86R6962 MP-F

By:  Zaffirini S.B. No. 1759

A BILL TO BE ENTITLED

AN ACT

relating to an individualized education program and transition planning for a public school student enrolled in a special education program.

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

SECTION 1.  Sections 29.005(b-1) and (e), Education Code, are amended to read as follows:

(b-1)  The written statement of the individualized education program must document the decisions of the committee with respect to issues discussed at each committee meeting. The written statement must include:

(1)  the date of the meeting;

(2)  the name, position, and signature of each member participating in the meeting; [~~and~~]

(3)  an indication of whether the student's [~~child's~~] parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the committee; and

(4)  if the student does not attend the meeting:

(A)  a statement indicating the reason for the student's absence, if known; and

(B)  a statement summarizing any goals or services requested by the student relating to the transition to life outside the public school system if the student is:

(i)  14 years of age or older; or

(ii)  younger than 14 years of age and appropriate transition planning under Section 29.011 has begun.

(e)  The commissioner by rule may require a school district to include in the individualized education program of a student with autism or another pervasive developmental disorder any information or requirement determined necessary to ensure the student receives a free appropriate public education as required under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), including information or requirements regarding consideration and, if appropriate, the:

(1)  facilitation of a referral of the student or the student's parents to a governmental agency for services or public benefits as described by Section 29.011(a)(9); and

(2)  development of the student's decision-making skills or fostering of the student's independence and self-determination as described by Section 29.011(a)(10).

SECTION 2.  Section 29.011, Education Code, is amended by amending Subsection (a) and adding Subsection (a-3) to read as follows:

(a)  The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The procedures must specify the manner in which a student's admission, review, and dismissal committee must consider, and if appropriate, address the following issues in the student's individualized education program:

(1)  [~~appropriate~~] student involvement and participation in the student's transition to life outside the public school system;

(2)  if the student is younger than 18 years of age, [~~appropriate~~] involvement and participation in any discussion or meeting concerning the student's transition by the student, the student's parents, and other persons invited to participate by:

(A)  the student's parents; or

(B)  the school district in which the student is enrolled;

(3)  if the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:

(A)  is invited to participate by the student or the school district in which the student is enrolled; or

(B)  has the student's consent to participate pursuant to a supported decision-making agreement under Chapter 1357, Estates Code;

(4)  appropriate postsecondary education options, including preparation for postsecondary-level coursework;

(5)  an appropriate functional vocational evaluation;

(6)  appropriate employment goals and objectives;

(7)  if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;

(8)  appropriate independent living goals and objectives, including orientation and preparation for the use of local public or private transportation systems designed for the general public or for persons with disabilities;

(9)  appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including for health care coverage or a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); [~~and~~]

(10)  the use and availability of appropriate:

(A)  supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and

(B)  supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Chapter 1357, Estates Code;

(11)  appropriate coordination with any transition planning or services provided to the student by the following agencies, including by inviting those agencies to participate in the student's transition or future under Subdivision (2) or (3):

(A)  state agencies, including the Texas Workforce Commission, Health and Human Services Commission, or Department of Family and Protective Services; or

(B)  local agencies, including centers for independent living, local intellectual and developmental disability authorities, or community-based mental health centers; and

(12)  appropriate information on available services provided by the school district if the student will graduate from high school but not be awarded a high school diploma under Section 28.025(c)(1).

(a-3)  A school district that does not invite a state or local agency described by Subsection (a)(11) to participate in a student's transition or future under Subsection (a)(2) or (3) must include a statement in the student's individualized education program indicating the reason the agency was not invited to participate.

SECTION 3.  Section 29.0112(b), Education Code, is amended to read as follows:

(b)  The transition and employment guide must be written in a plain-language, student-friendly format [~~plain language~~] and contain information specific to this state regarding:

(1)  transition services;

(2)  employment and supported employment services that adhere to the employment-first policy adopted under Section 531.02447, Government Code;

(3)  social security programs, including the Ticket to Work Program authorized by the Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. No. 106-170);

(4)  community and long-term services and support, including the option to place the student on a waiting list with a governmental agency for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c));

(5)  postsecondary educational programs and services, including the inventory maintained by the Texas Higher Education Coordinating Board under Section 61.0663;

(6)  information sharing with health and human services agencies and providers;

(7)  guardianship and alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code;

(8)  self-advocacy, person-centered and person-directed planning, and self-determination; [~~and~~]

(9)  public and private transportation systems, including options designed for persons with disabilities;

(10)  health care services and coverage, including the process for transitioning to adult health care;

(11)  mental health and wellness services;

(12)  voting and civic engagement;

(13)  financial literacy, including plain-language information and curricula that promotes the understanding and effective management of financial resources for a lifetime of financial well-being;

(14)  available programs that promote employment and financial independence, including:

(A)  special needs trusts;

(B)  the Texas Achieving a Better Life Experience (ABLE) Program under Subchapter J, Chapter 54, authorized under Section 529A, Internal Revenue Code of 1986;

(C)  the Medicaid buy-in programs implemented under Section 531.02444, Government Code; and

(D)  other work incentive programs; and

(15)  contact information for all relevant state agencies.

SECTION 4.  Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.0113 to read as follows:

Sec. 29.0113.  SUBMINIMUM WAGE EMPLOYMENT FOR STUDENTS WITH DISABILITIES. The commissioner shall adopt rules that comply with:

(1)  the requirements under 34 C.F.R. Section 397.30 relating to subminimum wage employment for students with disabilities; and

(2)  the prohibition under 34 C.F.R. Section 397.31 on contractual or other arrangements to provide subminimum wage employment for students with disabilities.

SECTION 5.  Section 352.108, Labor Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (f) to read as follows:

(b)  The commission and the Texas Education Agency shall collaborate to develop a mechanism to identify the areas of the state with the greatest needs for transition services for students with disabilities. The mechanism must account for the commission's limited resources and a public school's [~~school district's~~] needs, including:

(1)  the school's [~~school district's~~] resources for special education;

(2)  the number of students with disabilities in the school [~~district~~]; and

(3)  other factors that the commission and the Texas Education Agency consider important.

(d)  The commission shall develop uniform, statewide policies for transition services that include:

(1)  the goal that a transition counselor initiate contact with a student approximately three years before the student is expected to graduate from high school;

(2)  the minimum level of services to be provided to a student at the time that a transition counselor initiates contact with the student;

(3)  standards, based on the mechanism developed under Subsection (b), for assigning a transition counselor to a public school that ensure consistency among regions but that are not too restrictive;

(4)  expectations for transition counselors to develop relationships with public school personnel, including the employee designated to serve as the school's [~~school district's~~] designee on transition and employment services under Section 29.011(b), Education Code; and

(5)  expectations for regional commission staff to work with education service center representatives on a regular basis to identify areas of greatest need and to discuss local strategies for coordination between transition counselors and public schools.

(e)  The commission and the Texas Education Agency shall enter into a memorandum of understanding to comply with the policies under this section and to improve coordination between the agencies. The memorandum of understanding must include:

(1)  strategies to better inform transition clients, clients' families, and public school personnel regarding the commission's available services, including by:

(A)  providing [~~and~~] contact information for commission transition counselors; and

(B)  ensuring public schools provide commission transition counselors with timely access to students with disabilities and the students' parents or guardians to discuss the commission's available services and the role of commission transition counselors;

(2)  a process to be used by the commission and the Texas Education Agency to develop and update the mechanism used to identify students who may need services; and

(3)  strategies to promote the development, coordination, provision, and evaluation of pre-employment transition services provided to students with disabilities in accordance with Section 113, Rehabilitation Act of 1973 (29 U.S.C. Section 733).

(f)  The commission and the Texas Education Agency shall review and, if necessary, update the memorandum of understanding under Subsection (e) at least once every four years. In conducting the review, the commission and the Texas Education Agency shall solicit input from the continuing advisory committee appointed under Section 29.006, Education Code, and the Rehabilitation Council of Texas.

SECTION 6.  This Act applies beginning with the 2019-2020 school year.

SECTION 7.  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 September 1, 2019.