By:  Rosenthal H.B. No. 4691

A BILL TO BE ENTITLED

AN ACT

relating to public school accountability, including performance standards and sanctions and public high school graduation requirements.

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

SECTION 1.  Chapter 39 of the Education Code is amended by repealing existing Section 39.025 and adding a new Section 39.025 to read as follows:

Sec. 39.025.  USE OF END-OF-COURSE ASSESSMENT INSTRUMENT. The commissioner shall adopt rules requiring a student in the foundation high school program under Section 28.025 to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. Each student's performance on an end-of-course assessment instrument shall be evaluated to determine whether the student achieved a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a). The results of the administration of an end-of-course assessment instrument required under this subsection may not be used as criteria for graduation. The results may be used only for the purpose of diagnosing the academic strengths and deficiencies of a student and guiding specific instruction to the student.

SECTION 2.  Section 39.053, Education Code, is amended by adding Subsection (b-1) and amending subsection (c) to read as follows:

(b-1)  For purposes of assigning a domain performance rating under Subsection (a), the commissioner shall attribute:

(1)  for the student achievement domain under Subsection 39.053(c)(1), not more than 50 percent of the domain performance rating may be attributed to the indicators under Subsections 39.053 (c)(1)(A)(i) and (ii);

(2)  for the closing the gaps domain under Section 39.053 (c)(3), not more than 50 percent of the domain performance rating may be attributed to the Academic Achievement Component under Sections 39.053 (c)(1)(A)(i) and (ii).

(c)  School districts and campuses must be evaluated based on three domains of indicators of achievement adopted under this section that include:

(1)  in the student achievement domain, indicators of student achievement that must include:

(A)  for evaluating the performance of districts and campuses generally:

(i)  an indicator that accounts for the results of assessment instruments required under Sections 39.023(a), (c), and (l), as applicable for the district and campus, [~~including the results of assessment instruments required for graduation retaken by a student,~~] aggregated across grade levels by subject area, including:

(a)  for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(b)  for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii)  an indicator that accounts for the results of assessment instruments required under Section 39.023(b), as applicable for the district and campus, including the percentage of students who performed satisfactorily on the assessment instruments, as determined by the performance standard adopted by the agency, aggregated across grade levels by subject area; [~~and~~]

(iii)  an indicator that accounts for the number of students who participate in and successfully complete courses in the enrichment curriculum under Section 28.002(a)(2);

(iv)  an indicator that accounts for students who participate in school-sponsored extracurricular and cocurricular activities, taking into consideration the duration, intensity, and levels of engagement in the activities;

(v)  an indicator that accounts for the results from the state-developed school and student safety survey of districts and campuses administered under Section 39.0531;

(vi)  an indicator that accounts for the efforts by districts and campuses relating to providing teacher mentoring programs and professional development opportunities that meet standards established by State Board for Educator Certification rule; and

(vi)  an indicator that accounts for students who are not in attendance fewer than 15 days during the current school year; and

(B)  for evaluating the performance of high school campuses and districts that include high school campuses, indicators that account for:

(i)  students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.334 on an assessment instrument in reading or mathematics designated by the coordinating board under that section;

(ii)  students who satisfy relevant performance standards on advanced placement tests or similar assessments;

(iii)  students who earn dual course credits in the dual credit courses;

(iv)  students who enlist in the armed forces of the United States or the Texas National Guard;

(v)  students who earn industry certifications;

(vi)  students admitted into postsecondary industry certification programs that require as a prerequisite for entrance successful performance at the secondary level;

(vii)  students whose successful completion of a course or courses under Section 28.014 indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(viii)  students who successfully met standards on a composite of indicators that through research indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(ix)  high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) subject to the exclusions provided by Subsections (g), (g-1), (g-2), (g-3), and (g-4);

(x)  students who successfully completed an OnRamps dual enrollment course;

(xi)  students who successfully completed a practicum or internship approved by the State Board of Education;

(xii)  students who are awarded an associate degree; [~~and~~]

(xiii)  students who successfully completed a program of study in career and technical education; and

(xiv)  students who successfully complete at least one endorsement under Section 28.025(c-1);

(xv)  students who earn micro-credentials or credentials of value as defined by the State Board of Education; and

(xvi)  ninth-grade students who at the end of ninth grade have completed enough courses to be academically on-track to graduate with their ninth-grade cohort; and

(2)  in the school progress domain, indicators for effectiveness in promoting student learning, which must include:

(A)  for assessment instruments, including assessment instruments under Subdivisions (1)(A)(i) and (ii), the percentage of students who met the standard for improvement, as determined by the commissioner; and

(B)  for evaluating relative performance, the performance of districts and campuses compared to similar districts or campuses; and

(3)  in the closing the gaps domain, the use of disaggregated data to demonstrate the differentials among students from different racial and ethnic groups, socioeconomic backgrounds, and other factors, including:

(A)  students formerly receiving special education services;

(B)  students continuously enrolled; and

(C)  students who are mobile.

SECTION 3.  Chapter 39, Education Code, is amended by adding Section 39.0531 to read as follows:

Sec. 39.0531.  SCHOOL AND STUDENT SAFETY AND CLIMATE SURVEY. (a) The commissioner shall incorporate a school and student safety and climate survey as an indicator for the student achievement domain under Subsection 39.053(c)(1) and the closing the gaps domain under Subsection 39.053(c)(4). A school and student safety and climate survey shall be administered to administrators and teachers employed by school districts, students enrolled in school districts, and parents of those students.

(b)  The commissioner shall adopt rules to implement this section, including rules to:

(1)  determine the format of the survey;

(2)  determine the questions that the survey must include;

(3)  establish a period during a school year in which the survey must be conducted;

(4)  establish requirements for administering and reporting the results of the survey; and

(5)  authorize the manner in which the survey may be administered, including the local administration of the survey.

(c)  Notwithstanding any other provision of this code, including Section 21.355, school and student safety and climate survey information must be reported to the agency in accordance with rules adopted by the commissioner.

(d)  The commissioner may contract with a third party to provide any service necessary under this section.

SECTION 4.  Section 39.054, Education Code, is amended by repealing subsections (a-1) and (a-2) and amending subsections (a), (a-4), (a-5), and (b) to read as follows:

(a)  Except as provided by Subsection (a-4), [~~the commissioner shall adopt rules to evaluate school district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F. In addition to the overall performance rating,~~] the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Section 39.053(c). A [~~An overall or~~] domain performance rating of A reflects exemplary performance. A [~~An overall or~~] domain performance rating of B reflects recognized performance. A [~~An overall or~~] domain performance rating of C reflects acceptable performance. A [~~An overall or~~] domain performance rating of D reflects performance that needs improvement. A [~~An overall or~~] domain performance rating of F reflects unacceptable performance. A district may not receive a [~~an overall or~~] domain performance rating of A if the district includes any campus with a corresponding [~~overall or~~] domain performance rating of D or F. If a school district has been approved under Section 39.0544 to assign campus performance ratings and the commissioner has not assigned a campus a domain [~~an overall~~] performance rating of D or F, the commissioner shall assign the campus a domain [~~an overall~~] performance rating based on the school district assigned performance rating under Section 39.0544.

(a-4)  Notwithstanding any other law, the commissioner may assign a school district or campus a domain [~~an overall~~] performance rating of "Not Rated" if the commissioner determines that the assignment of a performance rating of A, B, C, D, or F would be inappropriate because:

(1)  the district or campus is located in an area that is subject to a declaration of a state of disaster under Chapter 418, Government Code, and due to the disaster, performance indicators for the district or campus are difficult to measure or evaluate and would not accurately reflect quality of learning and achievement for the district or campus;

(2)  the district or campus has experienced breaches or other failures in data integrity to the extent that accurate analysis of data regarding performance indicators is not possible;

(3)  the number of students enrolled in the district or campus is insufficient to accurately evaluate the performance of the district or campus; or

(4)  for other reasons outside the control of the district or campus, the performance indicators would not accurately reflect quality of learning and achievement for the district or campus.

(a-5)  Notwithstanding any other law, a domain [~~an overall~~] performance rating of "Not Rated" is not included in calculating consecutive school years of unacceptable performance ratings and is not considered a break in consecutive school years of unacceptable performance ratings for purposes of any provision of this code.

SECTION 5.  Section 39.0543(a), Education Code, is amended to read as follows:

Sec. 39.0543.  PERFORMANCE RATING REQUIRING INTERVENTION OR OTHER ACTION. (a) A reference in law to an acceptable performance rating or acceptable performance includes a [~~an overall or~~] domain performance rating of A, B, or C or performance that is exemplary, recognized, or acceptable. A reference in law to an unacceptable performance rating or unacceptable performance includes a closing the gaps [~~an overall or~~] domain performance rating of F. For the purposes of public reporting requirements, a [~~an overall or~~] domain performance rating of D shall be referred to as performance that needs improvement.

SECTION 6.  Section 12.258(a), Education Code, is amended to read as follows:

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

(1)  has failed to complete the curriculum requirements for high school graduation; or

(2)  has failed to perform satisfactorily on an assessment instrument that, before the 2022-2023 school year, was required for high school graduation.

SECTION 7.  Section 18.005(c), Education Code, is amended to read as follows:

(c)  A Job Corps diploma program shall:

(1)  develop educational programs specifically designed for persons eligible for enrollment in a Job Corps training program established by the United States Department of Labor;

(2)  coordinate educational programs and services in the diploma program with programs and services provided by the United States Department of Labor and other federal and state agencies and local political subdivisions and by persons who provide programs and services under contract with the United States Department of Labor;

(3)  provide a course of instruction that includes the required curriculum under Subchapter A, Chapter 28; and

[~~(4)  require that students enrolled in the diploma program satisfy the requirements of Section 39.025 before receiving a diploma under this chapter; and~~]

(5)  comply with a requirement imposed under this title or a rule adopted under this title relating to the Public Education Information Management System (PEIMS) to the extent necessary to determine compliance with this chapter, as determined by the commissioner.

SECTION 8.  Section 19.0043(b), Education Code, is amended to read as follows:

(b)  A student may graduate and receive a diploma from a Windham School District educational program if:

(1)  the student successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) [~~and complies with Section 39.025~~]; or

(2)  the student successfully completes the curriculum requirements under Section 28.025(a) as modified by an individualized education program developed under Section 29.005.

SECTION 9.  Section 25.005(b), Education Code, is amended to read as follows:

(b)  A reciprocity agreement must:

(1)  address procedures for:

(A)  transferring student records; and

(B)  awarding credit for completed course work; and

[~~(C)  permitting a student to satisfy the requirements of Section 39.025 through successful performance on comparable end-of-course or other exit-level assessment instruments administered in another state; and~~]

(2)  include appropriate criteria developed by the agency.

SECTION 10.  Section 28.025, Education Code, is amended by repealing subsection (d) and amending subsections (b-7) and (c) to read as follows:

(b-7)  The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-15) or (c) of this section[~~, Section 39.025,~~] or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

(c)  A person may receive a diploma if the person is eligible for a diploma under Section 28.0251. In other cases, a student may graduate and receive a diploma only if:

(1)  the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) and complies with Section [~~Sections~~] 28.0256 [~~and 39.025~~]; or

(2)  the student successfully completes an individualized education program developed under Section 29.005.

SECTION 11.  Section 29.081(b), Education Code, is amended to read as follows:

(b)  Each district shall provide accelerated instruction to a student enrolled in the district [~~who has taken an end-of-course assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument or~~] who is at risk of dropping out of school.

SECTION 12.  Section 29.402, Education Code, is amended by amending subsections (b) and (c) to read as follows:

(b)  A person who is under 26 years of age is eligible to enroll in a dropout recovery program under this subchapter if the person[~~:~~]

(1)  must complete not more than three course credits to complete the curriculum requirements for the foundation high school program for high school graduation; or

(2)  has failed to perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter \_\_\_\_\_ (\_.B. \_\_\_\_\_), Acts of the 88th Legislature, Regular Session, 2022, or an assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007.

(c)  A public junior college under this section shall:

(1)  design a dropout recovery curriculum that includes career and technology education courses that lead to industry or career certification;

(2)  integrate into the dropout recovery curriculum research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

(A)  high quality, college readiness instruction with strong academic and social supports;

(B)  secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

(C)  information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose;

(3)  offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses; and

(4)  coordinate with each partnering school district to provide in the articulation agreement that the district retains accountability for student attendance and[~~,~~] student completion of high school course requirements[~~, and student performance on assessment instruments as necessary for the student to receive a diploma from a high school of the partnering school district~~].

SECTION 13.  Section 30.021(e), Education Code, is amended to read as follows:

(e)  The school shall cooperate with public and private agencies and organizations serving students and other persons with visual impairments in the planning, development, and implementation of effective educational and rehabilitative service delivery systems associated with educating students with visual impairments. To maximize and make efficient use of state facilities, funding, and resources, the services provided in this area may include conducting a cooperative program with other agencies to serve students who have graduated from high school by completing all academic requirements applicable to students in regular education[~~, excluding satisfactory performance under Section 39.025,~~] who are younger than 22 years of age on September 1 of the school year and who have identified needs related to vocational training, independent living skills, orientation and mobility, social and leisure skills, compensatory skills, or remedial academic skills.

SECTION 14.  Section 30.104(b), Education Code, is amended to read as follows:

(b)  A student may graduate and receive a diploma from a department educational program if:

(1)  the student successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) [~~and complies with Section 39.025~~]; or

(2)  the student successfully completes the curriculum requirements under Section 28.025(a) as modified by an individualized education program developed under Section 29.005.

SECTION 15.  Section 32.258(b), Education Code, is amended to read as follows:

(b)  The system established under Subsection (a) shall provide a means for a student or the student's parent or other person standing in parental relationship to track the student's progress on end-of-course assessment instruments administered under Section 39.023(c) [~~instrument requirements for graduation~~].

SECTION 16.  Section 39.003(a), Education Code, is amended to read as follows:

Sec. 39.003.  SPECIAL INVESTIGATIONS. (a) The commissioner may authorize special investigations to be conducted:

(1)  when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2)  when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3)  in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4)  in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5)  when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6)  in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7)  when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8)  in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;

(9)  when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);

(10)  when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;

(11)  when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;

(12)  when a disproportionate number of students of a particular demographic group is graduating with a particular endorsement under Section 28.025(c-1);

(13)  when an excessive number of students is graduating with a particular endorsement under Section 28.025(c-1);

(14)  in response to a complaint submitted to the agency with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public school accountability, including accreditation, under this chapter;

[~~(15)  when 10 percent or more of the students graduating in a particular school year from a particular high school campus are awarded a diploma based on the determination of an individual graduation committee under Section 28.0258;~~]

(16)  when a school district for any reason fails to produce, at the request of the agency, evidence or an investigation report relating to an educator who is under investigation by the State Board for Educator Certification; or

(17)  as the commissioner otherwise determines necessary.

SECTION 17.  Section 39.034(d), Education Code, is amended to read as follows:

(d)  The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable:

(1)  the grade five assessment instruments;

(2)  the grade eight assessment instruments; and

(3)  the end-of-course assessment instruments [~~required under this subchapter for graduation~~].

SECTION 18.  Section 39.0544, Education Code, is amended by amending subsections (a) and (e) and adding subsections (f) and (g) to read as follows:

Sec. 39.0544.  LOCAL ACCOUNTABILITY SYSTEM. (a) The commissioner shall adopt rules regarding the assignment of campus performance ratings by school districts and open-enrollment charter schools. The rules:

(1)  must require a district or school[~~, in assigning an overall performance rating for a campus,~~] to incorporate:

(A)  domain performance ratings assigned by the commissioner under Section 39.054; and

(B)  performance ratings based on locally developed domains or sets of accountability measures;

(2)  may permit a district or school to assign weights to each domain or set of accountability measures described in Subdivision (1), as determined by the district or school, provided that the domains specified in Subdivision (1)(A) must in the aggregate account for at least 50 percent of the overall performance rating;

(3)  must require that each locally developed domain or set of accountability measures:

(A)  contains levels of performance that allow for differentiation, with assigned standards for achieving the differentiated levels;

(B)  provides for the assignment of a letter grade of A, B, C, D, or F; and

(C)  meets standards for reliability and validity;

(4)  must require that calculations for [~~overall performance ratings and~~] each locally developed domain or set of accountability measures be capable of being audited by a third party;

(5)  must require that a district or school produce a campus score card that may be displayed on the agency's website; and

(6)  must require that a district or school develop and make available to the public an explanation of the methodology used to assign performance ratings under this section.

(e)  A school district or open-enrollment charter school authorized under this section to assign campus performance ratings shall evaluate the performance of each campus as provided by this section and assign each campus a performance rating of A, B, C, D, or F [~~for overall performance and~~] for each locally developed domain or set of accountability measures. Not later than a date established by the commissioner, the district or school shall:

(1)  report the performance ratings to the agency; and

(2)  make the performance ratings available to the public as provided by commissioner rule.

SECTION 19.  Section 39.301(c), Education Code, is amended to read as follows:

(c)  Indicators for reporting purposes must include:

(1)  the percentage of graduating students who meet the course requirements established by State Board of Education rule for:

(A)  the foundation high school program;

(B)  the distinguished level of achievement under the foundation high school program; and

(C)  each endorsement described by Section 28.025(c-1);

(2)  the results of the SAT, ACT, and certified workforce training programs described by Chapter 311, Labor Code;

(3)  for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument required under Section 39.023(a) [~~or (c)~~], the performance of those students on subsequent assessment instruments required under that section [~~those sections~~], aggregated by grade level and subject area;

(4)  for each campus, the number of students, disaggregated by major student subpopulations, that take courses under the foundation high school program and take additional courses to earn an endorsement under Section 28.025(c-1), disaggregated by type of endorsement;

(5)  the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211, the results of assessment instruments administered under that section, the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the subsequent school year on the assessment instruments required under Section 39.023;

(6)  the percentage of emergent bilingual students exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(7)  the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(8)  the percentage of students who satisfy the college readiness measure;

(9)  the measure of progress toward dual language proficiency under Section 39.034(b), for emergent bilingual students, as defined by Section 29.052;

(10)  the percentage of students who are not educationally disadvantaged;

(11)  the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

(12)  the percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

SECTION 20.  Sections 12.104(b-2), 12.260, 19.0043(c), 28.0217, 28.0255(g), 28.0255(h), 28.0258, 28.0259, 28.02591, 29.081(b-1), 29.081(b-2), 29.081(b-3), 30.104(c), 39.0543(b), 39.0543(b-1), 39.0543(b-2), 39.0543(b-3), 39.0543(c), 39.0543(d), Education Code, are repealed.

SECTION 21.  This act applies beginning with the 2023-2024 school year.

SECTION 22.  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, 2023.