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By:  Huberty H.B. No. 3904

A BILL TO BE ENTITLED

AN ACT

relating to public school accountability, including certain assessment requirements, performance standards, and sanctions, including sanctions affecting educator contracts, and to providing alternative methods to satisfy certain public high school graduation requirements.

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

ARTICLE 1. PUBLIC SCHOOL ACCOUNTABILITY

SECTION 1.01.  Section 39.0241, Education Code, is amended by adding Subsection (a-2) to read as follows:

(a-2)  This subsection applies only to an assessment instrument authorized under Section 39.025(a-2), as added by Chapter 1036 (H.B. 1613), Acts of the 84th Legislature, Regular Session, 2015, for use as a substitute assessment instrument for purposes of satisfying the requirements concerning an end-of-course assessment instrument. The commissioner shall designate for student performance on each substitute assessment instrument subject to this subsection a level of performance considered to be satisfactory and a level of performance necessary to indicate college readiness in the same manner as the commissioner designates those standards for student performance on each end-of-course assessment instrument listed in Section 39.023(c). The commissioner shall designate the level of performance that indicates college readiness on a substitute assessment as "masters grade-level performance."

SECTION 1.02.  Section 39.053(c), Education Code, as amended by Chapters 807 (H.B. 22), 842 (H.B. 2223), and 1088 (H.B. 3593), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(c)  School districts and campuses must be evaluated based on three domains of indicators of achievement adopted under this section that include:

(1)  in the student achievement domain, indicators of student achievement that must include:

(A)  for evaluating the performance of districts and campuses generally:

(i)  an indicator that accounts for the results of assessment instruments required under Sections 39.023(a), (c), and (l), as applicable for the district and campus, including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:

(a)  for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(b)  for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii)  an indicator that accounts for the results of assessment instruments required under Section 39.023(b), as applicable for the district and campus, including the percentage of students who performed satisfactorily on the assessment instruments, as determined by the performance standard adopted by the agency, aggregated across grade levels by subject area; [~~and~~]

(B)  for evaluating the performance of high school campuses and districts that include high school campuses, indicators that account for:

(i)  students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.334 on an assessment instrument in reading or mathematics designated by the coordinating board under that section;

(ii)  students who satisfy relevant performance standards on advanced placement tests or similar assessments;

(iii)  students who earn dual course credits in English language arts, mathematics, science, or social studies [~~the~~] dual credit courses;

(iv)  students who enlist in the armed forces of the United States;

(v)  students who complete coherent sequences of courses required to earn industry certifications;

(vi)  students admitted into postsecondary industry certification programs that require as a prerequisite for entrance successful performance at the secondary level;

(vii)  students whose successful completion of a course or courses under Section 28.014 indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(viii)  students who successfully met standards on a composite of indicators that through research indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(ix)  high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) subject to the exclusions provided by Subsections (g), (g-1), (g-2), and (g-3);

(x)  students who successfully completed an OnRamps dual enrollment course; [~~and~~]

(xi)  [~~the percentage of~~] students who successfully completed a practicum or internship approved by the State Board of Education;

(xii)  students who are awarded an associate [~~associate's~~] degree;

(xiii)  students who participate in extracurricular activities, including University Interscholastic League A+ academic events and foreign language, chess, and robotics clubs; and

(xiv)  ninth grade students who are academically on track to graduate with their ninth grade cohort; and

(C)  for evaluating the performance of middle and junior high school and elementary school campuses and districts that include those campuses, indicators that account for:

(i)  students who participate in full-day prekindergarten programs;

(ii)  students who participate in elementary literacy and mathematics academies; and

(iii)  students who participate in extracurricular activities, including University Interscholastic League A+ academic events and foreign language, chess, and robotics clubs;

(2)  in the school progress domain, indicators for effectiveness in promoting student learning, which must include:

(A)  for assessment instruments, including assessment instruments under Subdivisions (1)(A)(i) and (ii), the percentage of students who met the standard for improvement, as determined by the commissioner; and

(B)  for evaluating relative performance, the performance of districts and campuses compared to similar districts or campuses; and

(3)  in the closing the gaps domain, the use of disaggregated data to demonstrate the differentials among students from different racial and ethnic groups, socioeconomic backgrounds, and other factors, including:

(A)  students formerly receiving special education services;

(B)  students continuously enrolled; and

(C)  students who are mobile.

SECTION 1.03.  Section 39.053, Education Code, is amended by adding Subsection (c-4) to read as follows:

(c-4)  The commissioner shall determine a method by which a student's performance under Subsection (c)(1)(B)(v) may be included in determining the performance of a district or campus under Section 39.054 if the student successfully completed the courses but did not receive the certification until after the student graduated.

SECTION 1.04.  Section 39.054, Education Code, is amended by adding Subsections (a-5) and (a-6) to read as follows:

(a-5)  For purposes of assigning each district and campus a domain performance rating under Section 39.053(c), the commissioner may not attribute more than 50 percent of any domain performance rating to the results of assessment instruments required under Sections 39.023(a), (b), (c), and (l).

(a-6)  For purposes of assigning each district and campus a domain performance rating for the student achievement domain under Section 39.053(c)(1), the commissioner shall attribute:

(1)  40 percent of the performance rating to the indicators under Section 39.053(c)(1)(A) relating to assessment instrument results;

(2)  20 percent of the performance rating to the indicator under Section 39.053(c)(1)(B)(ix) relating to high school graduation rates; and

(3)  40 percent of the performance rating to the indicators under Section 39.053(c)(1)(B) relating to college, career, and military readiness.

SECTION 1.05.  Section 39.0548, Education Code, is amended by amending Subsections (a) and (d) and adding Subsections (a-1), (e), (f), (g), and (h) to read as follows:

(a)  For purposes of evaluating performance under Section 39.053(c), the commissioner shall designate as a dropout recovery school a school district or an open-enrollment charter school or a campus of a district or of an open-enrollment charter school:

(1)  that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2)  that [~~meets the eligibility requirements for and~~] is registered under alternative education accountability procedures adopted by the commissioner.

(a-1)  For purposes of assigning performance ratings under Section 39.054, the commissioner shall evaluate a dropout recovery school under alternative education accountability procedures adopted by the commissioner.

(d)  For [~~Notwithstanding Section 39.053(c), for~~] purposes of evaluating a dropout recovery school under the alternative education accountability procedures adopted by the commissioner [~~to determine the performance rating of the school under Section 39.054~~], only the best result from the primary administration or any retake of an assessment instrument administered to a student in the school year evaluated may be considered in assigning performance ratings for the school under Section 39.054.

(e)  For purposes of evaluating performance of a dropout recovery school under the student achievement domain under Section 39.053(c)(1), the commissioner may consider for purposes of assigning a domain performance rating under Section 39.054 student performance based only on the "approaches grade level" performance standard. Any evaluation of student performance based on a higher performance standard may not be considered to negatively affect the domain performance rating or a performance target score of the school.

(f)  For purposes of evaluating performance of a dropout recovery school under the school progress domain under Section 39.053(c)(2), the commissioner may award credit for academic growth for purposes of assigning a domain performance rating under Section 39.054 based only on a student reaching the "approaches grade level" performance standard. Any evaluation of student performance based on reaching a higher academic growth performance standard may not be considered to negatively affect the amount of credit awarded to the school or the domain performance rating or a performance target score of the school.

(g)  For purposes of assigning an overall performance rating for a dropout recovery school under Section 39.054, the commissioner shall consider only the school's domain performance ratings under the student achievement domain under Section 39.053(c)(1) and the school progress domain under Section 39.053(c)(2).

(h)  The performance of a dropout recovery school under the closing the gaps domain under Section 39.053(c)(3) may be used for reporting purposes only.

SECTION 1.06.  This article applies beginning with the 2019-2020 school year.

ARTICLE 2. ACCOUNTABILITY INTERVENTIONS AND SANCTIONS

SECTION 2.01.  Section 39A.051(b), Education Code, is amended to read as follows:

(b)  For a campus described by Subsection (a), the commissioner, to the extent the commissioner determines necessary, may:

(1)  order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the school district, the district superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; [~~or~~]

(2)  establish a school community partnership team composed of members of the campus-level planning and decision-making committee established under Section 11.251 and additional community representatives as determined appropriate by the commissioner; or

(3)  order reconstitution of the campus and implementation of strategic staffing as provided by Section 39A.0511.

SECTION 2.02.  Effective September 1, 2019, Subchapter B, Chapter 39A, Education Code, is amended by adding Section 39A.0511 to read as follows:

Sec. 39A.0511.  RECONSTITUTION AND STRATEGIC STAFFING. (a) For a campus described by Section 39A.051(a), the school district may choose to pursue reconstitution and implementation of strategic staffing for the campus as provided by this section.

(b)  The commissioner by rule shall provide procedures for the strategic staffing of a campus that is reconstituted by order of the commissioner under Section 39A.051(b) or by option of the school district under Subsection (a), including procedures for:

(1)  the retention at the campus of a teacher of a subject for which an assessment instrument is administered under Section 39.023 only if a pattern of significant academic improvement by students taught by the teacher is established;

(2)  removal of the principal of the campus, unless the campus intervention team determines retention of the principal would be more beneficial to student achievement and campus stability than removal; and

(3)  placement of educators at the campus based on each educator's established effectiveness.

(c)  A determination that an educator may not be retained at a reconstituted campus constitutes good cause under Chapter 21 for discharging the educator and terminating the educator's contract. This subsection applies regardless of whether the reconstitution was ordered by the commissioner under Section 39A.051(b) or implemented by option of the school district under Subsection (a).

SECTION 2.03.  Section 39A.060, Education Code, is amended to conform to Section 1, Chapter 472 (H.B. 2263), Acts of the 85th Legislature, Regular Session, 2017, and further amended to read as follows:

Sec. 39A.060.  CAMPUS INTERVENTION TEAM CONTINUING DUTIES.  For each year a campus is assigned an unacceptable performance rating, the campus intervention team shall:

(1)  [~~continue to work with the campus until:~~

[~~(A)  the campus satisfies all performance standards under Section 39.054(e) for a two-year period; or~~

[~~(B)  the campus satisfies all performance standards under Section 39.054(e) for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement;~~

[~~(2)~~]  assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; [~~and~~]

(2) [~~(3)~~]  submit each updated targeted improvement plan described by Subdivision (1) [~~(2)~~] to the board of trustees of the school district; and

(3)  determine which educators may be retained at the campus, if the campus is reconstituted by order of the commissioner under Section 39A.051(b) or by option of the school district under Section 39A.0511.

SECTION 2.04.  The change in law made by Section 39A.0511(c), Education Code, as added by this Act, applies only to a contract entered into on or after September 1, 2019.

SECTION 2.05.  This article applies beginning with the 2019-2020 school year.

ARTICLE 3. INDIVIDUAL GRADUATION COMMITTEES

SECTION 3.01.  Sections 12.104(b-2) and (b-3), Education Code, are amended to read as follows:

(b-2)  An open-enrollment charter school is subject to the requirement to establish an individual graduation committee under Section 28.0258. [~~This subsection expires September 1, 2019.~~]

(b-3)  An open-enrollment charter school is subject to the graduation qualification procedure established by the commissioner under Section 28.02541. [~~This subsection expires September 1, 2019.~~]

SECTION 3.02.  Section 28.025(c-6), Education Code, is amended to read as follows:

(c-6)  Notwithstanding Subsection (c), a person may receive a diploma if the person is eligible for a diploma under Section 28.0258. [~~This subsection expires September 1, 2019.~~]

SECTION 3.03.  Effective September 1, 2019, Section 28.02541(a), Education Code, is amended to read as follows:

(a)  This section applies only to a student who:

(1)  entered the ninth grade before the 2011-2012 school year;

(2)  successfully completed the curriculum requirements for high school graduation applicable to the student when the student entered the ninth grade;

(3)  has not performed satisfactorily on an assessment instrument or a part of an assessment instrument required for high school graduation, including an alternate assessment instrument offered under Section 39.025(c-2) [~~39.025(c-1)~~]; and

(4)  has been administered the assessment instrument or the part of the assessment instrument for which the student has not performed satisfactorily at least three times.

SECTION 3.04.  Section 28.02591(a), Education Code, is amended to read as follows:

(a)  The Texas Higher Education Coordinating Board, in coordination with the agency, shall collect longitudinal data relating to the post-graduation pursuits of each student who is awarded a diploma based on the determination of an individual graduation committee under Section 28.0258, [~~as that section existed before September 1, 2019,~~] including whether the student:

(1)  enters the workforce;

(2)  enrolls in an associate degree or certificate program at a public or private institution of higher education;

(3)  enrolls in a bachelor's degree program at a public or private institution of higher education; or

(4)  enlists in the armed forces of the United States or the Texas National Guard.

SECTION 3.05.  Section 39.025(a-2), Education Code, as added by Chapter 5 (S.B. 149), Acts of the 84th Legislature, Regular Session, 2015, is redesignated as Section 39.025(a-5), Education Code, and amended to read as follows:

(a-5) [~~(a-2)~~]  Notwithstanding Subsection (a), a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under this section may receive a high school diploma if the student has qualified for graduation under Section 28.0258. [~~This subsection expires September 1, 2019.~~]

SECTION 3.06.  Section 39.025(a-3), Education Code, is amended to read as follows:

(a-3)  A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. [~~This subsection expires September 1, 2019.~~]

SECTION 3.07.  Sections 28.02541(g), 28.0258(l), and 28.0259(e), Education Code, are repealed.

ARTICLE 4. CONFLICTS PROVISION; EFFECTIVE DATE

SECTION 4.01.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4.02.  Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.