

By: Dutton

H.B. No. 3731

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to public school accountability ratings, including  
3 interventions and sanctions administered to a school district or  
4 campus assigned a needs improvement rating.

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

6 SECTION 1. Sections 8.051(b) and (d), Education Code, are  
7 amended to read as follows:

8 (b) Each regional education service center shall annually  
9 develop and submit to the commissioner for approval a plan for  
10 improvement. Each plan must include the purposes and description  
11 of the services the center will provide to:

12 (1) campuses assigned an overall performance rating of  
13 D or F [~~an unacceptable performance rating~~] under Section 39.054;

14 (2) the lowest-performing campuses in the region; and

15 (3) other campuses.

16 (d) Each regional education service center shall maintain  
17 core services for purchase by school districts and campuses. The  
18 core services are:

19 (1) training and assistance in:

20 (A) teaching each subject area assessed under  
21 Section 39.023; and

22 (B) providing instruction in personal financial  
23 literacy as required under Section 28.0021;

24 (2) training and assistance in providing a gifted and

1 talented program and each program that qualifies for a funding  
2 allotment under Section 48.102, 48.104, or 48.105;

3 (3) assistance specifically designed for a school  
4 district or campus assigned an overall performance rating of D or F  
5 [~~an unacceptable performance rating~~] under Section 39.054;

6 (4) training and assistance to teachers,  
7 administrators, members of district boards of trustees, and members  
8 of site-based decision-making committees;

9 (5) assistance specifically designed for a school  
10 district that is considered out of compliance with state or federal  
11 special education requirements, based on the agency's most recent  
12 compliance review of the district's special education programs; and

13 (6) assistance in complying with state laws and rules.

14 SECTION 2. Sections 11.174(b) and (f), Education Code, are  
15 amended to read as follows:

16 (b) The board of trustees of a school district may enter  
17 into a contract as provided by Subsection (a) only if:

18 (1) the charter of the open-enrollment charter school  
19 has not been previously revoked;

20 (2) for the three school years preceding the school  
21 year of the proposed operation of the district campus as described  
22 by Subsection (a), the open-enrollment charter school has received:

23 (A) an overall performance rating of C or higher  
24 [~~acceptable or higher~~] under Section 39.054 [~~Subchapter C, Chapter~~  
25 ~~39~~]; and

26 (B) a financial accountability rating under  
27 Subchapter D, Chapter 39, indicating financial performance of

1 satisfactory or higher; or

2 (3) the entity considered for a district-authorized  
3 charter has not previously operated an open-enrollment charter  
4 school in which the charter expired or was revoked or surrendered.

5 (f) This subsection applies only to a district campus  
6 subject to a contract described by Subsection (a) that received an  
7 overall performance rating of D under Section 39.054 and is subject  
8 to commissioner action under Section 39A.117(b) or is otherwise  
9 assigned an overall performance rating of unacceptable under  
10 Subchapter C, Chapter 39, for the school year before operation of  
11 the district campus under the contract began. The commissioner may  
12 not impose a sanction or take action against the campus under  
13 Section 39A.101 [~~39.107(a)~~] or 39A.111 [~~(e)~~] for failure to satisfy  
14 academic performance standards during the first two school years of  
15 operation of a district campus under Subsection (a). The overall  
16 performance rating received by the campus during those first two  
17 school years is not included in calculating consecutive school  
18 years and is not considered a break in consecutive school years  
19 under Section 39A.101 [~~39.107(a)~~] or 39A.111 [~~(e)~~].

20 SECTION 3. Section 12.1054(a), Education Code, is amended  
21 to read as follows:

22 (a) A member of the governing body of a charter holder, a  
23 member of the governing body of an open-enrollment charter school,  
24 or an officer of an open-enrollment charter school is considered to  
25 be a local public official for purposes of Chapter 171, Local  
26 Government Code. For purposes of that chapter:

27 (1) a member of the governing body of a charter holder

1 or a member of the governing body or officer of an open-enrollment  
2 charter school is considered to have a substantial interest in a  
3 business entity if a person related to the member or officer in the  
4 third degree by consanguinity or affinity, as determined under  
5 Chapter 573, Government Code, has a substantial interest in the  
6 business entity under Section 171.002, Local Government Code;

7 (2) notwithstanding any provision of Section  
8 12.1054(a)(1) [~~12.1054(1)~~], an employee of an open-enrollment  
9 charter school that received an overall performance rating of C  
10 [~~rated acceptable~~] or higher under Section 39.054 for at least two  
11 of the preceding three school years may serve as a member of the  
12 governing body of the charter holder of the governing body of the  
13 school if the employees do not constitute a quorum of the governing  
14 body or any committee of the governing body; however, all members  
15 shall comply with the requirements of Sections 171.003-171.007,  
16 Local Government Code.

17 SECTION 4. Section 12.110(e), Education Code, is amended to  
18 read as follows:

19 (e) The commissioner shall give priority to applications  
20 that propose an open-enrollment charter school campus to be located  
21 in the attendance zone of a school district campus assigned an  
22 overall performance rating of D and that is subject to commissioner  
23 action under Section 39A.117(b) or an unacceptable performance  
24 rating under Section 39.054 for the two preceding school years.

25 SECTION 5. Sections 12.1141(b) and (d), Education Code, are  
26 amended to read as follows:

27 (b) At the end of the term of a charter for an

1 open-enrollment charter school, if a charter holder submits to the  
2 commissioner a petition for expedited renewal of the charter, the  
3 charter automatically renews unless, not later than the 30th day  
4 after the date the charter holder submits the petition, the  
5 commissioner provides written notice to the charter holder that  
6 expedited renewal of the charter is denied. The commissioner may  
7 not deny expedited renewal of a charter if:

8 (1) the charter holder has been assigned the highest  
9 or second highest performance rating under Subchapter C, Chapter  
10 39, for the three preceding school years;

11 (2) the charter holder has been assigned a financial  
12 performance accountability rating under Subchapter D, Chapter 39,  
13 indicating financial performance that is satisfactory or better for  
14 the three preceding school years; and

15 (3) no campus operating under the charter has been  
16 assigned an overall performance rating of D and is subject to  
17 commissioner action under Section 39A.117(b) or is otherwise  
18 assigned an unacceptable performance rating [~~the lowest~~  
19 ~~performance rating~~] under Section 39.054 [~~Subchapter C, Chapter~~  
20 ~~39~~], for the three preceding school years or such a campus has been  
21 closed.

22 (d) At the end of the term of a charter for an  
23 open-enrollment charter school, if a charter holder submits to the  
24 commissioner a petition for renewal of the charter, the  
25 commissioner may not renew the charter and shall allow the charter  
26 to expire if:

27 (1) the charter holder has been assigned an overall

1 performance rating of D and is subject to commissioner action under  
2 Section 39A.117(b) or has been otherwise assigned an unacceptable  
3 ~~[the lowest]~~ performance rating under Subchapter C, Chapter 39, for  
4 any three of the five preceding school years;

5 (2) the charter holder has been assigned a financial  
6 accountability performance rating under Subchapter D, Chapter 39,  
7 indicating financial performance that is lower than satisfactory  
8 for any three of the five preceding school years;

9 (3) the charter holder has been assigned any  
10 combination of the ratings described by Subdivision (1) or (2) for  
11 any three of the five preceding school years; or

12 (4) any campus operating under the charter has been  
13 assigned the lowest performance rating under Subchapter C, Chapter  
14 39, for the three preceding school years and such a campus has not  
15 been closed.

16 SECTION 6. Section 12.115, Education Code, is amended by  
17 amending Subsection (c) and adding Subsection (c-1) to read as  
18 follows:

19 (c) The commissioner shall revoke the charter of an  
20 open-enrollment charter school if:

21 (1) the charter holder has been assigned an overall  
22 performance rating of D and is subject to commissioner action under  
23 Section 39A.117(b), or is otherwise assigned an unacceptable  
24 performance rating under Subchapter C, Chapter 39, for the three  
25 preceding school years;

26 (2) the charter holder has been assigned a financial  
27 accountability performance rating under Subchapter D, Chapter 39,

1 indicating financial performance lower than satisfactory for the  
2 three preceding school years; or

3 (3) the charter holder has been assigned any  
4 combination of the ratings described by Subdivision (1) or (2) for  
5 the three preceding school years.

6 (c-1) The commissioner shall include an overall needs  
7 improvement performance rating designated as a D rating as an  
8 unacceptable performance rating under Subsection (c)(1) and as  
9 provided by Section 39A.117(a). Section 39A.117(c) does not apply  
10 to a determination under this section and an overall D rating that  
11 does not satisfy Section 39A.117(a) constitutes an unacceptable  
12 performance.

13 SECTION 7. Section 12A.001(b), Education Code, is amended  
14 to read as follows:

15 (b) A school district is eligible for designation as a  
16 district of innovation only if the district's most recent  
17 performance rating under Section 39.054 reflects a [at least  
18 acceptable] performance rating of C or higher.

19 SECTION 8. Sections 12A.008(a) and (c), Education Code, are  
20 amended to read as follows:

21 (a) The commissioner may terminate a district's designation  
22 as a district of innovation if the district receives for two  
23 consecutive school years:

24 (1) an overall performance rating of D and is subject  
25 to action under Section 39A.117(b) or is otherwise assigned an  
26 unacceptable academic performance rating under Section 39.054;

27 (2) an unacceptable financial accountability rating

1 under Section 39.082; or

2 (3) any combination of one or more D ratings or [an]  
3 unacceptable ratings under Subdivision (1) and one or more  
4 unacceptable ratings under Subdivision (2) [academic performance  
5 rating under Section 39.054 for one of the school years and an  
6 unacceptable financial accountability rating under Section 39.082  
7 for the other school year].

8 (c) The commissioner shall terminate a district's  
9 designation as a district of innovation if the district receives  
10 for three consecutive school years:

11 (1) an overall performance rating of D and is subject  
12 to action under Section 39A.117(b) or is otherwise assigned an  
13 unacceptable [academic] performance rating under Section 39.054;

14 (2) an unacceptable financial accountability rating  
15 under Section 39.082; or

16 (3) any combination of one or more D ratings or  
17 unacceptable ratings under Subdivision (1) and one or more  
18 unacceptable ratings under Subdivision (2).

19 SECTION 9. Section 13.054, Education Code, is amended by  
20 adding Subsection (a-1) to read as follows:

21 (a-1) The commissioner shall incorporate an overall D  
22 rating as an unacceptable performance rating for purposes of  
23 Subsection (a), in accordance with Section 39A.117(a), except that  
24 the commissioner may apply Section 39A.117(c) if the overall D  
25 rating meets the requirements of Section 39A.117(a). An overall D  
26 rating that does not satisfy Section 39A.117(a) shall constitute  
27 unacceptable performance for purposes of Subsection (a).



1 SECTION 10. Section 21.453(b), Education Code, is amended  
2 to read as follows:

3 (b) The commissioner may allocate funds from the account to  
4 regional education service centers to provide staff development  
5 resources to school districts that:

6 (1) are rated academically unacceptable or are  
7 assigned an overall needs improvement rating and are subject to  
8 commissioner action under Section 39A.117(b);

9 (2) have one or more campuses rated as academically  
10 unacceptable or are assigned an overall needs improvement rating  
11 and are subject to commissioner action under Section 39A.117(b); or

12 (3) are otherwise in need of assistance as indicated  
13 by the academic performance of students, as determined by the  
14 commissioner.

15 SECTION 11. Section 29.202(a), Education Code, is amended  
16 to read as follows:

17 (a) A student is eligible to receive a public education  
18 grant or to attend another public school in the district in which  
19 the student resides under this subchapter if the student is  
20 assigned to attend a public school campus assigned an overall  
21 performance rating of D and is subject to commissioner action under  
22 Section 39A.117(b) or is otherwise assigned an unacceptable  
23 performance rating that is made publicly available under Section  
24 39.054 for:

25 (1) the student achievement domain under Section  
26 39.053(c)(1); and

27 (2) the school progress domain under Section

1 39.053(c)(2).

2 SECTION 12. Section 30A.101(a), Education Code, is amended  
3 to read as follows:

4 (a) A school district or open-enrollment charter school is  
5 eligible to act as a course provider under this chapter only if the  
6 district or school has received an overall performance rating of C  
7 or higher [~~is rated acceptable~~] under Section 39.054. An  
8 open-enrollment charter school may serve as a course provider only:

9 (1) to a student within its service area; or

10 (2) to another student in the state:

11 (A) through an agreement with the school district  
12 in which the student resides; or

13 (B) if the student receives educational services  
14 under the supervision of a juvenile probation department, the Texas  
15 Juvenile Justice Department, or the Texas Department of Criminal  
16 Justice, through an agreement with the applicable agency.

17 SECTION 13. Section 39.052, Education Code, is amended by  
18 adding Subsection (b-1) to read as follows:

19 (b-1) The commissioner shall incorporate an overall  
20 performance rating of D as an unacceptable performance rating under  
21 Subsection (b)(1)(A) in accordance with Section 39A.117(b).

22 SECTION 14. Section 39.201(b), Education Code, is amended  
23 to read as follows:

24 (b) A district or campus may not be awarded a distinction  
25 designation under this subchapter unless the district or campus is  
26 assigned an overall performance rating of C or higher [~~has~~  
27 ~~acceptable performance~~] under Section 39.054.

1 SECTION 15. Section 39.306(a), Education Code, is amended  
2 to read as follows:

3 (a) Each board of trustees shall publish an annual report  
4 describing the educational performance of the district and of each  
5 campus in the district that includes uniform student performance  
6 and descriptive information as determined under rules adopted by  
7 the commissioner. The annual report must also include:

8 (1) campus performance objectives established under  
9 Section 11.253 and the progress of each campus toward those  
10 objectives, which shall be available to the public;

11 (2) information indicating the district's  
12 accreditation status and identifying each district campus awarded a  
13 distinction designation under Subchapter G or each district campus  
14 that has received an overall performance rating of D or is otherwise  
15 considered an unacceptable campus under Chapter 39A;

16 (3) the district's current special education  
17 compliance status with the agency;

18 (4) a statement of the number, rate, and type of  
19 violent or criminal incidents that occurred on each district  
20 campus, to the extent permitted under the Family Educational Rights  
21 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

22 (5) information concerning school violence prevention  
23 and violence intervention policies and procedures that the district  
24 is using to protect students;

25 (6) the findings that result from evaluations  
26 conducted under the Safe and Drug-Free Schools and Communities Act  
27 of 1994 (20 U.S.C. Section 7101 et seq.);

1           (7) information received under Section 51.403(e) for  
2 each high school campus in the district, presented in a form  
3 determined by the commissioner; and

4           (8) the progress of the district and each campus in the  
5 district toward meeting the goals set in the district's:

6                 (A) early childhood literacy and mathematics  
7 proficiency plans adopted under Section 11.185; and

8                 (B) college, career, and military readiness  
9 plans adopted under Section 11.186.

10           SECTION 16. Section 39.333, Education Code, is amended to  
11 read as follows:

12           Sec. 39.333. REGIONAL AND DISTRICT LEVEL REPORT. As part of  
13 the comprehensive biennial report under Section 39.332, the agency  
14 shall submit a regional and district level report covering the  
15 preceding two school years and containing:

16                 (1) a summary of school district compliance with the  
17 student/teacher ratios and class-size limitations prescribed by  
18 Sections 25.111 and 25.112, including:

19                         (A) the number of campuses and classes at each  
20 campus granted an exception from Section 25.112; and

21                         (B) for each campus granted an exception from  
22 Section 25.112, a statement of whether the campus has been awarded a  
23 distinction designation under Subchapter G or has been assigned an  
24 overall campus performance rating of D or has otherwise been  
25 identified as an unacceptable campus under Chapter 39A;

26                 (2) a summary of the exemptions and waivers granted to  
27 campuses and school districts under Section 7.056 or 39.232 and a

1 review of the effectiveness of each campus or district following  
2 deregulation;

3 (3) an evaluation of the performance of the system of  
4 regional education service centers based on the indicators adopted  
5 under Section 8.101 and client satisfaction with services provided  
6 under Subchapter B, Chapter 8;

7 (4) an evaluation of accelerated instruction programs  
8 offered under Section 28.006, including an assessment of the  
9 quality of such programs and the performance of students enrolled  
10 in such programs; and

11 (5) the number of classes at each campus that are  
12 currently being taught by individuals who are not certified in the  
13 content areas of their respective classes.

14 SECTION 17. Section 39.361, Education Code, is amended to  
15 read as follows:

16 Sec. 39.361. NOTICE IN STUDENT GRADE REPORT. The first  
17 written notice of a student's performance that a school district  
18 gives during a school year as required by Section 28.022(a)(2) must  
19 include:

20 (1) a statement of whether the campus at which the  
21 student is enrolled has been awarded a distinction designation  
22 under Subchapter G or has been assigned an overall performance  
23 rating of D or has otherwise been identified as an unacceptable  
24 campus under Chapter 39A; and

25 (2) an explanation of the significance of the  
26 information provided under Subdivision (1).

27 SECTION 18. Section 39A.001, Education Code, is amended to

1 read as follows:

2           Sec. 39A.001. GROUNDS FOR COMMISSIONER ACTION. (a) The  
3 commissioner shall take any of the actions authorized by this  
4 subchapter to the extent the commissioner determines necessary if:

5           (1) a school district does not satisfy:

6                   (A) the accreditation criteria under Section  
7 [39.052](#);

8                   (B) the academic performance standards under  
9 Section [39.053](#) or [39.054](#); or

10                   (C) any financial accountability standard as  
11 determined by commissioner rule; or

12           (2) the commissioner considers the action to be  
13 appropriate on the basis of a special accreditation investigation  
14 under Section [39.057](#).

15           (b) The commissioner shall consider an overall performance  
16 rating of D as an unacceptable performance rating for purposes of  
17 Subsection (a)(2), in accordance with Section 39A.117.

18           SECTION 19. Section [39A.004](#), Education Code, is amended to  
19 read as follows:

20           Sec. 39A.004. APPOINTMENT OF BOARD OF MANAGERS. (a) The  
21 commissioner may appoint a board of managers to exercise the powers  
22 and duties of a school district's board of trustees if the district  
23 is subject to commissioner action under Section [39A.001](#) and:

24                   (1) has a current accreditation status of  
25 accredited-warned or accredited-probation;

26                   (2) fails to satisfy any standard under Section  
27 [39.054](#)(e); or

1 (3) fails to satisfy financial accountability  
2 standards as determined by commissioner rule.

3 (b) The commissioner shall consider an overall performance  
4 rating of D as an unacceptable performance rating for purposes of  
5 Subsection (a)(2), in accordance with Section 39A.117.

6 SECTION 20. Section 39A.005, Education Code, is amended by  
7 adding Subsection (a-1) to read as follows:

8 (a-1) The commissioner shall consider an overall  
9 performance rating of D as an unacceptable performance rating for  
10 purposes of Subsection (a)(2), in accordance with Section 39A.117.

11 SECTION 21. Section 39A.051, Education Code, is amended by  
12 adding Subsection (a-1) to read as follows:

13 (a-1) The commissioner shall consider an overall  
14 performance rating of D as an unacceptable performance rating for  
15 purposes of Subsection (a), in accordance with Section 39A.117.

16 SECTION 22. Section 39A.0545, Education Code, is  
17 transferred to Subchapter C, Chapter 39A, Education Code,  
18 redesignated as Section 39A.117, Education Code, and amended to  
19 read as follows:

20 Sec. 39A.117 [~~39A.0545~~]. NEEDS IMPROVEMENT RATING. (a)  
21 Notwithstanding any other law, if a school district or campus is  
22 assigned an overall [~~or domain~~] performance rating of D and in the  
23 previous school year the district or campus received an overall  
24 rating of C or higher:

25 (1) the commissioner shall order the district or  
26 campus to develop and implement a targeted improvement plan  
27 approved by the board of trustees of the district; and

1           (2) the rating may not be included in calculating  
 2 consecutive school years of unacceptable performance and is not  
 3 considered a break in consecutive school years of unacceptable  
 4 performance [~~interventions and sanctions provided by this chapter~~  
 5 ~~based on failure to satisfy performance standards under Section~~  
 6 ~~39.054(e) apply to the district or campus only as provided by this~~  
 7 ~~section~~].

8           (b) The interventions and sanctions provided by this title  
 9 [~~chapter~~] based on failure to satisfy performance standards under  
 10 Section 39.054(e) apply to a district or campus assigned an overall  
 11 performance rating of D, except as otherwise provided by  
 12 Subsections (a) and (c) [~~ordered to develop and implement a~~  
 13 ~~targeted improvement plan under Subsection (a) only if the district~~  
 14 ~~or campus is assigned:~~

15                   [~~(1) an overall or domain performance rating of F, or~~  
 16                   [~~(2) an overall performance rating of D as provided by~~  
 17 ~~Subsection (c)~~].

18           (c) The commissioner is not required to take action under  
 19 Section 39.052(c)(2) or 39A.111, if [~~If~~] a school district or  
 20 campus is assigned an overall performance rating of D for a school  
 21 year after the district or campus is ordered to develop and  
 22 implement a targeted improvement plan under Subsection (a).

23           (c-1) For a district or campus described by Subsection (c),  
 24 the commissioner may [~~shall~~] implement any other interventions and  
 25 sanctions under this title, including closure and the appointment  
 26 of a board of managers, and [~~that apply to an unacceptable campus~~  
 27 ~~and those~~] interventions and sanctions previously implemented by



1 the commissioner shall continue. An action taken by the  
2 commissioner under this subsection does not affect the  
3 determination of a district's or campus's consecutive school years  
4 of unacceptable performance [~~for each consecutive school year~~  
5 ~~thereafter in which the campus is assigned an overall performance~~  
6 ~~rating of D)].~~

7 [~~(d) The commissioner shall adopt rules as necessary to~~  
8 ~~implement this section.~~]

9 SECTION 23. This Act applies beginning with the 2021-2022  
10 school year.

11 SECTION 24. In determining consecutive years of the overall  
12 performance rating of a school district or campus, a performance  
13 rating of a D or F issued before this Act takes effect applies to the  
14 determination of consecutive years of overall performance rating.

15 SECTION 25. This Act takes effect September 1, 2021.