

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

- 1 Section 28.025;
- 2                   (E) [~~(F)~~] special education programs under
- 3 Subchapter A, Chapter 29;
- 4                   (F) [~~(G)~~] bilingual education under Subchapter
- 5 B, Chapter 29;
- 6                   (G) [~~(H)~~] prekindergarten programs under
- 7 Subchapter E or E-1, Chapter 29;
- 8                   (H) [~~(I)~~] extracurricular activities under
- 9 Section 33.081;
- 10                   (I) [~~(J)~~] discipline management practices or
- 11 behavior management techniques under Section 37.0021;
- 12                   (J) [~~(K)~~] health and safety under Chapter 38;
- 13                   (K) [~~(L)~~] public school accountability under
- 14 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
- 15                   (L) [~~(M)~~] the requirement under Section 21.006
- 16 to report an educator's misconduct;
- 17                   (M) [~~(N)~~] intensive programs of instruction
- 18 under Section 28.0213;
- 19                   (N) [~~(O)~~] the right of a school employee to
- 20 report a crime, as provided by Section 37.148;
- 21                   (O) [~~(P)~~] a parent's right to information
- 22 regarding the provision of assistance for learning difficulties to
- 23 the parent's child as provided by Sections 26.004(b)(11) and
- 24 26.0081(c) and (d);
- 25                   (P) bullying prevention policies and procedures
- 26 under Section 37.0832;
- 27                   (Q) the right of a school under Section 37.0052

1 to place a student who has engaged in certain bullying behavior in a  
2 disciplinary alternative education program or to expel the student;  
3 and

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

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

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

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

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

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

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

21 (4) ~~[(5)]~~ a summer program provided under Section  
22 37.008(1) or Section 37.021.

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

25 (j) No more than 15 percent of the funds certified by the  
26 commissioner under Subsection (i) may be spent on indirect costs.

27 ~~[The commissioner shall evaluate the programs that fail to meet the~~

1 ~~standard of performance under Section 39.301(c)(5) and may~~  
2 ~~implement interventions or sanctions under Chapter 39A.]~~ The  
3 commissioner may audit the expenditures of funds appropriated for  
4 purposes of this section. The use of the funds appropriated for  
5 purposes of this section shall be verified as part of the district  
6 audit under Section 44.008.

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

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

- 11 (1) the recommendation of the student's teacher;
- 12 (2) the student's grade in each subject or course; and
- 13 (3) ~~[the student's score on an assessment instrument~~  
14 ~~administered under Section 39.023(a), (b), or (1), to the extent~~  
15 ~~applicable; and~~
- 16 ~~[(4)]~~ any other necessary academic information, as  
17 determined by the district.

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

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

- 22 (1) ~~[enable the student to:~~  
23 ~~[(A)]~~ to the extent practicable, perform at the  
24 student's grade level at the conclusion of the next regular school  
25 term; or
- 26 (2) ~~[(B)]~~ attain a standard of annual growth specified  
27 by the school district and reported by the district to the agency[+

1 ~~and]~~

2 ~~[(2) if applicable, carry out the purposes of Section~~  
3 ~~28.0211].~~

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

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

12 ~~[(2) if applicable, carry out the purposes of Section~~  
13 ~~28.0211].~~

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) Indicators for reporting purposes must include:

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

8 (A) the foundation high school program;

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

11 (C) each endorsement described by Section  
12 28.025(c-1);

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

15 (3) for students who have failed to perform  
16 satisfactorily, under each performance standard under Section  
17 39.0241, on an assessment instrument required under Section  
18 39.023(a) or (c), the performance of those students on subsequent  
19 assessment instruments required under those sections, aggregated  
20 by grade level and subject area;

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

26 (5) ~~[the percentage of students, aggregated by grade~~  
27 ~~level, provided accelerated instruction under Section 28.0211(c),~~

1 ~~the results of assessment instruments administered under that~~  
2 ~~section, the percentage of students promoted through the grade~~  
3 ~~placement committee process under Section 28.0211, the subject of~~  
4 ~~the assessment instrument on which each student failed to perform~~  
5 ~~satisfactorily under each performance standard under Section~~  
6 ~~39.0241, and the performance of those students in the school year~~  
7 ~~following that promotion on the assessment instruments required~~  
8 ~~under Section 39.023;~~

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

12           (6) ~~(7)~~ the percentage of students in a special  
13 education program under Subchapter A, Chapter 29, assessed through  
14 assessment instruments developed or adopted under Section  
15 39.023(b);

16           (7) ~~(8)~~ the percentage of students who satisfy the  
17 college readiness measure;

18           (8) ~~(9)~~ the measure of progress toward dual language  
19 proficiency under Section 39.034(b), for students of limited  
20 English proficiency, as defined by Section 29.052;

21           (9) ~~(10)~~ the percentage of students who are not  
22 educationally disadvantaged;

23           (10) ~~(11)~~ the percentage of students who enroll and  
24 begin instruction at an institution of higher education in the  
25 school year following high school graduation; and

26           (11) ~~(12)~~ the percentage of students who  
27 successfully complete the first year of instruction at an



1 institution of higher education without needing a developmental  
2 education course.

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

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

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

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

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

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

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

19 (1) Section 28.0211; and

20 (2) Section 39.0231.

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

23 SECTION 14. This Act takes effect immediately if it  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2019.