

By: Dutton

H.B. No. 2162

A BILL TO BE ENTITLED

AN ACT

relating to reading instruction, assessment instruments, and interventions provided to public school students.

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

SECTION 1. Section 21.044, Education Code, is amended by adding Subsection (h) to read as follows:

(h) An educator preparation program may not include instruction in using the reading instruction method of three-cueing, as defined by Section 28.0062(a-1).

SECTION 2. Section 28.006, Education Code, is amended by amending Subsections (a), (b), (c-1), (c-3), (d), and (j) and adding Subsections (a-1), (b-2), (g-3), (g-4), (g-5), and (g-6) to read as follows:

(a) The commissioner shall adopt procedures ~~[develop recommendations]~~ for school districts and open-enrollment charter schools for:

(1) administering reading instruments to:

(A) ensure the validity and reliability of the results of the reading instruments;

(B) diagnose student reading development and comprehension; and

(C) identify students at risk for dyslexia or other reading difficulties;

(2) training educators in administering the reading

1 instruments; and

2 (3) applying the results of the reading instruments to
3 the instructional program and intervention practices.

4 (a-1) A school district or open-enrollment charter school
5 may not administer a reading instrument to a student more than three
6 times during a school year.

7 (b) The commissioner shall adopt a list of reading
8 instruments that a school district or open-enrollment charter
9 school shall ~~[may]~~ use to diagnose student reading development and
10 comprehension for students in kindergarten through grade three.
11 The reading instrument must include the foundational literacy
12 components of phonemic and phonological awareness, phonics,
13 vocabulary, fluency, and comprehension. For use in diagnosing the
14 reading development and comprehension of kindergarten students,
15 the commissioner shall adopt a multidimensional assessment tool
16 that includes a reading instrument and tests at least three
17 developmental skills, including foundational literacy components.
18 A multidimensional assessment tool administered as provided by this
19 subsection is considered to be a reading instrument for purposes of
20 this section. ~~[A district-level committee established under~~
21 ~~Subchapter F, Chapter 11, may adopt a list of reading instruments~~
22 ~~for use in the district in a grade level other than kindergarten in~~
23 ~~addition to the reading instruments on the commissioner's list.]~~
24 Each reading instrument adopted by the commissioner ~~[or a~~
25 ~~district-level committee]~~ must:

26 (1) be based on scientific research concerning reading
27 skills development and reading comprehension;

(2) [~~. A list of reading instruments adopted under~~
~~this subsection must]~~ provide for diagnosing the reading
 development and comprehension of students participating in a
 program under Subchapter B, Chapter 29;

(3) provide progress monitoring capabilities;

(4) provide a diagnostic tool to assist teachers in
developing research-based targeted instruction;

(5) allow screening of students three times a year;

(6) assess only the foundational literacy components
not already mastered by the student; and

(7) determine if a student needs reading instruction
intervention.

(b-2) In adopting a reading instrument under this section,
the commissioner shall prioritize selecting an instrument that:

(1) minimizes the impact of administration of the
instrument on instructional time;

(2) provides timely reporting of results; and

(3) is able to be integrated into reading instruction.

(c-1) Each school district shall administer at the
 beginning of the seventh grade a reading instrument adopted by the
 commissioner to each student whose performance on the assessment
 instrument in reading administered under Section 39.023(a) to the
 student in grade six did not demonstrate reading proficiency, as
 determined by the commissioner. The district shall administer the
 reading instrument in accordance with the commissioner's
 recommendations for administering reading instruments that
diagnose student reading development and comprehension [~~under~~

~~Subsection (a)(1)].~~

(c-3) The commissioner by rule shall determine the performance on each applicable ~~[the]~~ reading instrument adopted under Subsection (b) that indicates kindergarten readiness.

(d) The superintendent of each school district or the person who serves the function of superintendent in each open-enrollment charter school shall:

(1) ~~report [to the commissioner and the board of trustees of the district]~~ the results of the reading instruments to:

(A) the board of trustees of a school district;
or

(B) the governing body of an open-enrollment charter school, as defined by Section 12.1012(3);

(2) not later than the 30th ~~[60th]~~ calendar day after the date on which a reading instrument was administered report, in writing, to a student's parent or guardian the student's results on the instrument and any additional information required by the agency; and

(3) report to the agency any information required by the agency, including the results of the reading instrument and
~~[using the school readiness certification system provided to the school district in accordance with Section 29.161(e), report electronically]~~ each student's raw score on the reading instrument ~~[to the agency for use in the school readiness certification system]~~.

(g-3) A school district or open-enrollment charter school

1 shall provide reading intervention to each student in kindergarten
2 through grade three who is determined to need reading intervention
3 using an assessment administered in accordance with Subsection (b).
4 The school district shall continue to offer a student reading
5 intervention until the student achieves satisfactory performance
6 on a reading instrument. A reading intervention program offered
7 under this subsection must:

8 (1) include targeted instruction to improve the
9 student's reading skills in the relevant areas identified through
10 the assessment instrument;

11 (2) monitor the progress of the student's reading
12 skills throughout the school year;

13 (3) be implemented during regular school hours and in
14 addition to core instruction;

15 (4) use high-quality instructional materials,
16 curricula, and curricular tools that are research based and
17 effective for early childhood literacy intervention; and

18 (5) be provided by a teacher who has attended a
19 literacy achievement academy provided under Section [21.4552](#).

20 (g-4) In providing reading intervention under Subsection
21 (g-3), a school district or open-enrollment charter school may not
22 remove a student, except under circumstances for which a student
23 enrolled in the same grade level who is not receiving reading
24 intervention would be removed, from:

25 (1) instruction in the foundation curriculum and
26 enrichment curriculum adopted under Section [28.002](#) for the grade
27 level in which the student is enrolled; or

1 (2) recess or other physical activity that is
2 available to other students enrolled in the same grade level.

3 (g-5) In addition to the report required under Subsection
4 (d)(2), a school district or open-enrollment charter school shall
5 notify the parent or guardian of each student in kindergarten
6 through grade three who is determined to need reading intervention.
7 The notification must:

8 (1) be distributed not later than the 30th day after
9 the date the result of the reading instrument indicating that the
10 student needs intervention is available;

11 (2) describe the current reading services the district
12 or school provides to the student;

13 (3) describe the reading interventions that will be
14 provided to the student to ensure the student will meet or exceed
15 grade-level reading standards; and

16 (4) include high-quality resources for the parent or
17 guardian of the student to use at home to help the student succeed
18 at reading.

19 (g-6) From money appropriated for the purpose, the
20 commissioner may provide literacy coaching and technical
21 assistance to kindergarten through grade three classroom teachers,
22 or to individuals serving in that role, to implement this section.
23 The commissioner shall prioritize providing technical assistance
24 under this subsection in school districts with the highest rate of
25 students performing below satisfactory levels on reading
26 instruments administered under Subsection (b).

27 (j) ~~[No more than 15 percent of the funds certified by the~~

~~commissioner under Subsection (i) may be spent on indirect costs.]~~
The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(5) and may implement interventions or sanctions under Chapter 39A. ~~[The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.]~~

SECTION 3. Section 28.0062, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In this subsection, "three-cueing" means a method of reading instruction for identification of words by which a student is encouraged to draw on context and sentence structure to identify a word without sounding the word out or using a phonics-based approach. A school district or open-enrollment charter school may not include any three-cueing in the phonics curriculum required under Subsection (a)(1).

SECTION 4. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0063 to read as follows:

Sec. 28.0063. PRIVATE READING INSTRUCTION FOR CERTAIN STUDENTS. (a) A school district or open-enrollment charter school shall contract with and make available a private, third-party tutoring service to address a student's reading deficiency. The district or school must make the service available to a parent or guardian of a student who is determined to need reading intervention using an assessment administered under Section 28.006 on each of the reading assessments administered for two consecutive

1 school years. The cost to a district or school for contracting for
2 tutoring service under this subsection may not exceed \$1,000.

3 (b) A parent or guardian of a student described by
4 Subsection (a) may select a tutoring service not provided by the
5 school district or open-enrollment charter school to address the
6 student's reading deficiency. The district or school shall
7 contract directly with that service to pay the lesser of the cost of
8 the service or \$1,000 to provide tutoring services to the student.
9 The district or school may not provide money under this subsection
10 directly to a parent or guardian of a student.

11 (c) A school district or open-enrollment charter school
12 that provides a tutoring service to a student under this section
13 shall continue to provide the student any other reading support
14 required of the district or school.

15 (d) The commissioner may adopt rules as necessary to
16 implement this section.

17 SECTION 5. Section [29.1543](#), Education Code, is amended to
18 read as follows:

19 Sec. 29.1543. EARLY EDUCATION REPORTS. The agency shall
20 produce and make available to the public on the agency's Internet
21 website annual district and campus-level reports containing
22 information from the previous school year on early education in
23 school districts and open-enrollment charter schools. A report
24 under this section must contain:

25 (1) the information required by Section [29.1532](#)(c) to
26 be reported through the Public Education Information Management
27 System (PEIMS);

1 (2) a description of any ~~[the]~~ diagnostic reading
2 instruments administered as provided by Section 28.006 ~~[in~~
3 ~~accordance with Section 28.006(c) or (c-2)]~~;

4 (3) the number of students who were administered a
5 diagnostic reading instrument administered as provided by Section
6 28.006 ~~[in accordance with Section 28.006(c) or (c-2)]~~;

7 (4) the number of students whose scores from a
8 diagnostic reading instrument administered as provided by Section
9 28.006 ~~[in accordance with Section 28.006(c) or (c-2)]~~ indicate
10 reading proficiency;

11 (5) the number of kindergarten students who were
12 enrolled in a prekindergarten program in the previous school year
13 in the same district or school as the district or school in which
14 the student attends kindergarten;

15 (6) the number and percentage of students who perform
16 satisfactorily on the third grade reading or mathematics assessment
17 instrument administered under Section 39.023, disaggregated by
18 whether the student was eligible for free prekindergarten under
19 Section 29.153;

20 (7) the number of students described by Subdivision
21 (6) who attended kindergarten in the district, disaggregated by:

22 (A) whether the student met the kindergarten
23 readiness standard on a ~~[the]~~ reading instrument adopted under
24 Section 28.006;

25 (B) whether the student attended prekindergarten
26 in the district; and

27 (C) the type of prekindergarten the student

1 attended, if applicable; and

2 (8) the information described by Subdivisions (6) and
3 (7) disaggregated by whether the student is educationally
4 disadvantaged.

5 SECTION 6. Sections 28.006(c), (c-2), (i), and (k),
6 Education Code, are repealed.

7 SECTION 7. This Act applies beginning with the 2023-2024
8 school year.

9 SECTION 8. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2023.