may combine but may not replace evaluations
24 under this section with federal accountability measures concerning

1 students of limited English proficiency.

2 (b-1) In measuring compliance under this subchapter, the
3 agency shall analyze the following, disaggregated by campus and
4 school district or open-enrollment charter school:

5 (1) frequency of requests by a campus, district, or
6 open-enrollment charter school for a waiver of or exception to a
7 requirement relating to a program under this subchapter;

8 (2) a rate of parental denial of approval of a
9 student's entry into, placement in, or exit from a program under
10 this subchapter that is at least 150 percent greater than the state
11 average rate of parental denial;

12 (3) the difference in grade-level retention rates
13 between students of limited English proficiency and students who
14 are not students of limited English proficiency;

15 (4) any variance of greater than 20 percent between
16 the percentage of students identified as students of limited
17 English proficiency and the percentage of students whose families
18 speak a language other than English at home, as determined by the
19 home language survey administered to all students new to a campus,
20 district, or open-enrollment charter school as provided by Section
21 29.056(a)(1);

22 (5) any significant difference in academic
23 performance between students of limited English proficiency and
24 students who are not students of limited English proficiency; and

25 (6) any significant difference in the dropout rate for
26 grade levels 9 through 12 between students of limited English
27 proficiency and students who are not students of limited English

1 proficiency.

2 (b-2) If as a result of a program evaluation under this
3 section the agency conducts a desk audit or on-site monitoring of a
4 campus, school district, or open-enrollment charter school, each
5 agency auditor or monitor must be appropriately certified by the
6 State Board for Educator Certification as provided for under
7 Section 29.061 for the bilingual education or English as a second
8 language or other special language program to be audited or
9 monitored. An emergency endorsement issued under Section 29.061(a)
10 is not considered appropriate certification for purposes of this
11 subsection.

12 (d) The agency shall notify in writing a school district
13 concerning a campus's or the district's noncompliance or an
14 open-enrollment charter school concerning the open-enrollment
15 charter school's ~~[found in]~~ noncompliance ~~[in writing]~~, not later
16 than the 30th day after the date of the desk audit or on-site
17 monitoring. The district or open-enrollment charter school shall
18 take immediate corrective action. The corrective action must
19 include:

20 (1) a review and assessment of:

21 (A) procedures for identification of students of
22 limited English proficiency;

23 (B) procedures for placement of students in a
24 program under this subchapter;

25 (C) student assessment procedures, including
26 assessment of:

27 (i) English language proficiency;

1 (ii) proficiency in the language spoken at
2 home; and

3 (iii) academic achievement in, as defined
4 by commissioner rule, core content areas;

5 (D) provision of instruction under the program,
6 including assessment of the quality of instruction and whether the
7 program is being implemented as designed;

8 (E) credentials of instructional staff,
9 including:

10 (i) appropriate certification of teachers
11 providing English language development or content area instruction
12 to students of limited English proficiency; and

13 (ii) the amount of instruction provided by
14 teachers who hold emergency endorsements or who are teaching
15 outside the teacher's area of specialization;

16 (F) professional development provided to content
17 area teachers serving students of limited English proficiency;

18 (G) curricular materials used in providing
19 instruction; and

20 (H) program evaluation procedures, including
21 procedures for:

22 (i) ongoing monitoring to identify program
23 components needing improvement and implementing identified
24 improvements; and

25 (ii) identifying and closing any academic
26 achievement gap between students of limited English proficiency and
27 students who are not students of limited English proficiency; and

1 (2) designation by the district or open-enrollment
2 charter school of annual improvement goals that:

3 (A) are based on the results of the review and
4 assessment under Subdivisions (1)(A) through (G) and Subdivision
5 (1)(H)(i);

6 (B) are designed to improve academic achievement
7 in the core content areas by students of limited English
8 proficiency; and

9 (C) are based on the extent of any academic
10 achievement gap identified under Subdivision (1)(H)(ii), with
11 incremental improvement goals established according to the size of
12 the achievement gap.

13 (d-1) The agency shall review annual improvement in a
14 program under this subchapter as measured by the goals designated
15 under Subsection (d)(2). A campus, school district, or
16 open-enrollment charter school with a program that fails to meet
17 one or more annual improvement goals shall provide for a program
18 audit conducted by an independent auditor who has experience in
19 implementing programs for students of limited English proficiency
20 and who is appropriately certified as provided for under Section
21 29.061 for the program to be audited. The agency shall take
22 corrective action as appropriate in one or more areas reviewed and
23 assessed under Subsection (d)(1) of a program that fails to meet an
24 annual improvement goal for two or more consecutive school years.

25 (e) If a campus, school district, or open-enrollment
26 charter school fails to satisfy appropriate standards adopted by
27 the commissioner for purposes of Subsection (a), the agency shall

1 apply sanctions, which may include the removal of accreditation,
2 loss of foundation school funds, or both.

3 (f) The commissioner shall adopt rules consistent with this
4 section as necessary to administer this section.

5 SECTION 2. Section 29.066, Education Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) This subsection applies only to a school district that
8 is required to offer bilingual education or special language
9 programs. During each school year after a district student is
10 transferred out of the district's bilingual education or special
11 language program, the district shall include in the district's
12 Public Education Information Management System (PEIMS) report the
13 following information concerning the student without providing any
14 personally identifiable information concerning the student:

15 (1) the total amount of time the student was enrolled
16 in a bilingual education or special language program;

17 (2) the student's grades each grading period in each
18 subject in the foundation curriculum under Section 28.002(a)(1);

19 (3) the student's performance on each assessment
20 instrument administered under Section 39.023(a) or (c);

21 (4) any disciplinary actions taken against the student
22 under Subchapter A, Chapter 37;

23 (5) the number of credits the student has earned
24 toward high school graduation, if applicable;

25 (6) the number of years the student has been enrolled
26 in high school, if applicable; and

27 (7) whether the student graduated from high school,

1 earned a high school equivalency certificate, or dropped out of
2 high school, if applicable.

3 SECTION 3. Section 39.051(b), Education Code, is amended to
4 read as follows:

5 (b) Performance on the indicators adopted under this
6 section shall be compared to state-established standards. The
7 degree of change from one school year to the next in performance on
8 each indicator adopted under this section shall also be considered.
9 The indicators must be based on information that is disaggregated
10 by race, ethnicity, gender, identification as a student of limited
11 English proficiency, and socioeconomic status and must include:

12 (1) the results of assessment instruments required
13 under Sections 39.023(a), (c), and (l), aggregated by grade level
14 and subject area;

15 (2) dropout rates, including dropout rates and
16 district completion rates for grade levels 9 through 12, computed
17 in accordance with standards and definitions adopted by the
18 National Center for Education Statistics of the United States
19 Department of Education;

20 (3) high school graduation rates, computed in
21 accordance with standards and definitions adopted in compliance
22 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

23 (4) student attendance rates;

24 (5) the percentage of graduating students who attain
25 scores on the questions developed for end-of-course assessment
26 instruments under Section 39.0233(a) that are equivalent to a
27 passing score on the assessment instrument required under Section

1 51.3062;

2 (6) the percentage of graduating students who meet the
3 course requirements established for the recommended high school
4 program by State Board of Education rule;

5 (7) the results of the Scholastic Assessment Test
6 (SAT), the American College Test (ACT), articulated postsecondary
7 degree programs described by Section 61.852, and certified
8 workforce training programs described by Chapter 311, Labor Code;

9 (8) the percentage of students, aggregated by grade
10 level, provided accelerated instruction under Section 28.0211(c),
11 the results of assessments administered under that section, the
12 percentage of students promoted through the grade placement
13 committee process under Section 28.0211, the subject of the
14 assessment instrument on which each student failed to perform
15 satisfactorily, and the performance of those students in the school
16 year following that promotion on the assessment instruments
17 required under Section 39.023;

18 (9) for students who have failed to perform
19 satisfactorily on an assessment instrument required under Section
20 39.023(a) or (c), the numerical progress of those students grouped
21 by percentage on subsequent assessment instruments required under
22 those sections, aggregated by grade level and subject area;

23 (10) the percentage of students exempted, by exemption
24 category, from the assessment program generally applicable under
25 this chapter;

26 (11) the percentage of students of limited English
27 proficiency exempted from the administration of an assessment

1 instrument under Sections 39.027(a)(3) and (4);

2 (12) the percentage of students in a special education
3 program under Subchapter A, Chapter 29, assessed through assessment
4 instruments developed or adopted under Section 39.023(b);

5 (13) the measure of progress toward preparation for
6 postsecondary success; and

7 (14) the measure of progress toward dual language
8 proficiency under Section 39.034(b), for students of limited
9 English proficiency, as defined by Section 29.052.

10 SECTION 4. This Act applies beginning with the 2009-2010
11 school year.

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.