S.B. No. 15

AN ACT

relating to virtual and off-campus electronic instruction at a public school, the satisfaction of teacher certification requirements through an internship teaching certain virtual courses, and the allotment for certain special-purpose school districts under the Foundation School Program.

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

SECTION 1.  Section 21.051, Education Code, is amended by adding Subsection (g) to read as follows:

(g)  Rules proposed by the board under Section 21.044(a) or this section may allow a candidate to satisfy certification requirements through an internship that provides the candidate employment as a teacher for courses offered through a local remote learning program under Section 29.9091 or the state virtual school network under Chapter 30A. This subsection expires September 1, 2023.

SECTION 2.  Section 25.092, Education Code, is amended by adding Subsection (a-4) to read as follows:

(a-4)  A school district or open-enrollment charter school may adopt a policy to exempt students from the requirements of this section for one or more courses identified in the policy that are offered under a local remote learning program under Section 29.9091. This subsection expires September 1, 2023.

SECTION 3.  Subchapter Z, Chapter 29, Education Code, is amended by adding Section 29.9091 to read as follows:

Sec. 29.9091.  LOCAL REMOTE LEARNING PROGRAM. (a) A school district or open-enrollment charter school assigned an overall performance rating of C or higher under Section 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned may operate a local remote learning program to offer virtual courses outside the state virtual school network under Chapter 30A to eligible students.

(b)  A school district or open-enrollment charter school that operates a full-time local remote learning program must:

(1)  include in the program:

(A)  at least one grade level in which an assessment instrument is required to be administered under Section 39.023(a), including each subject for which an assessment instrument is required; or

(B)  a complete high school program, including each course for which an end-of-course assessment instrument is required to be administered under Section 39.023(c); and

(2)  offer the option for a student's parent or person standing in parental relation to select in-person instruction for the student.

(c)  A virtual course offered under a local remote learning program:

(1)  may be provided through synchronous instruction, asynchronous instruction, or a combination of synchronous and asynchronous instruction; and

(2)  may be provided in combination with in-person instruction as appropriate to meet the needs of individual students.

(d)  A student is eligible to enroll in a virtual course offered under a local remote learning program if the student:

(1)  is enrolled in a school district or open-enrollment charter school;

(2)  has reasonable access to in-person services for the course at a district or school facility; and

(3)  meets any additional criteria, including minimum academic standards, established by the school district or open-enrollment charter school in which the student is enrolled.

(e)  A school district or open-enrollment charter school that operates a local remote learning program:

(1)  shall periodically assess the performance of students enrolled in virtual courses under the program;

(2)  subject to Subsection (f), may remove a student from virtual courses under the program and return the student to in-person instruction if the district or school determines that the student does not meet the criteria described by Subsection (d); and

(3)  may not count a student for purposes of calculating the district's or school's average daily attendance if the student has 10 or more unexcused absences in the program in a six-month period.

(f)  A school district or open-enrollment charter school may remove a student from virtual courses under Subsection (e)(2) only if the district or school establishes a process to ensure that each student and the student's parent or person standing in parental relation have sufficient notice and opportunity to provide input before the student is removed from those courses.

(g)  A school district or open-enrollment charter school may contract with another school district or open-enrollment charter school to allow a student enrolled in the sending district or school to enroll in virtual courses offered under the local remote learning program of the receiving district or school. A student enrolled in virtual courses under an agreement described by this subsection is considered enrolled in the sending district or school for purposes of average daily attendance and accountability under Chapters 39 and 39A.

(h)  An assessment instrument administered under Section 39.023 or 39.025 to a student enrolled in a virtual course offered under a local remote learning program shall be administered to the student in the same manner in which the assessment instrument is administered to other school district or open-enrollment charter school students.

(i)  If a school district or open-enrollment charter school offers virtual courses under a local remote learning program for students receiving special education services, the courses must meet the needs of a participating student in a manner consistent with Subchapter A of this chapter and with federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(j)  A teacher may not provide instruction for a virtual course offered under a full-time local remote learning program unless the teacher has completed a professional development course on virtual instruction.

(k)  A district or school may not directly or indirectly coerce any teacher to agree to an assignment to teach a full-time local remote learning program.

(l)  A school district or open-enrollment charter school may not require a teacher to provide both virtual instruction and in-person instruction for a course during the same class period. The commissioner may waive the requirements of this subsection for courses included in the enrichment curriculum under Section 28.002.

(m)  A student enrolled in a virtual course offered under a local remote learning program may participate in an extracurricular activity sponsored or sanctioned by the school district or open-enrollment charter school in which the student is enrolled or by the University Interscholastic League in the same manner as other district or school students.

(n)  Except as otherwise provided under Subsection (e)(3), a student enrolled in a virtual course offered under a local remote learning program shall be counted toward the school district's or open-enrollment charter school's average daily attendance in the same manner as other district or school students. The commissioner shall adopt rules providing for a method of taking attendance, once each school day, for students enrolled in a virtual course offered under a local remote learning program.

(o)  Chapter 30A does not apply to a virtual course offered under a local remote learning program.

(p)  This section does not prohibit a student enrolled in a school district or open-enrollment charter school that operates a local remote learning program from enrolling in courses offered through the state virtual school network under Chapter 30A.

(q)  A school district or open-enrollment charter school that operates a local remote learning program may not enroll in the program a number of students that exceeds 10 percent of the total number of students enrolled in the district or school during the 2021-2022 school year. The commissioner may waive this subsection:

(1)  on application by a school district or open-enrollment charter school; or

(2)  in response to a public health emergency.

(r)  In calculating under Subsection (q) the number of students that may be enrolled in a local remote learning program, a school district or open-enrollment charter school shall count students who spend at least half of the student's instructional time during the 2021-2022 school year or 2022-2023 school year, as applicable, enrolled in virtual courses or receiving remote instruction, other than by enrollment in electronic courses offered through the state virtual school network under Chapter 30A, including students enrolled in virtual courses or who received remote instruction during the 2021-2022 school year or 2022-2023 school year, as applicable, because the student was:

(1)  medically fragile;

(2)  placed in a virtual setting by an admission, review, and dismissal committee; or

(3)  receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(s)  This section expires September 1, 2023.

SECTION 4.  Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0549 to read as follows:

Sec. 39.0549.  EVALUATING VIRTUAL AND LOCAL REMOTE PROGRAMS. (a) In evaluating under Section 39.054 the performance of a school district or open-enrollment charter school that operates a full-time local remote learning program, the commissioner shall assign the program separate overall and domain performance ratings as if the program were a campus of the district or school. For purposes of assigning performance ratings under this subsection, students who spend at least half of the students' instructional time receiving virtual or remote instruction are considered enrolled in the program, including students:

(1)  enrolled in virtual courses offered under a local remote learning program under Section 29.9091; or

(2)  receiving remote instruction, regardless of whether the student is enrolled in a remote learning program offered under Section 29.9091 and including students receiving remote instruction who are:

(A)  medically fragile;

(B)  placed in a virtual setting by an admission, review, and dismissal committee; or

(C)  receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(b)  A performance rating under this section is not subject to Section 39.054(a-3) or 39.0546.

(c)  A performance rating assigned under this section may not be used for purposes of Section 39.0544 or for determining whether to impose any intervention or sanction authorized by Chapter 39A.

(d)  This section expires September 1, 2023.

SECTION 5.  Section 39.301, Education Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1)  In addition to the indicators described by Subsection (c), the indicators for reporting purposes must include, for each school district and campus, the performance of students who spend at least half of the students' instructional time:

(1)  in virtual courses offered under a local remote learning program under Section 29.9091; or

(2)  receiving remote instruction, regardless of whether the student is enrolled in a remote learning program offered under Section 29.9091 and including students receiving remote instruction who are:

(A)  medically fragile;

(B)  placed in a virtual setting by an admission, review, and dismissal committee; or

(C)  receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(c-2)  Subsection (c-1) and this subsection expire September 1, 2023.

SECTION 6.  Section 48.005, Education Code, is amended by adding Subsections (h-1), (m-1), and (m-2) to read as follows:

(h-1)  Subject to rules adopted by the commissioner under Section 48.007(b), time that a student participates in a course or program provided under Section 48.0071(b) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section. This subsection expires September 1, 2023.

(m-1)  Except for students enrolled in programs or courses offered under Chapter 30A or Section 48.053, a school district or open-enrollment charter school may not count for purposes of calculating the district's or school's average daily attendance a student who received virtual or remote instruction for a majority of the instructional days during the preceding school year if the student:

(1)  did not achieve satisfactory performance or higher or the equivalent in the preceding school year on:

(A)  each assessment instrument administered to the student under Section 39.023 or 39.025; or

(B)  if the student was not administered an assessment instrument that was required to be administered to the student under Section 39.023 or 39.025 during the preceding school year, an assessment instrument designed to show grade-level proficiency in the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the student's grade level;

(2)  had a number of unexcused absences that exceeds 10 percent of the number of instructional days in the preceding school year; or

(3)  did not earn a grade of C or higher or the equivalent in each of the foundation curriculum courses taken virtually or remotely in the preceding school year.

(m-2)  Subsection (m-1) and this subsection expire September 1, 2023.

SECTION 7.  Subchapter A, Chapter 48, Education Code, is amended by adding Section 48.0071 to read as follows:

Sec. 48.0071.  OFF-CAMPUS COURSES OR PROGRAMS COUNTED FOR PURPOSES OF AVERAGE DAILY ATTENDANCE. (a)  The commissioner shall adopt by rule verification and reporting procedures to report student participation in courses or programs provided under Subsection (b).

(b)  A school district or open-enrollment charter school may provide one or more off-campus electronic courses, an off-campus electronic program, or an instructional program that combines in-person instruction and off-campus electronic instruction to students enrolled in the district or school who have reasonable access to in-person services at a district or school facility. Off-campus electronic instruction for a course or program provided under this subsection may be provided synchronously or asynchronously. A student enrolled in a course or program provided under this subsection shall be counted toward the district's or school's average daily attendance in the same manner as other district or school students. In adopting rules under Subsection (a), the commissioner shall provide for a method of taking attendance, once each school day, for students enrolled in a course or program provided under this subsection.

(c)  A school district or open-enrollment charter school that operated during the 2020-2021 school year a full-time virtual program outside the state virtual network under Chapter 30A with at least 10 percent of the enrollment for the program including students who resided outside the geographic area served by the district or school may:

(1)  continue to operate the virtual program on a full-time basis;

(2)  apply the same enrollment and transfer criteria used during the 2020-2021 school year; and

(3)  offer the program to students in any grade level or combination of grade levels from kindergarten through grade 12 as long as the program includes at least one grade level for which an assessment instrument is administered under Section 39.023.

(d)  This section expires September 1, 2023.

SECTION 8.  Section 48.053, Education Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1)  This subsection applies only to a special-purpose district described by Subsection (a) that existed before September 1, 2019. For a district to which this subsection applies, the commissioner shall establish an asynchronous progression funding method that may be used to determine the amount of the district's entitlement under Subsection (b) based on full and partial semester course completion.

(b-2)  Subsection (b-1) and this subsection expire September 1, 2023.

SECTION 9.  This Act applies beginning with the 2021-2022 school year.

SECTION 10.  A school district or open-enrollment charter school that operates a full-time local remote learning program during the 2021-2022 school year that meets the requirements of Section 29.9091, Education Code, as added by this Act, is entitled to funding in the manner prescribed by this Act regardless of whether the district or school began operating the program before, on, or after the effective date of this Act.

SECTION 11.  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.

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I hereby certify that S.B. No. 15 passed the Senate on August 11, 2021, by the following vote: Yeas 27, Nays 2; and that the Senate concurred in House amendments on August 31, 2021, by the following vote: Yeas 29, Nays 2.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 15 passed the House, with amendments, on August 30, 2021, by the following vote: Yeas 119, Nays 7, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor