

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 2, Chapter 29, Education Code, is

1 amended by adding Section 29.9091 to read as follows:

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

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

11 (1) include in the program:

12 (A) at least one grade level in which an  
13 assessment instrument is required to be administered under Section  
14 39.023(a), including each subject for which an assessment  
15 instrument is required; or

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

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

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

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

27 (2) may be provided in combination with in-person

1 instruction as appropriate to meet the needs of individual  
2 students.

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

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

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

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

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

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

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

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

24 (f) A school district or open-enrollment charter school may  
25 remove a student from virtual courses under Subsection (e)(2) only  
26 if the district or school establishes a process to ensure that each  
27 student and the student's parent or person standing in parental

1 relation have sufficient notice and opportunity to provide input  
2 before the student is removed from those courses.

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

12 (h) An assessment instrument administered under Section  
13 39.023 or 39.025 to a student enrolled in a virtual course offered  
14 under a local remote learning program shall be administered to the  
15 student in the same manner in which the assessment instrument is  
16 administered to other school district or open-enrollment charter  
17 school students.

18 (i) If a school district or open-enrollment charter school  
19 offers virtual courses under a local remote learning program for  
20 students receiving special education services, the courses must  
21 meet the needs of a participating student in a manner consistent  
22 with Subchapter A of this chapter and with federal law, including  
23 the Individuals with Disabilities Education Act (20 U.S.C. Section  
24 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C.  
25 Section 794).

26 (j) A teacher may not provide instruction for a virtual  
27 course offered under a full-time local remote learning program

1 unless the teacher has completed a professional development course  
2 on virtual instruction.

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

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

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

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

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

27 (p) This section does not prohibit a student enrolled in a

1 school district or open-enrollment charter school that operates a  
2 local remote learning program from enrolling in courses offered  
3 through the state virtual school network under Chapter 30A.

4 (g) A school district or open-enrollment charter school  
5 that operates a local remote learning program may not enroll in the  
6 program a number of students that exceeds 10 percent of the total  
7 number of students enrolled in the district or school during the  
8 2021-2022 school year. The commissioner may waive this subsection:

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

11 (2) in response to a public health emergency.

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

23 (1) medically fragile;

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

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

1 (s) This section expires September 1, 2023.

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

4 Sec. 39.0549. EVALUATING VIRTUAL AND LOCAL REMOTE PROGRAMS.

5 (a) In evaluating under Section 39.054 the performance of a school  
6 district or open-enrollment charter school that operates a  
7 full-time local remote learning program, the commissioner shall  
8 assign the program separate overall and domain performance ratings  
9 as if the program were a campus of the district or school. For  
10 purposes of assigning performance ratings under this subsection,  
11 students who spend at least half of the students' instructional  
12 time receiving virtual or remote instruction are considered  
13 enrolled in the program, including students:

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

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

20 (A) medically fragile;

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

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

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

27 (c) A performance rating assigned under this section may not

1 be used for purposes of Section 39.0544 or for determining whether  
2 to impose any intervention or sanction authorized by Chapter 39A.

3 (d) This section expires September 1, 2023.

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

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

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

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

16 (A) medically fragile;

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

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

21 (c-2) Subsection (c-1) and this subsection expire September  
22 1, 2023.

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

25 (h-1) Subject to rules adopted by the commissioner under  
26 Section 48.007(b), time that a student participates in a course or  
27 program provided under Section 48.0071(b) shall be counted as part



1 of the minimum number of instructional hours required for a student  
2 to be considered a full-time student in average daily attendance  
3 for purposes of this section. This subsection expires September 1,  
4 2023.

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

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

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

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

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

26 (3) did not earn a grade of C or higher or the  
27 equivalent in each of the foundation curriculum courses taken

1 virtually or remotely in the preceding school year.

2 (m-2) Subsection (m-1) and this subsection expire September  
3 1, 2023.

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

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

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

26 (c) A school district or open-enrollment charter school  
27 that operated during the 2020-2021 school year a full-time virtual

1 program outside the state virtual network under Chapter 30A with at  
2 least 10 percent of the enrollment for the program including  
3 students who resided outside the geographic area served by the  
4 district or school may:

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

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

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

13 (d) This section expires September 1, 2023.

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

16 (b-1) This subsection applies only to a special-purpose  
17 district described by Subsection (a) that existed before September  
18 1, 2019. For a district to which this subsection applies, the  
19 commissioner shall establish an asynchronous progression funding  
20 method that may be used to determine the amount of the district's  
21 entitlement under Subsection (b) based on full and partial semester  
22 course completion.

23 (b-2) Subsection (b-1) and this subsection expire September  
24 1, 2023.

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

27 SECTION 10. A school district or open-enrollment charter

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

7       SECTION 11. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect on the 91st day after the last day of  
12 the legislative session.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

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