2019S0402-1 03/08/19

By:  Menéndez S.B. No. 2400

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain standardized tests in evaluating the performance of a school district or campus.

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

SECTION 1.  Section 12.104(b), Education Code, as amended by Chapters 324 (S.B. 1488), 522 (S.B. 179), and 735 (S.B. 1153), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(b)  An open-enrollment charter school is subject to:

(1)  a provision of this title establishing a criminal offense; and

(2)  a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A)  the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B)  criminal history records under Subchapter C, Chapter 22;

(C)  reading instruments and accelerated reading instruction programs under Section 28.006;

(D)  [~~accelerated instruction under Section 28.0211;~~

[~~(E)~~] high school graduation requirements under Section 28.025;

(E) [~~(F)~~]  special education programs under Subchapter A, Chapter 29;

(F) [~~(G)~~]  bilingual education under Subchapter B, Chapter 29;

(G) [~~(H)~~]  prekindergarten programs under Subchapter E or E-1, Chapter 29;

(H) [~~(I)~~]  extracurricular activities under Section 33.081;

(I) [~~(J)~~]  discipline management practices or behavior management techniques under Section 37.0021;

(J) [~~(K)~~]  health and safety under Chapter 38;

(K) [~~(L)~~]  public school accountability under Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

(L) [~~(M)~~]  the requirement under Section 21.006 to report an educator's misconduct;

(M) [~~(N)~~]  intensive programs of instruction under Section 28.0213;

(N) [~~(O)~~]  the right of a school employee to report a crime, as provided by Section 37.148;

(O) [~~(P)~~]  a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

(P)  bullying prevention policies and procedures under Section 37.0832;

(Q)  the right of a school under Section 37.0052 to place a student who has engaged in certain bullying behavior in a disciplinary alternative education program or to expel the student; and

(R)  the right under Section 37.0151 to report to local law enforcement certain conduct constituting assault or harassment.

SECTION 2.  Section 25.085(d), Education Code, is amended to read as follows:

(d)  Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

(1)  an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;

(2)  an accelerated reading instruction program to which the student is assigned under Section 28.006(g);

(3)  [~~an accelerated instruction program to which the student is assigned under Section 28.0211;~~

[~~(4)~~] a basic skills program to which the student is assigned under Section 29.086; or

(4) [~~(5)~~]  a summer program provided under Section 37.008(l) or Section 37.021.

SECTION 3.  Section 28.006(j), Education Code, is amended to read as follows:

(j)  No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. [~~The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(5) and may implement interventions or sanctions under Chapter 39A.~~] The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

SECTION 4.  Section 28.021(c), Education Code, is amended to read as follows:

(c)  In determining promotion under Subsection (a), a school district shall consider:

(1)  the recommendation of the student's teacher;

(2)  the student's grade in each subject or course; and

(3)  [~~the student's score on an assessment instrument administered under Section 39.023(a), (b), or (l), to the extent applicable; and~~

[~~(4)~~] any other necessary academic information, as determined by the district.

SECTION 5.  Sections 28.0213(b) and (e), Education Code, are amended to read as follows:

(b)  A school district shall design the intensive program of instruction described by Subsection (a) to enable the student to:

(1)  [~~enable the student to:~~

[~~(A)~~]  to the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or

(2) [~~(B)~~]  attain a standard of annual growth specified by the school district and reported by the district to the agency[~~; and~~]

[~~(2) if applicable, carry out the purposes of Section 28.0211~~].

(e)  For a student in a special education program under Subchapter A, Chapter 29, who does not perform satisfactorily on an assessment instrument administered under Section 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to[~~:~~

[~~(1)~~] enable the student to attain a standard of annual growth on the basis of the student's individualized education program[~~; and~~

[~~(2) if applicable, carry out the purposes of Section 28.0211~~].

SECTION 6.  Section 28.0217, Education Code, is amended to read as follows:

Sec. 28.0217.  ACCELERATED INSTRUCTION FOR HIGH SCHOOL STUDENTS. Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(c), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area[~~, using funds appropriated for accelerated instruction under Section 28.0211~~]. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

SECTION 7.  Section 29.094(g), Education Code, is amended to read as follows:

(g)  Notwithstanding any other law, the commissioner shall provide funding for the pilot program using not more than $6 million of funding appropriated for purposes of former Section 28.0211.

SECTION 8.  Section 39.023, Education Code, is amended by adding Subsection (a-10) to read as follows:

(a-10)  Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must be evaluated by an independent group of qualified public school classroom teachers for readability within the grade level assessed. Each assessment item must be separately evaluated for readability within the grade level assessed before being field-tested. A determination of readability must consider available correlations with other assessments commonly used by Texas school districts and shall be verified by an independent group of qualified educators with classroom teaching experience.

SECTION 9.  Section 39.054, Education Code, is amended by adding Subsections (a-4) and (a-5) to read as follows:

(a-4)  Notwithstanding Subsection (a-1) or any other provision of law, until a state standardized assessment instrument is validated under Section 39.023(a-11), the commissioner may not consider student performance on the assessment instrument:

(1)  in the evaluation of a school district's or campus's performance;

(2)  in the assignment of a school district's or campus's performance rating; or

(3)  when determining the requirements for student advancement, grade level promotion, or high school graduation.

(a-5)  Subsection (a-4) expires September 1, 2021.

SECTION 10.  Section 39.301(c), Education Code, is amended to read as follows:

(c)  Indicators for reporting purposes must include:

(1)  the percentage of graduating students who meet the course requirements established by State Board of Education rule for:

(A)  the foundation high school program;

(B)  the distinguished level of achievement under the foundation high school program; and

(C)  each endorsement described by Section 28.025(c-1);

(2)  the results of the SAT, ACT, and certified workforce training programs described by Chapter 311, Labor Code;

(3)  for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument required under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(4)  for each campus, the number of students, disaggregated by major student subpopulations, that take courses under the foundation high school program and take additional courses to earn an endorsement under Section 28.025(c-1), disaggregated by type of endorsement;

(5)  [~~the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessment instruments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;~~

[~~(6)~~] the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(6) [~~(7)~~]  the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(7) [~~(8)~~]  the percentage of students who satisfy the college readiness measure;

(8) [~~(9)~~]  the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052;

(9) [~~(10)~~]  the percentage of students who are not educationally disadvantaged;

(10) [~~(11)~~]  the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

(11) [~~(12)~~]  the percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

SECTION 11.  Section 39.305(b), Education Code, is amended to read as follows:

(b)  The report card shall include the following information:

(1)  where applicable, the achievement indicators described by Section 39.053(c) and the reporting indicators described by Sections 39.301(c)(1) through (4) [~~(5)~~];

(2)  average class size by grade level and subject;

(3)  the administrative and instructional costs per student, computed in a manner consistent with Section 44.0071; and

(4)  the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

SECTION 12.  The following provisions of the Education Code are repealed:

(1)  Section 28.0211; and

(2)  Section 39.0231.

SECTION 13.  The changes in law made by this Act apply beginning with the 2019-2020 school year.

SECTION 14.  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.