S.B. No. 1716

AN ACT

relating to a supplemental special education services and instructional materials program for certain public school students receiving special education services.

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

SECTION 1.  Chapter 29, Education Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. SUPPLEMENTAL SPECIAL EDUCATION SERVICES PROGRAM

Sec. 29.041.  DEFINITIONS. In this subchapter:

(1)  "Parent" means a resident of this state who is a natural or adoptive parent, managing or possessory conservator, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

(2)  "Supplemental special education instructional materials" includes textbooks, computer hardware or software, other technological devices, and other materials suitable for addressing an educational need of a student receiving special education services under Subchapter A.

(3)  "Supplemental special education services" means an additive service that provides an educational benefit to a student receiving special education services under Subchapter A, including:

(A)  occupational therapy, physical therapy, and speech therapy; and

(B)  private tutoring and other supplemental private instruction or programs.

Sec. 29.042.  ESTABLISHMENT AND ADMINISTRATION OF PROGRAM. (a) The agency by rule shall establish and administer a supplemental special education services and instructional materials program for students who meet the eligibility requirements for participation in the program. Subject to Subsection (c), the agency shall provide each student approved as provided by this subchapter a grant of not more than $1,500 to purchase supplemental special education services and supplemental special education instructional materials.

(b)  In administering the program, the agency shall maintain a system of online accounts to provide access to the grant described by Subsection (a) to an eligible student's parent.

(c)  The commissioner shall set aside an amount not to exceed $30 million from the total amount of funds appropriated for each state fiscal year to fund the program under this section. For each state fiscal year, the total amount provided for student grants under Subsection (a) may not exceed the amount set aside by the commissioner under this subsection.

(d)  The agency shall designate one or more regional education service centers to administer the program.

Sec. 29.043.  APPLICATION FOR GRANT ON BEHALF OF STUDENT. The agency shall establish an application process for an eligible student's parent to apply for a grant held in an online account maintained under Section 29.042(b) and assigned to the student under Section 29.045.

Sec. 29.044.  PROGRAM ELIGIBILITY CRITERIA. (a) The agency shall establish eligibility criteria for the approval of an application submitted under Section 29.043. The criteria must require that the student be enrolled in the current school year at a school district or open-enrollment charter school and in a district's or school's special education program under Subchapter A.

(b)  The eligibility criteria established under this section must also prioritize students for whom a school district or open-enrollment charter school is eligible for a compensatory education allotment under Section 48.104.

Sec. 29.045.  APPROVAL OF APPLICATION; ASSIGNMENT OF ACCOUNT. Subject to available funding the agency shall approve each student who meets the program eligibility criteria established under Section 29.044 and assign to the student an account maintained under Section 29.042(b). The account may only be used by the student's parent to purchase supplemental special education services or supplemental special education instructional materials for the student, subject to Sections 29.046 and 29.047.

Sec. 29.046.  ACCOUNT USE RESTRICTION. (a) Money in an account assigned to a student under Section 29.045 may be used only for supplemental special education services and supplemental special education instructional materials.

(b)  Supplemental special education services must be provided by an agency-approved provider.

(c)  If the agency has approved vendors for a category of instructional material under Section 29.047, instructional materials must be purchased from an agency-approved vendor for that category of instructional material. If the agency does not establish criteria for agency approval for a category of instructional materials, money in the student's account may be used to purchase the instructional materials from any vendor.

Sec. 29.047.  AGENCY-APPROVED PROVIDERS AND VENDORS: CRITERIA AND APPLICATION. (a) The agency shall establish criteria necessary for agency approval for each category of provider of a professional service that is a supplemental special education service, as identified by the agency.

(b)  The criteria established under this section must require a provider of a category of professional service to be appropriately licensed or accredited in this state to provide that service, including providers of physical therapy, occupational therapy, and speech therapy.

(c)  The agency shall provide a procedure for providers of supplemental special education services to apply to the agency to become an agency-approved provider.

(d)  The agency may establish criteria for agency approval of vendors for each category of supplemental special education instructional materials identified by the agency.

(e)  If the agency establishes criteria for agency approval for a vendor of a category of supplemental special education instructional materials, the agency shall provide a procedure for vendors of that category to apply to the agency to become an agency-approved vendor.

Sec. 29.048.  ADMISSION, REVIEW, AND DISMISSAL COMMITTEE DUTIES. (a)  A student's admission, review, and dismissal committee shall develop a student's individualized education program under Section 29.005, in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), without consideration of any supplemental special education services that may be provided under the program under this subchapter.

(b)  The admission, review, and dismissal committee of a student approved for participation in the program shall provide to the student's parent at an admission, review, and dismissal committee meeting for the student:

(1)  information regarding the types of supplemental special education services available under the program and provided by agency-approved providers for which an account maintained under Section 29.042(b) for the student may be used; and

(2)  instructions regarding accessing an account described by Subdivision (1).

Sec. 29.049.  RULES. The commissioner shall adopt rules as necessary to administer the supplemental special education services and instructional materials program under this subchapter.

Sec. 29.050.  EXPIRATION. This subchapter expires September 1, 2024.

SECTION 2.  Not later than December 1, 2021, the commissioner of education shall adopt all rules necessary for the establishment and administration of the supplemental special education services and instructional materials program required under Subchapter A-1, Chapter 29, Education Code, as added by this Act.

SECTION 3.  The Texas Education Agency is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Texas Education Agency may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 4.  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, 2021.

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I hereby certify that S.B. No. 1716 passed the Senate on May 3, 2021, by the following vote: Yeas 21, Nays 9; and that the Senate concurred in House amendments on May 29, 2021, by the following vote: Yeas 22, Nays 9.

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

I hereby certify that S.B. No. 1716 passed the House, with amendments, on May 26, 2021, by the following vote: Yeas 116, Nays 26, two present not voting.

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

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