

By: Huberty

H.B. No. 3904

A BILL TO BE ENTITLED

AN ACT

1
2 relating to public school accountability, including certain
3 assessment requirements, performance standards, and sanctions,
4 including sanctions affecting educator contracts, and to providing
5 alternative methods to satisfy certain public high school
6 graduation requirements.

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

8 ARTICLE 1. PUBLIC SCHOOL ACCOUNTABILITY

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

11 (a-2) This subsection applies only to an assessment
12 instrument authorized under Section 39.025(a-2), as added by
13 Chapter 1036 (H.B. 1613), Acts of the 84th Legislature, Regular
14 Session, 2015, for use as a substitute assessment instrument for
15 purposes of satisfying the requirements concerning an
16 end-of-course assessment instrument. The commissioner shall
17 designate for student performance on each substitute assessment
18 instrument subject to this subsection a level of performance
19 considered to be satisfactory and a level of performance necessary
20 to indicate college readiness in the same manner as the
21 commissioner designates those standards for student performance on
22 each end-of-course assessment instrument listed in Section
23 39.023(c). The commissioner shall designate the level of
24 performance that indicates college readiness on a substitute

1 assessment as "masters grade-level performance."

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

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

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

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

13 (i) an indicator that accounts for the
14 results of assessment instruments required under Sections
15 39.023(a), (c), and (l), as applicable for the district and campus,
16 including the results of assessment instruments required for
17 graduation retaken by a student, aggregated across grade levels by
18 subject area, including:

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

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

1 area; and

2 (ii) an indicator that accounts for the
3 results of assessment instruments required under Section
4 39.023(b), as applicable for the district and campus, including the
5 percentage of students who performed satisfactorily on the
6 assessment instruments, as determined by the performance standard
7 adopted by the agency, aggregated across grade levels by subject
8 area; ~~and~~

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

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

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

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

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

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

27 (vi) students admitted into postsecondary

1 industry certification programs that require as a prerequisite for
2 entrance successful performance at the secondary level;

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

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

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

18 (x) students who successfully completed an
19 OnRamps dual enrollment course; ~~and~~

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

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

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

1 clubs; and

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

4 and

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

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

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

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

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

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

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

25 (3) in the closing the gaps domain, the use of
26 disaggregated data to demonstrate the differentials among students
27 from different racial and ethnic groups, socioeconomic

1 backgrounds, and other factors, including:

2 (A) students formerly receiving special
3 education services;

4 (B) students continuously enrolled; and

5 (C) students who are mobile.

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

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

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

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

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

24 (1) 40 percent of the performance rating to the
25 indicators under Section 39.053(c)(1)(A) relating to assessment
26 instrument results;

27 (2) 20 percent of the performance rating to the

1 indicator under Section 39.053(c)(1)(B)(ix) relating to high
2 school graduation rates; and

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

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

9 (a) For purposes of evaluating performance under Section
10 39.053(c), the commissioner shall designate as a dropout recovery
11 school a school district or an open-enrollment charter school or a
12 campus of a district or of an open-enrollment charter school:

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

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

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

25 (d) For ~~[Notwithstanding Section 39.053(c), for]~~ purposes
26 of evaluating a dropout recovery school under the alternative
27 education accountability procedures adopted by the commissioner

1 ~~[to determine the performance rating of the school under Section~~
2 ~~39.054]~~, only the best result from the primary administration or
3 any retake of an assessment instrument administered to a student in
4 the school year evaluated may be considered in assigning
5 performance ratings for the school under Section 39.054.

6 (e) For purposes of evaluating performance of a dropout
7 recovery school under the student achievement domain under Section
8 39.053(c)(1), the commissioner may consider for purposes of
9 assigning a domain performance rating under Section 39.054 student
10 performance based only on the "approaches grade level" performance
11 standard. Any evaluation of student performance based on a higher
12 performance standard may not be considered to negatively affect the
13 domain performance rating or a performance target score of the
14 school.

15 (f) For purposes of evaluating performance of a dropout
16 recovery school under the school progress domain under Section
17 39.053(c)(2), the commissioner may award credit for academic growth
18 for purposes of assigning a domain performance rating under Section
19 39.054 based only on a student reaching the "approaches grade
20 level" performance standard. Any evaluation of student performance
21 based on reaching a higher academic growth performance standard may
22 not be considered to negatively affect the amount of credit awarded
23 to the school or the domain performance rating or a performance
24 target score of the school.

25 (g) For purposes of assigning an overall performance rating
26 for a dropout recovery school under Section 39.054, the
27 commissioner shall consider only the school's domain performance

1 ratings under the student achievement domain under Section
2 39.053(c)(1) and the school progress domain under Section
3 39.053(c)(2).

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

7 SECTION 1.06. This article applies beginning with the
8 2019-2020 school year.

9 ARTICLE 2. ACCOUNTABILITY INTERVENTIONS AND SANCTIONS

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

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

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

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

25 (3) order reconstitution of the campus and
26 implementation of strategic staffing as provided by Section
27 39A.0511.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (2) ~~[(3)]~~ submit each updated targeted improvement
19 plan described by Subdivision (1) ~~[(2)]~~ to the board of trustees of
20 the school district; and

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

25 SECTION 2.04. The change in law made by Section
26 39A.0511(c), Education Code, as added by this Act, applies only to a
27 contract entered into on or after September 1, 2019.

1 SECTION 2.05. This article applies beginning with the
2 2019-2020 school year.

3 ARTICLE 3. INDIVIDUAL GRADUATION COMMITTEES

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

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

9 (b-3) An open-enrollment charter school is subject to the
10 graduation qualification procedure established by the commissioner
11 under Section 28.02541. [~~This subsection expires September 1,
12 2019.~~]

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

15 (c-6) Notwithstanding Subsection (c), a person may receive
16 a diploma if the person is eligible for a diploma under Section
17 28.0258. [~~This subsection expires September 1, 2019.~~]

18 SECTION 3.03. Effective September 1, 2019, Section
19 28.02541(a), Education Code, is amended to read as follows:

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

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

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

26 (3) has not performed satisfactorily on an assessment
27 instrument or a part of an assessment instrument required for high

1 school graduation, including an alternate assessment instrument
2 offered under Section 39.025(c-2) [~~39.025(c-1)~~]; and

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

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

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

14 (1) enters the workforce;

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

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

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

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

25 (a-5) [~~(a-2)~~] Notwithstanding Subsection (a), a student who
26 has failed to perform satisfactorily on end-of-course assessment
27 instruments in the manner provided under this section may receive a

1 high school diploma if the student has qualified for graduation
2 under Section 28.0258. [~~This subsection expires September 1,~~
3 ~~2019.~~]

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

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

15 SECTION 3.07. Sections 28.02541(g), 28.0258(l), and
16 28.0259(e), Education Code, are repealed.

17 ARTICLE 4. CONFLICTS PROVISION; EFFECTIVE DATE

18 SECTION 4.01. To the extent of any conflict, this Act
19 prevails over another Act of the 86th Legislature, Regular Session,
20 2019, relating to nonsubstantive additions to and corrections in
21 enacted codes.

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

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1 session.