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S.B. No. 1615

A BILL TO BE ENTITLED

AN ACT

relating to the adult high school charter school program.

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

SECTION 1. Chapter 12, Education Code, is amended by adding Subchapter G, and a heading is added to that subchapter to read as follows:

SUBCHAPTER G. ADULT HIGH SCHOOL CHARTER SCHOOL PROGRAM

SECTION 2. Section 29.259(a), Education Code, is transferred to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignated as Section 12.251, Education Code, and amended to read as follows:

Sec. 12.251. DEFINITIONS. ~~[(a)]~~ In this subchapter:

(1) "Adult ~~[section, "adult]~~ education" means services and instruction provided below the college level for adults by a nonprofit entity granted a charter under this subchapter ~~[described by Subsection (e)]~~.

(2) "Program," unless the context indicates otherwise, means the adult high school charter school program under this subchapter.

SECTION 3. Section 29.259(n), Education Code, is transferred to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignated as Section 12.252, Education Code, and amended to read as follows:

Sec. 12.252. APPLICABILITY OF CERTAIN PROVISIONS. (a) The

1 provisions of this chapter relating to charter schools do not apply
2 to an adult education program operated under a charter granted
3 under this subchapter except as otherwise provided by this
4 subchapter or by commissioner rule.

5 (b) [~~(n)~~] An adult education program operated under a
6 charter granted under this subchapter [~~section~~] is subject to:

7 (1) a provision of this title establishing a criminal
8 offense; and

9 (2) a prohibition, restriction, or requirement, as
10 applicable, imposed by this title or a rule adopted under this
11 title, relating to:

12 (A) the Public Education Information Management
13 System (PEIMS) to the extent necessary as determined by the
14 commissioner to monitor compliance with this subchapter [~~section~~]
15 and, as applicable, Subchapter D [~~Chapter 12~~];

16 (B) criminal history records under Subchapter C,
17 Chapter 22;

18 (C) high school graduation requirements under
19 Section 28.025, to the extent applicable to a program participant;

20 (D) special education programs under Subchapter
21 A, Chapter 29;

22 (E) bilingual education under Subchapter B,
23 Chapter 29;

24 (F) health and safety under Chapter 38;

25 (G) the requirement under Section 21.006 to
26 report an educator's misconduct; and

27 (H) the right of an employee to report a crime, as

1 provided by Section 37.148.

2 SECTION 4. Section 29.259(b), Education Code, is
3 transferred to Subchapter G, Chapter 12, Education Code, as added
4 by this Act, redesignated as Section 12.253, Education Code, and
5 amended to read as follows:

6 Sec. 12.253. PURPOSE. ~~[(b)]~~ The purpose of the
7 ~~[commissioner shall establish an]~~ adult high school ~~[diploma and~~
8 ~~industry certification]~~ charter school program, as established
9 under former Section 29.259 and provided by this subchapter, is to
10 meet [section as a strategy for meeting] industry needs for a
11 sufficiently trained workforce within the state and strengthen the
12 economic and educational prosperity of the state.

13 SECTION 5. Subchapter G, Chapter 12, Education Code, as
14 added by this Act, is amended by adding Section 12.254 to read as
15 follows:

16 Sec. 12.254. ADVISORY COMMITTEE. (a) An advisory
17 committee is established to make recommendations to the
18 commissioner regarding:

19 (1) the secondary exit-level assessment tool adopted
20 or developed under Section 12.260 and the satisfactory performance
21 level for that tool; and

22 (2) the accountability frameworks adopted under
23 Section 12.262, including the performance domains and measures in
24 each framework.

25 (b) The advisory committee is composed of seven members
26 appointed as follows:

27 (1) one member appointed by the governor;

1 (2) one member appointed by the lieutenant governor;

2 (3) one member appointed by the speaker of the house of
3 representatives;

4 (4) one member appointed by the commissioner;

5 (5) one member appointed by the executive director of
6 the Texas Workforce Commission;

7 (6) one member appointed by the commissioner of higher
8 education; and

9 (7) the superintendent of the charter school operating
10 under the charter granted under former Section 29.259.

11 (c) Each member appointed to the advisory committee must
12 have experience or expertise in adult or workforce education.

13 (d) Members of the advisory committee serve at the pleasure
14 of the appointing official.

15 (e) The governor shall designate a member of the advisory
16 committee as presiding officer to serve in that capacity at the
17 pleasure of the governor.

18 (f) Members of the advisory committee are not entitled to
19 compensation but are entitled to reimbursement for actual and
20 necessary expenses incurred in fulfilling committee duties.

21 (g) Staff members of the agency shall provide
22 administrative support for the advisory committee.

23 (h) The agency shall provide funding for any administrative
24 and operational expenses of the advisory committee.

25 SECTION 6. Section 29.259(d), Education Code, is
26 transferred to Subchapter G, Chapter 12, Education Code, as added
27 by this Act, redesignated as Section 12.255, Education Code, and

1 amended to read as follows:

2 Sec. 12.255. AUTHORIZATION FOR CHARTER. (a) [~~(d)~~]

3 Notwithstanding any other law and in addition to the number of
4 charters allowed under Subchapter D, [~~Chapter 12,~~] the commissioner
5 may, subject to Subsection (c) and on the basis of an application
6 submitted, grant a charter under the program to a [~~single~~]
7 nonprofit entity described by Section 12.256 [~~Subsection (e)~~] to
8 provide an adult education program for individuals described by
9 Section 12.258 [~~Subsection (g)~~] to successfully complete:

10 (1) a high school program that can lead to a diploma;
11 and

12 (2) career and technology education courses that can
13 lead to industry certification.

14 (b) A nonprofit entity, other than the nonprofit entity
15 granted a charter under former Section 29.259, is not entitled to an
16 automatic grant of a charter under this subchapter on the basis that
17 the entity holds a charter or operates a charter school under
18 another provision of this chapter.

19 (c) Subject to Subsection (d), the commissioner may not
20 grant more than two charters in a calendar year or more than six
21 charters total under this subchapter. In granting charters, the
22 commissioner may not grant:

23 (1) a charter before September 1, 2023; or

24 (2) a total of more than:

25 (A) two charters before September 1, 2024; or

26 (B) four charters before September 1, 2026.

27 (d) A charter granted under former Section 29.259 may not be

1 counted toward the limit under Subsection (c).

2 (e) A nonprofit entity granted a charter under the program
3 may not enroll more than 350 students in an adult education program
4 operated under that charter during the first two years after the
5 charter is granted. This subsection does not apply to a charter
6 granted under former Section 29.259, regardless of whether that
7 charter is transferred to another nonprofit entity as provided by
8 law.

9 SECTION 7. Section 29.259(e), Education Code, is
10 transferred to Subchapter G, Chapter 12, Education Code, as added
11 by this Act, redesignated as Section 12.256, Education Code, and
12 amended to read as follows:

13 Sec. 12.256. CHARTER HOLDER QUALIFICATIONS. [~~e~~] A
14 nonprofit entity may be granted a charter under this subchapter
15 [~~section~~] only if the entity[+

16 [~~1~~] has a successful history of providing education
17 services, including industry certifications and job placement
18 services, to adults 18 years of age and older whose educational and
19 training opportunities have been limited by educational
20 disadvantages, disabilities, homelessness, criminal history, or
21 similar marginalizing circumstances[~~, and~~

22 [~~2~~] agrees to commit at least \$1 million to the adult
23 education program offered].

24 SECTION 8. Sections 29.259(h) and (i), Education Code, are
25 transferred to Subchapter G, Chapter 12, Education Code, as added
26 by this Act, redesignated as Section 12.257, Education Code, and
27 amended to read as follows:

1 Sec. 12.257. APPLICATION; CHARTER CONTENT. (a) A ~~[(h) The]~~
2 nonprofit entity must include in its charter application the
3 information required by Subsection (b) ~~[(i)]~~.

4 (b) ~~[(i)]~~ A charter granted under this subchapter ~~[section]~~
5 must:

6 (1) include a description of the adult education
7 program to be offered under this subchapter ~~[section]~~; and

8 (2) establish specific, objective standards for
9 receiving a high school diploma, including:

10 (A) successful completion of:

11 (i) if applicable to the program
12 participant, the curriculum requirements under Section 28.025; or

13 (ii) the appropriate curriculum
14 requirements applicable to the program participant; and

15 (B) satisfactory performance on the standardized
16 secondary exit-level assessment instrument described by Section
17 12.260 ~~[Subsection (c)]~~.

18 SECTION 9. Sections 29.259(g) and (g-1), Education Code,
19 are transferred to Subchapter G, Chapter 12, Education Code, as
20 added by this Act, redesignated as Section 12.258, Education Code,
21 and amended to read as follows:

22 Sec. 12.258. STUDENT ELIGIBILITY; ADMISSION. (a) ~~[(g)]~~ A
23 person who is at least 18 years of age and not more than 50 years of
24 age is eligible to enroll in an ~~[the]~~ adult education program
25 operated under a charter granted under this subchapter ~~[section]~~ if
26 the person:

27 (1) has failed to complete the curriculum requirements

1 for high school graduation; or

2 (2) has failed to perform satisfactorily on an
3 assessment instrument required for high school graduation.

4 (b) [~~(g-1)~~] In admitting students to an [~~the~~] adult
5 education program operated under a charter granted under this
6 subchapter [~~section~~], a [~~the~~] nonprofit entity shall give priority
7 to a person who has not earned a high school equivalency
8 certificate.

9 SECTION 10. Section 29.259(i-1), Education Code, is
10 transferred to Subchapter G, Chapter 12, Education Code, as added
11 by this Act, redesignated as Section 12.259, Education Code, and
12 amended to read as follows:

13 Sec. 12.259. ADULT EDUCATION PROGRAM. (a) An [~~(i-1) The~~]
14 adult education program operated under a charter granted [~~offered~~]
15 under this subchapter [~~section~~] must:

16 (1) use an instructional model in which a significant
17 portion [~~at least 75 percent~~] of instruction, as approved by the
18 commissioner, is delivered [~~by a teacher~~] in a teacher-led [~~an~~
19 ~~in-person~~], interactive classroom environment [~~setting~~]; [~~and~~]

20 (2) provide access to:

21 (A) career and technical education courses that
22 lead to an industry certification;

23 (B) career readiness training;

24 (C) postsecondary counseling; and

25 (D) job-placement services; and

26 (3) provide support services to students, including:

27 (A) child care at no cost to students;

1 (B) life coaching services, at a ratio not to
2 exceed one life coach for every 100 students, that use strategic and
3 holistic interventions designed to facilitate graduation planning
4 and assist students in overcoming life obstacles to achieve
5 academic and career goals;

6 (C) mental health counseling; ~~and~~

7 (D) for students with identified disabilities or
8 impairments, instructional support services; and

9 (E) transportation assistance.

10 SECTION 11. Section 29.259(f), Education Code, is
11 transferred to Section 12.259, Education Code, as added by this
12 Act, redesignated as Subsection (b) of that section, and amended to
13 read as follows:

14 (b) ~~(f)~~ A nonprofit entity granted a charter under this
15 subchapter ~~section~~ may partner with a public junior college or a
16 provider or organization approved by the Texas Workforce Commission
17 to provide career and technology courses that lead to industry
18 certification through an adult education program described by
19 Subsection (a).

20 SECTION 12. Section 29.259(c), Education Code, is
21 transferred to Subchapter G, Chapter 12, Education Code, as added
22 by this Act, redesignated as Section 12.260, Education Code, and
23 amended to read as follows:

24 Sec. 12.260. ASSESSMENT INSTRUMENT. (a) ~~(c)~~ The agency,
25 in cooperation with the advisory committee established under
26 Section 12.254, shall adopt or develop and administer a
27 standardized secondary exit-level assessment instrument

1 appropriate for assessing [~~adult education~~] program participants
2 who successfully complete high school curriculum requirements
3 under an adult education [a] program operated under a charter
4 granted [~~provided~~] under this subchapter [~~section~~].

5 (b) The commissioner, in cooperation with the advisory
6 committee established under Section 12.254, shall determine the
7 level of performance considered to be satisfactory on the secondary
8 exit-level assessment instrument adopted under Subsection (a) for
9 receipt of a high school diploma by a [an adult education] program
10 participant in an adult education [a] program operated under a
11 charter granted [~~provided~~] under this subchapter [~~section~~].

12 (c) For a school year before the 2025-2026 school year, the
13 agency shall adopt and administer the Algebra I, English II, and
14 biology end-of-course assessment instruments adopted under Section
15 39.023(c) as the secondary exit-level assessment instrument
16 required under this section. The level of performance considered
17 to be satisfactory on those assessment instruments for purposes of
18 this subsection is the level of performance adopted under 19 T.A.C.
19 Section 101.4003(a), as that rule existed on January 1, 2021. This
20 subsection expires September 1, 2025.

21 SECTION 13. Section 29.259(i-2), Education Code, is
22 transferred to Subchapter G, Chapter 12, Education Code, as added
23 by this Act, redesignated as Section 12.261, Education Code, and
24 amended to read as follows:

25 Sec. 12.261. EXPANSION AMENDMENT. (a) Not [~~(i-2) If money~~
26 is appropriated for a state fiscal year for expansion of the program
27 under this section, not] later than June 30 of each [~~the state~~

1 ~~fiscal~~] year [~~in which the appropriation is made~~], a [~~the~~
2 nonprofit entity granted a charter under this subchapter [~~section~~]
3 must submit any request for approval of an expansion amendment
4 intended to take effect the next school year.

5 (b) An [~~The~~] expansion amendment submitted under Subsection
6 (a) is considered approved if the commissioner does not provide
7 written notice to the nonprofit entity of the disapproval of the
8 expansion amendment on or before August 1.

9 SECTION 14. Sections 29.259(o) and (p), Education Code, are
10 transferred to Subchapter G, Chapter 12, Education Code, as added
11 by this Act, redesignated as Section 12.262, Education Code, and
12 amended to read as follows:

13 Sec. 12.262. ACCOUNTABILITY; REVOCATION OF CHARTER. (a)
14 [~~(e)~~] The commissioner, in cooperation with the advisory committee
15 established under Section 12.254, shall develop and adopt an
16 accountability framework [~~performance frameworks~~] that establishes
17 [~~establish~~] standards by which to measure the performance of an
18 adult education [~~high school~~] program operated under a charter
19 granted under this subchapter [~~section in a manner consistent with~~
20 ~~the requirements provided for an open-enrollment charter school~~
21 ~~under Sections 12.1181(a) and (b)~~].

22 (b) The commissioner shall include in the accountability
23 framework [~~performance frameworks~~] adopted under Subsection (a)
24 [~~this subsection the following~~] performance domains that measure:

- 25 (1) academic growth;
26 (2) career readiness;
27 (3) one-year post-graduation and longitudinal

1 postsecondary outcomes;

2 (4) longitudinal wage and career growth; and

3 (5) operational performance.

4 (b-1) For a school year before the 2024-2025 school year,
5 the accountability framework adopted under Subsection (a) shall
6 include the following performance measures [indicators]:

7 (1) the percentage of program participants who
8 performed satisfactorily on the standardized secondary exit-level
9 assessment instrument described by Section 12.260(c) [~~Subsection~~
10 ~~(c)~~];

11 (2) the percentage of program participants who
12 successfully completed the adult education [~~high school~~] program
13 and earned a high school diploma;

14 (3) the percentage of program participants who
15 successfully completed career and technology education courses and
16 obtained industry certification within six months after completing
17 the adult education program;

18 (4) the percentage of program participants who have
19 enrolled in an institution of higher education or private or
20 independent institution of higher education, as those terms are
21 defined under Section 61.003, within six months after completing
22 the adult education program; and

23 (5) operational performance as measured under the
24 performance frameworks adopted under Section 12.1181 [~~the~~
25 ~~percentage of program participants who earned a wage, salary, or~~
26 ~~other income increase that was significant as determined and~~
27 ~~reported by the Texas Workforce Commission)].~~

1 (c) The commissioner shall adopt a separate accountability
2 framework for an adult education program located in a correctional
3 facility, as that term is defined by Section 1.07, Penal Code.

4 (c-1) For a school year before the 2024-2025 school year,
5 the accountability framework adopted under Subsection (c) shall
6 include the following performance measures:

7 (1) the percentage of program participants who
8 performed satisfactorily on the standardized secondary exit-level
9 assessment instrument described by Section 12.260(c); and

10 (2) the percentage of program participants who
11 successfully completed the adult education program and earned a
12 high school diploma.

13 (c-2) Subsections (b-1) and (c-1) and this subsection
14 expire September 1, 2024.

15 (d) [~~(p)~~] Each year, the commissioner shall evaluate the
16 performance of an adult education [~~high school~~] program operated
17 under a charter granted under this subchapter [~~section~~] based on
18 the applicable accountability framework [~~performance frameworks~~]
19 adopted under this section [~~Subsection (e)~~].

20 (e) The commissioner may revoke a charter to operate an
21 adult education program granted under this subchapter if the
22 charter's adult education program fails to meet the minimum
23 performance standards established by commissioner rule on the
24 applicable accountability framework adopted under this section for
25 three consecutive school years after the first year of operation.

26 (f) The commissioner, in cooperation with the advisory
27 committee established under Section 12.254, shall review and, if

1 necessary, revise each accountability framework adopted under this
2 section at least once every three years.

3 SECTION 15. (a) Effective September 1, 2021, Sections
4 29.259(j) and (k), Education Code, are transferred to Subchapter G,
5 Chapter 12, Education Code, as added by this Act, redesignated as
6 Section 12.263, Education Code, and amended to read as follows:

7 Sec. 12.263. ADULT EDUCATION PROGRAM FUNDING. (a) Except
8 as otherwise provided by this section, funding [~~(j) Funding~~] for an
9 adult education program operated under a charter granted under this
10 subchapter [section] is [provided based on the following]:

11 [~~(1) for participants who are 26 years of age and~~
12 ~~older, an amount per participant from available general revenue~~
13 ~~funds appropriated for the program equal to the statewide average~~
14 ~~amount of state funding per student in weighted average daily~~
15 ~~attendance that would be allocated under the Foundation School~~
16 ~~Program to an open-enrollment charter school under Section 12.106~~
17 ~~were the student under 26 years of age; and~~

18 [~~(2) for participants who are at least 18 years of age~~
19 ~~and under 26 years of age,~~] an amount per participant through the
20 Foundation School Program equal to the amount of state funding per
21 student in weighted average daily attendance that would be
22 allocated under the Foundation School Program for the student's
23 attendance at an open-enrollment charter school in accordance with
24 Section 12.106.

25 (a-1) Funding for an adult education program operated under
26 this subchapter shall be provided in accordance with the average
27 daily attendance hold harmless provisions and guidance regarding

1 remote instruction implemented by the agency for the 2020-2021
2 school year. This subsection expires September 1, 2023.

3 (b) [(k)] Sections 12.107 and 12.128 apply as though funds
4 under this section were funds under Subchapter D~~[, Chapter 12]~~.

5 (b) Effective September 1, 2023, Sections 29.259(j) and
6 (k), Education Code, are transferred to Subchapter G, Chapter 12,
7 Education Code, as added by this Act, redesignated as Section
8 12.263, Education Code, and amended to read as follows:

9 Sec. 12.263. ADULT EDUCATION PROGRAM FUNDING. (a) Except
10 as otherwise provided by this section, funding [(j) Funding] for an
11 adult education program operated under a charter granted under this
12 subchapter [section] is [provided based on the following:

13 ~~[(1) for participants who are 26 years of age and~~
14 ~~older, an amount per participant from available general revenue~~
15 ~~funds appropriated for the program equal to the statewide average~~
16 ~~amount of state funding per student in weighted average daily~~
17 ~~attendance that would be allocated under the Foundation School~~
18 ~~Program to an open-enrollment charter school under Section 12.106~~
19 ~~were the student under 26 years of age, and~~

20 ~~[(2) for participants who are at least 18 years of age~~
21 ~~and under 26 years of age,]~~ an amount per participant through the
22 Foundation School Program equal to the amount of state funding per
23 student in weighted average daily attendance that would be
24 allocated under the Foundation School Program for the student's
25 attendance at an open-enrollment charter school in accordance with
26 Section 12.106.

27 (b) For purposes of determining the average daily

1 attendance of an adult education program operated under a charter
2 granted under this subchapter, a student is considered to be in
3 average daily attendance, with a 100 percent attendance rate, for:

4 (1) all of the instructional days of the school year,
5 if the student is enrolled for at least 75 percent of the school
6 year;

7 (2) half of the instructional days of the school year,
8 if the student is enrolled for at least 50 percent but less than 75
9 percent of the school year;

10 (3) a quarter of the instructional days of the school
11 year, if the student is enrolled for at least 25 percent but less
12 than 50 percent of the school year; or

13 (4) one-tenth of the instructional days of the school
14 year, if the student is enrolled for at least 10 percent but less
15 than 25 percent of the school year.

16 (c) A student enrolled in an adult education program
17 operated under a charter granted under this subchapter for less
18 than 10 percent of a school year may not be counted toward the adult
19 education program's average daily attendance for that school year.

20 (d) For purposes of the compensatory education allotment
21 under Section [48.104](#), the commissioner shall:

22 (1) permit an adult education program operated under a
23 charter granted under this subchapter to give a final report at the
24 end of each school year of students who were enrolled in the adult
25 education program at any time during that school year and who
26 qualify for that allotment; and

27 (2) provide the allotment for each student reported

1 under Subdivision (1) in an amount proportional to the duration of
2 the student's enrollment in the adult education program.

3 (e) For purposes of the college, career, or military
4 readiness outcomes bonus under Section 48.110, notwithstanding
5 Subsection (f) of that section, an annual graduate of an adult
6 education program operated under a charter granted under this
7 subchapter demonstrates career readiness by earning an
8 industry-accepted certificate not later than six months after
9 completing the program.

10 (f) In addition to funding provided under Subsection (a), a
11 nonprofit entity granted a charter under this subchapter is
12 entitled to receive for the adult education program an annual
13 allotment, provided in accordance with a schedule established by
14 commissioner rule, equal to the maximum basic allotment under
15 Section 48.051(a) or (b) multiplied by:

16 (1) for each credit earned by a student enrolled in the
17 adult education program during the preceding school year:

18 (A) 0.01 for a course other than a career and
19 technology education course; and

20 (B) 0.02 for a career and technology education
21 course; and

22 (2) 0.1 for each student who successfully completed
23 the adult education program and earned a high school diploma during
24 the preceding school year.

25 (g) [~~k~~] Sections 12.107 and 12.128 apply as though funds
26 under this section were funds under Subchapter D[~~, Chapter 12~~].

27 SECTION 16. Section 29.259(r), Education Code, is

1 transferred to Subchapter G, Chapter 12, Education Code, as added
2 by this Act, redesignated as Section 12.264, Education Code, and
3 amended to read as follows:

4 Sec. 12.264. GIFTS, GRANTS, AND DONATIONS. [~~r~~] The
5 commissioner or an adult education program operated under a charter
6 granted under this subchapter [~~section~~] may accept gifts, grants,
7 or donations from any public or private source to be used for
8 purposes of this subchapter [~~section~~].

9 SECTION 17. Section 29.259(m), Education Code, is
10 transferred to Subchapter G, Chapter 12, Education Code, as added
11 by this Act, redesignated as Section 12.265, Education Code, and
12 amended to read as follows:

13 Sec. 12.265. RULES. (a) [~~m~~] The commissioner shall adopt
14 rules necessary to administer the program under this subchapter,
15 including rules to implement and administer:

16 (1) the reporting requirements under Section
17 12.252(b)(2)(A); and

18 (2) the evaluation provisions under Section 12.262
19 [~~section~~].

20 (b) In adopting rules, the commissioner may modify charter
21 school requirements only to the extent necessary for the
22 administration of a charter school under this subchapter [~~section~~]
23 that provides for adult education.

24 SECTION 18. Section 12.137(a), Education Code, is amended
25 to read as follows:

26 (a) This section applies only to:

27 (1) an open-enrollment charter school designated as a

1 dropout recovery school as described by Section 12.1141(c) if the
2 enrollment of the school consists only of students 17 years of age
3 and older; and

4 (2) an adult education program provided under the
5 adult [a] high school [~~diploma and industry certification~~] charter
6 school program under Subchapter G [~~Section 29.259~~].

7 SECTION 19. Section 29.081(d), Education Code, as amended
8 by Chapters 403 (S.B. 1746), 597 (S.B. 668), and 1060 (H.B. 1051),
9 Acts of the 86th Legislature, Regular Session, 2019, is reenacted
10 and amended to read as follows:

11 (d) For purposes of this section, "student at risk of
12 dropping out of school" includes each student who:

13 (1) is under 26 years of age and who:

14 (A) was not advanced from one grade level to the
15 next for one or more school years;

16 (B) if the student is in grade 7, 8, 9, 10, 11, or
17 12, did not maintain an average equivalent to 70 on a scale of 100 in
18 two or more subjects in the foundation curriculum during a semester
19 in the preceding or current school year or is not maintaining such
20 an average in two or more subjects in the foundation curriculum in
21 the current semester;

22 (C) did not perform satisfactorily on an
23 assessment instrument administered to the student under Subchapter
24 B, Chapter 39, and who has not in the previous or current school
25 year subsequently performed on that instrument or another
26 appropriate instrument at a level equal to at least 110 percent of
27 the level of satisfactory performance on that instrument;

1 (D) if the student is in prekindergarten,
2 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on
3 a readiness test or assessment instrument administered during the
4 current school year;

5 (E) is pregnant or is a parent;

6 (F) has been placed in an alternative education
7 program in accordance with Section 37.006 during the preceding or
8 current school year;

9 (G) has been expelled in accordance with Section
10 37.007 during the preceding or current school year;

11 (H) is currently on parole, probation, deferred
12 prosecution, or other conditional release;

13 (I) was previously reported through the Public
14 Education Information Management System (PEIMS) to have dropped out
15 of school;

16 (J) is a student of limited English proficiency,
17 as defined by Section 29.052;

18 (K) is in the custody or care of the Department of
19 Family and Protective Services or has, during the current school
20 year, been referred to the department by a school official, officer
21 of the juvenile court, or law enforcement official;

22 (L) is homeless;

23 (M) resided in the preceding school year or
24 resides in the current school year in a residential placement
25 facility in the district, including a detention facility, substance
26 abuse treatment facility, emergency shelter, psychiatric hospital,
27 halfway house, cottage home operation, specialized child-care

1 home, or general residential operation; or

2 (N) [~~(14)~~] has been incarcerated or has a parent
3 or guardian who has been incarcerated, within the lifetime of the
4 student, in a penal institution as defined by Section 1.07, Penal
5 Code; or

6 (2) regardless of the student's age, participates in
7 an adult education program provided under the adult [~~a~~] high school
8 [~~diploma and industry certification~~] charter school program under
9 Subchapter G, Chapter 12 [~~Section 29.259~~].

10 SECTION 20. Section 48.003(a), Education Code, is amended
11 to read as follows:

12 (a) A student is entitled to the benefits of the Foundation
13 School Program if, on September 1 of the school year, the student:

14 (1) is 5 years of age or older and under 21 years of age
15 and has not graduated from high school, or is at least 21 years of
16 age and under 26 years of age and has been admitted by a school
17 district to complete the requirements for a high school diploma; or

18 (2) is at least 18 years of age and under 50 [~~26~~] years
19 of age and is enrolled in an adult education program provided under
20 the adult high school [~~diploma and industry certification~~] charter
21 school program under Subchapter G, Chapter 12 [~~Section 29.259~~].

22 SECTION 21. Section 48.005(j), Education Code, is amended
23 to read as follows:

24 (j) A district or charter school is eligible to earn full
25 average daily attendance under Subsection (a) if the district or
26 school provides at least 43,200 minutes of instructional time to
27 students enrolled in:

1 (1) a dropout recovery school or program operating
2 under Section 12.1141(c) or Section 39.0548;

3 (2) an alternative education program operating under
4 Section 37.008;

5 (3) a school program located at a day treatment
6 facility, residential treatment facility, psychiatric hospital, or
7 medical hospital;

8 (4) a school program offered at a correctional
9 facility; or

10 (5) a school operating under Subchapter G, Chapter 12
11 [~~Section 29.259~~].

12 SECTION 22. The following provisions of the Education Code
13 are repealed:

14 (1) the section heading to Section 29.259; and

15 (2) Section 29.259(q).

16 SECTION 23. This Act applies beginning with the 2021-2022
17 school year.

18 SECTION 24. Not later than November 1, 2022, the advisory
19 committee established under Section 12.254, Education Code, as
20 added by this Act, shall submit its initial recommendations to the
21 commissioner of education.

22 SECTION 25. (a) A charter granted to a nonprofit entity
23 under former Section 29.259, Education Code, before the effective
24 date of this Act continues to be valid after the transfer,
25 redesignation, and amendment of that section as provided by this
26 Act, until September 1, 2025. The entity must apply for a renewal
27 of the charter under Subchapter G, Chapter 12, Education Code, as

1 added by this Act, to continue operating the charter on or after
2 September 1, 2025.

3 (b) A nonprofit entity granted a charter under former
4 Section 29.259, Education Code, may transfer the charter to another
5 nonprofit entity subject to the approval of the commissioner of
6 education. Subchapter G, Chapter 12, Education Code, as added by
7 this Act, applies to a charter transferred under this subsection on
8 the date of the transfer.

9 SECTION 26. The Texas Education Agency is required to
10 implement a provision of this Act only if the legislature
11 appropriates money specifically for that purpose. If the
12 legislature does not appropriate money specifically for that
13 purpose, the Texas Education Agency may, but is not required to,
14 implement a provision of this Act using other appropriations
15 available for that purpose.

16 SECTION 27. To the extent of any conflict, this Act prevails
17 over another Act of the 87th Legislature, Regular Session, 2021,
18 relating to nonsubstantive additions to and corrections in enacted
19 codes.

20 SECTION 28. Except as otherwise provided by this Act, this
21 Act takes effect immediately if it receives a vote of two-thirds of
22 all the members elected to each house, as provided by Section 39,
23 Article III, Texas Constitution. If this Act does not receive the
24 vote necessary for immediate effect, this Act takes effect
25 September 1, 2021.