

By: Dutton, Huberty, Guillen, Toth, et al.

H.B. No. 3880

Substitute the following for H.B. No. 3880:

By: Dutton

C.S.H.B. No. 3880

A BILL TO BE ENTITLED

1

AN ACT

2 relating to a student's eligibility for special education services
3 provided by a school district, including services for dyslexia and
4 related disorders.

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

6 SECTION 1. Section 7.028(a), Education Code, is amended to
7 read as follows:

8 (a) Except as provided by Section 21.006(k), 22.093(l),
9 22.096, 28.006, 29.001(5), 29.010(a), [~~38.003~~] or 39.057, the
10 agency may monitor compliance with requirements applicable to a
11 process or program provided by a school district, campus, program,
12 or school granted charters under Chapter 12, including the process
13 described by Subchapter F, Chapter 11, or a program described by
14 Subchapter B, C, D, E, F, H, or I, Chapter 29, or Subchapter A,
15 Chapter 37, only as necessary to ensure:

- 16 (1) compliance with federal law and regulations;
- 17 (2) financial accountability, including compliance
18 with grant requirements;
- 19 (3) data integrity for purposes of:
- 20 (A) the Public Education Information Management
21 System (PEIMS); and
- 22 (B) accountability under Chapters 39 and 39A; and
- 23 (4) qualification for funding under Chapter 48.

24 SECTION 2. Section 7.102(c)(28), Education Code, is amended

1 to read as follows:

2 (28) The board shall develop and update, as necessary,
3 guidance information for school districts on evidence-based
4 practices for intervention and instruction of students with
5 ~~[approve a program for testing students for]~~ dyslexia and related
6 disorders and incorporate in the information input from a
7 broad-based dialogue with educators and experts in the field of
8 reading and dyslexia and related disorders from across the state.

9 The guidance information may not address:

10 (A) the evaluation and identification of
11 students with dyslexia or a related disorder; or

12 (B) how intervention and instruction are to be
13 accessed by a student ~~[as provided by Section 38.003].~~

14 SECTION 3. Section 11.252(a), Education Code, is amended to
15 read as follows:

16 (a) Each school district shall have a district improvement
17 plan that is developed, evaluated, and revised annually, in
18 accordance with district policy, by the superintendent with the
19 assistance of the district-level committee established under
20 Section 11.251. The purpose of the district improvement plan is to
21 guide district and campus staff in the improvement of student
22 performance for all student groups in order to attain state
23 standards in respect to the achievement indicators adopted under
24 Section 39.053(c). The district improvement plan must include
25 provisions for:

26 (1) a comprehensive needs assessment addressing
27 district student performance on the achievement indicators, and

1 other appropriate measures of performance, that are disaggregated
2 by all student groups served by the district, including categories
3 of ethnicity, socioeconomic status, sex, and populations served by
4 special programs, including students in special education programs
5 under Subchapter A, Chapter 29;

6 (2) measurable district performance objectives for
7 all appropriate achievement indicators for all student
8 populations, including students in special education programs
9 under Subchapter A, Chapter 29, and other measures of student
10 performance that may be identified through the comprehensive needs
11 assessment;

12 (3) strategies for improvement of student performance
13 that include:

14 (A) instructional methods for addressing the
15 needs of student groups not achieving their full potential;

16 (B) evidence-based practices that address the
17 needs of students for special programs, including:

18 (i) suicide prevention programs, in
19 accordance with Subchapter G, Chapter 38, which include a parental
20 or guardian notification procedure;

21 (ii) conflict resolution programs;

22 (iii) violence prevention programs; and

23 (iv) special education [~~dyslexia~~
24 ~~treatment~~] programs;

25 (C) dropout reduction;

26 (D) integration of technology in instructional
27 and administrative programs;

1 (E) positive behavior interventions and support,
2 including interventions and support that integrate best practices
3 on grief-informed and trauma-informed care;

4 (F) staff development for professional staff of
5 the district;

6 (G) career education to assist students in
7 developing the knowledge, skills, and competencies necessary for a
8 broad range of career opportunities;

9 (H) accelerated education; and

10 (I) implementation of a comprehensive school
11 counseling program under Section 33.005;

12 (4) strategies for providing to elementary school,
13 middle school, junior high school, and high school students, those
14 students' teachers and school counselors, and those students'
15 parents information about:

16 (A) higher education admissions and financial
17 aid opportunities, including state financial aid opportunities
18 such as the TEXAS grant program and the Teach for Texas grant
19 program established under Chapter 56;

20 (B) the need for students to make informed
21 curriculum choices to be prepared for success beyond high school;
22 and

23 (C) sources of information on higher education
24 admissions and financial aid;

25 (5) resources needed to implement identified
26 strategies;

27 (6) staff responsible for ensuring the accomplishment

1 of each strategy;

2 (7) timelines for ongoing monitoring of the
3 implementation of each improvement strategy;

4 (8) formative evaluation criteria for determining
5 periodically whether strategies are resulting in intended
6 improvement of student performance;

7 (9) the policy under Section 38.0041 addressing sexual
8 abuse and other maltreatment of children; and

9 (10) the trauma-informed care policy required under
10 Section 38.036.

11 SECTION 4. Section 21.003, Education Code, is amended by
12 adding Subsection (b-1) to read as follows:

13 (b-1) A person may be employed by a school district to
14 provide services to students with dyslexia and related disorders,
15 including a therapist, practitioner, specialist, or
16 interventionist, without holding a certificate or permit issued
17 under Subchapter B in special education if the person:

18 (1) holds the appropriate license, including a license
19 issued under Chapter 403, Occupations Code;

20 (2) holds a certification issued by the appropriate
21 association or has received training from an appropriate training
22 provider, including an academic language practitioner or therapist
23 certified by the Academic Language Therapy Association; or

24 (3) meets the applicable training requirements for the
25 position adopted by the commissioner by rule.

26 SECTION 5. Section 28.006(g-2), Education Code, is amended
27 to read as follows:

1 (g-2) In accordance with a notification program developed
2 by the commissioner by rule, a school district shall notify the
3 parent or guardian of each student determined, on the basis of a
4 screening under Section 29.0031 [~~38.003~~] or other basis, to be at
5 risk for [~~have~~] dyslexia or a related disorder, or determined, on
6 the basis of reading instrument results, to be at risk for dyslexia
7 or other reading difficulties, of the program maintained by the
8 Texas State Library and Archives Commission providing students with
9 reading disabilities the ability to borrow audiobooks free of
10 charge.

11 SECTION 6. Section 29.001, Education Code, is amended to
12 read as follows:

13 Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and
14 modify as necessary, a statewide design, consistent with federal
15 law, for the delivery of services to children with disabilities in
16 this state that includes rules for the administration and funding
17 of the special education program so that a free appropriate public
18 education is available to all of those children between the ages of
19 three and 21. The statewide design shall include the provision of
20 services primarily through school districts and shared services
21 arrangements, supplemented by regional education service centers.
22 The agency shall also develop and implement a statewide plan with
23 programmatic content that includes procedures designed to:

24 (1) ensure state compliance with requirements for
25 supplemental federal funding for all state-administered programs
26 involving the delivery of instructional or related services to
27 students with disabilities;

1 (2) facilitate interagency coordination when other
2 state agencies are involved in the delivery of instructional or
3 related services to students with disabilities;

4 (3) periodically assess statewide personnel needs in
5 all areas of specialization related to special education and pursue
6 strategies to meet those needs through a consortium of
7 representatives from regional education service centers, local
8 education agencies, and institutions of higher education and
9 through other available alternatives;

10 (4) ensure that regional education service centers
11 throughout the state maintain a regional support function, which
12 may include direct service delivery and a component designed to
13 facilitate the placement of students with disabilities who cannot
14 be appropriately served in their resident districts;

15 (5) allow the agency to effectively monitor and
16 periodically conduct site visits of all school districts to ensure
17 that rules adopted under this section and Section 29.0031 are
18 applied in a consistent and uniform manner, to ensure that
19 districts are complying with those rules, and to ensure that annual
20 statistical reports filed by the districts and not otherwise
21 available through the Public Education Information Management
22 System under Sections 48.008 and 48.009 are accurate and complete;

23 (6) ensure that appropriately trained personnel are
24 involved in the diagnostic and evaluative procedures operating in
25 all districts and that those personnel routinely serve on district
26 admissions, review, and dismissal committees;

27 (7) ensure that an individualized education program

1 for each student with a disability is properly developed,
2 implemented, and maintained in the least restrictive environment
3 that is appropriate to meet the student's educational needs;

4 (8) ensure that, when appropriate, each student with a
5 disability is provided an opportunity to participate in career and
6 technology and physical education classes, in addition to
7 participating in regular or special classes;

8 (9) ensure that each student with a disability is
9 provided necessary related services;

10 (10) ensure that an individual assigned to act as a
11 surrogate parent for a child with a disability, as provided by 20
12 U.S.C. Section 1415(b), is required to:

13 (A) complete a training program that complies
14 with minimum standards established by agency rule;

15 (B) visit the child and the child's school;

16 (C) consult with persons involved in the child's
17 education, including teachers, caseworkers, court-appointed
18 volunteers, guardians ad litem, attorneys ad litem, foster parents,
19 and caretakers;

20 (D) review the child's educational records;

21 (E) attend meetings of the child's admission,
22 review, and dismissal committee;

23 (F) exercise independent judgment in pursuing
24 the child's interests; and

25 (G) exercise the child's due process rights under
26 applicable state and federal law; ~~and~~

27 (11) ensure that each district develops a process to

1 be used by a teacher who instructs a student with a disability in a
2 regular classroom setting:

3 (A) to request a review of the student's
4 individualized education program;

5 (B) to provide input in the development of the
6 student's individualized education program;

7 (C) that provides for a timely district response
8 to the teacher's request; and

9 (D) that provides for notification to the
10 student's parent or legal guardian of that response;

11 (12) ensure the integration of technology to
12 accommodate students with dyslexia and related disorders; and

13 (13) ensure that training opportunities, including
14 continuing education that satisfies the requirements of Section
15 21.054(b):

16 (A) are accessible to school districts by
17 developing a list of training opportunities regarding dyslexia and
18 related disorders that comply with the knowledge and practice
19 standards of an international organization on dyslexia; and

20 (B) assist an educator or dyslexia service
21 provider in understanding and recognizing dyslexia and providing
22 instruction that is systematic, explicit, and evidence-based to
23 meet the educational needs of students with dyslexia.

24 SECTION 7. Section 29.002, Education Code, is amended to
25 read as follows:

26 Sec. 29.002. DEFINITIONS [~~DEFINITION~~]. In this
27 subchapter [~~,"special services" means~~]:

1 (1) "Special [special] education" means specially
2 designed instruction that is provided at no cost to the parent or
3 person standing in parental relation to meet the unique needs of a
4 student with a disability. [~~which may be provided by professional~~
5 ~~and supported by paraprofessional personnel in the regular~~
6 ~~classroom or in an instructional arrangement described by Section~~
7 ~~48.102, and]~~

8 (2) "Student with a disability" means a student
9 evaluated in accordance with the Individuals with Disabilities
10 Education Act (20 U.S.C. Section 1400 et seq.) as having:

11 (A) an intellectual disability, a hearing
12 impairment including deafness, a visual impairment including
13 blindness, a serious emotional disturbance, an orthopedic
14 impairment, autism, a traumatic brain injury, a speech or language
15 impairment, deaf-blindness, multiple disabilities, any other
16 health impairment, or a specific learning disability and who, as a
17 result of the disability, needs special education;

18 (B) noncategorical early childhood developmental
19 delays that prevent the student from being adequately or safely
20 educated in a public school without receiving special education; or

21 (C) dyslexia or a related disorder and who, as a
22 result of the dyslexia or the related disorder, needs special
23 education [~~related services, which are developmental, corrective,~~
24 ~~supportive, or evaluative services, not instructional in nature,~~
25 ~~that may be required for the student to benefit from special~~
26 ~~education instruction and for implementation of a student's~~
27 ~~individualized education program].~~

1 SECTION 8. Section 29.003(b), Education Code, is amended to
2 read as follows:

3 (b) A student is eligible to participate in a school
4 district's special education program if the student:

5 (1) is not more than 21 years of age and is identified
6 as a student with [~~and has~~] a visual or hearing [~~auditory~~]
7 impairment [~~that prevents the student from being adequately or~~
8 ~~safely educated in public school without the provision of special~~
9 ~~services~~]; [~~or~~]

10 (2) is at least three years of age but not more than 21
11 years of age and has been identified as a student with a disability
12 other than a visual or hearing impairment; [~~and has one~~] or

13 (3) is at least three years of age but not more than
14 five years of age and the [~~following disabilities that prevents~~
15 ~~the~~] student is a student evaluated as having noncategorical early
16 childhood developmental delays as described by Section
17 29.002(2)(B) [~~from being adequately or safely educated in public~~
18 ~~school without the provision of special services~~];

19 [(A) ~~physical disability,~~

20 [(B) ~~intellectual or developmental disability,~~

21 [(C) ~~emotional disturbance,~~

22 [(D) ~~learning disability,~~

23 [(E) ~~autism,~~

24 [(F) ~~speech disability,~~ or

25 [(G) ~~traumatic brain injury~~].

26 SECTION 9. Subchapter A, Chapter 29, Education Code, is
27 amended by adding Section 29.0031 to read as follows:

1 Sec. 29.0031. DYSLEXIA AND RELATED DISORDERS. (a) A school
2 district shall:

3 (1) screen students for dyslexia and related
4 disorders;

5 (2) notify the parent of or person standing in
6 parental relation to each student who is determined to be at risk
7 for dyslexia or a related disorder that the student is at risk; and

8 (3) make a good faith effort to ensure that the notice
9 provided under Subdivision (2):

10 (A) is clear and easy to understand;

11 (B) is in the recipient's native language; and

12 (C) includes information about the student's
13 data and measurements that led to the determination that the
14 student is at risk for dyslexia or a related disorder.

15 (b) On determining that a student is at risk for dyslexia or
16 a related disorder, the school district shall implement an
17 evidence-based reading instruction program as an intervention as
18 part of the district's multi-tiered systems of support under
19 Section 26.0081 that, to the extent possible, incorporates training
20 provided to teachers under Section 21.4552. The district shall
21 determine the form, content, and timing of a program provided under
22 this subsection, subject to requirements for the program
23 established by the commissioner by rule. The program adopted under
24 this subsection may not be used to delay an evaluation for special
25 education services under Section 29.004.

26 (c) The commissioner shall adopt rules as necessary to
27 implement this section. The rules must:

1 (1) require a universal screening for each student for
2 dyslexia and related disorders:

3 (A) at the end of the school year in
4 kindergarten; and

5 (B) before the end of the school year in first
6 grade;

7 (2) establish, in coordination with experts and
8 educators in the field of reading and dyslexia and related
9 disorders from across the state, the screening requirements under
10 Subsection (a);

11 (3) establish the requirements for reading
12 instruction programs provided under Subsection (b); and

13 (4) establish the personnel required to administer
14 dyslexia intervention and specialized instruction support.

15 SECTION 10. Section 30.001(b), Education Code, is amended
16 to read as follows:

17 (b) The commissioner, with the approval of the State Board
18 of Education, shall develop and implement a plan for the
19 coordination of services to children with disabilities in each
20 region served by a regional education service center. The plan must
21 include procedures for:

22 (1) identifying existing public or private
23 educational and related services for children with disabilities in
24 each region;

25 (2) identifying and referring children with
26 disabilities who cannot be appropriately served by the school
27 district in which they reside to other appropriate programs;

1 (3) assisting school districts to individually or
2 cooperatively develop programs to identify and provide appropriate
3 services for children with disabilities;

4 (4) expanding and coordinating services provided by
5 regional education service centers for children with disabilities;
6 ~~and~~

7 (5) providing for special education ~~[services]~~,
8 including special seats, books, instructional media, and other
9 supplemental supplies and services required for proper
10 instruction; and

11 (6) ensuring services provided for students with
12 dyslexia and related disorders align with guidance on
13 evidence-based practices developed by the State Board of Education
14 under Section 7.102(c)(28).

15 SECTION 11. Section 30.002(g), Education Code, is amended
16 to read as follows:

17 (g) To facilitate implementation of this section, the
18 commissioner shall develop a system to distribute from the
19 foundation school fund to school districts or regional education
20 service centers a special supplemental allowance for each student
21 with a visual impairment and for each student with a serious visual
22 disability and another medically diagnosed disability of a
23 significantly limiting nature who is receiving special education
24 services through any approved program. The supplemental allowance
25 may be spent only for special education ~~[services]~~ uniquely
26 required by the nature of the student's disabilities and may not be
27 used in lieu of educational funds otherwise available under this

1 code or through state or local appropriations.

2 SECTION 12. Section 37.146(a), Education Code, is amended
3 to read as follows:

4 (a) A complaint alleging the commission of a school offense
5 must, in addition to the requirements imposed by Article 45.019,
6 Code of Criminal Procedure:

7 (1) be sworn to by a person who has personal knowledge
8 of the underlying facts giving rise to probable cause to believe
9 that an offense has been committed; and

10 (2) be accompanied by a statement from a school
11 employee stating:

12 (A) whether the child is eligible for or receives
13 special education [~~services~~] under Subchapter A, Chapter 29; and

14 (B) the graduated sanctions, if required under
15 Section 37.144, that were imposed on the child before the complaint
16 was filed.

17 SECTION 13. Section 48.103, Education Code, is amended by
18 amending Subsections (b) and (c) and adding Subsection (c-1) to
19 read as follows:

20 (b) A school district is entitled to an allotment under
21 Subsection (a) only for a student who:

22 (1) is receiving services for dyslexia or a related
23 disorder in accordance with:

24 (A) an individualized education program
25 developed for the student under Section 29.005; or

26 (B) a plan developed for the student under
27 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);

1 (2) is receiving instruction that:

2 (A) meets applicable dyslexia intervention
3 components [~~program criteria~~] established by the State Board of
4 Education or agency; and

5 (B) is provided by a person with specific
6 training in providing that instruction; or

7 (3) is permitted, on the basis of having dyslexia or a
8 related disorder, to use modifications in the classroom or
9 accommodations in the administration of assessment instruments
10 under Section 39.023.

11 (c) A school district shall: [~~may~~]

12 (1) receive funding for a student under this section
13 and Section 48.102 if the student satisfies the requirements of
14 both sections;

15 (2) allocate money received under Subdivision (1) to
16 the district's special education budget; and

17 (3) prioritize the use of money received under
18 Subdivision (1) for the employment and retention of district
19 employees who are specially trained to evaluate, identify, and
20 provide services for dyslexia and related disorders, including a
21 person described by Section 21.003(b-1).

22 (c-1) A school district may only use funding received under
23 this section to supplement the district's special education budget
24 and not to offset or deduct from the district's special education
25 budget.

26 SECTION 14. The following provisions of the Education Code
27 are repealed:

- 1 (1) Section 38.003;
- 2 (2) Section 38.0031; and
- 3 (3) Section 38.0032.

4 SECTION 15. (a) This Act applies beginning with the
5 2021-2022 school year.

6 (b) As soon as is practicable after the effective date of
7 this Act, the commissioner of education shall adopt rules necessary
8 to implement this Act using a negotiated rulemaking process under
9 Chapter 2008, Government Code.

10 (c) As soon as is practicable after the effective date of
11 this Act, each school district shall notify the parent or person
12 standing in parental relation to a student who has been identified
13 as having dyslexia or a related disorder and who received dyslexia
14 intervention and instructional support in accordance with Section
15 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) during the
16 2020-2021 school year of the parent's or person's right to request a
17 full individual evaluation under Section 29.004, Education Code.

18 (d) Not later than September 1, 2021, the Texas Education
19 Agency shall provide informal guidance to school districts on the
20 evaluation and identification of students with dyslexia or a
21 related disorder in accordance with this Act.

22 SECTION 16. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2021.