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et al.

H.B. No. 3928

A BILL TO BE ENTITLED

AN ACT

relating to the screening of students for dyslexia and related disorders and a student's eligibility for special education services provided by a school district, including services for dyslexia and related disorders.

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

SECTION 1. This Act may be cited as the Beckley Wilson Act.

SECTION 2. Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

(b) An open-enrollment charter school is subject to:

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

(2) the provisions in Chapter 554, Government Code; and

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

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

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

1 (C) reading instruments and accelerated reading
2 instruction programs under Section 28.006;

3 (D) accelerated instruction under Section
4 28.0211;

5 (E) high school graduation requirements under
6 Section 28.025;

7 (F) special education programs under Subchapter
8 A, Chapter 29;

9 (G) bilingual education under Subchapter B,
10 Chapter 29;

11 (H) prekindergarten programs under Subchapter E
12 or E-1, Chapter 29, except class size limits for prekindergarten
13 classes imposed under Section 25.112, which do not apply;

14 (I) extracurricular activities under Section
15 33.081;

16 (J) discipline management practices or behavior
17 management techniques under Section 37.0021;

18 (K) health and safety under Chapter 38;

19 (L) the provisions of Subchapter A, Chapter 39;

20 (M) public school accountability and special
21 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
22 39, and Chapter 39A;

23 (N) the requirement under Section 21.006 to
24 report an educator's misconduct;

25 (O) intensive programs of instruction under
26 Section 28.0213;

27 (P) the right of a school employee to report a

1 crime, as provided by Section 37.148;

2 (Q) bullying prevention policies and procedures
3 under Section 37.0832;

4 (R) the right of a school under Section 37.0052
5 to place a student who has engaged in certain bullying behavior in a
6 disciplinary alternative education program or to expel the student;

7 (S) the right under Section 37.0151 to report to
8 local law enforcement certain conduct constituting assault or
9 harassment;

10 (T) a parent's right to information regarding the
11 provision of assistance for learning difficulties to the parent's
12 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

13 (U) establishment of residency under Section
14 25.001;

15 (V) school safety requirements under Sections
16 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
17 37.207, and 37.2071;

18 (W) the early childhood literacy and mathematics
19 proficiency plans under Section 11.185;

20 (X) the college, career, and military readiness
21 plans under Section 11.186; ~~and~~

22 (Y) ~~(X)~~ parental options to retain a student
23 under Section 28.02124; and

24 (Z) the grievance policy and procedure regarding
25 dyslexia intervention under Section 26.0111.

26 SECTION 3. Chapter 26, Education Code, is amended by adding
27 Section 26.0111 to read as follows:

1 Sec. 26.0111. POLICY ON COMPLAINTS REGARDING DYSLEXIA
2 INTERVENTION. (a) The board of trustees of each school district
3 shall adopt a grievance procedure under which the board shall
4 address each complaint that the board receives concerning:

5 (1) a violation of a right related to the screening and
6 intervention services for dyslexia or a related disorder under
7 Sections 29.0031 and 29.0053; or

8 (2) the implementation by the school district of the
9 Texas Dyslexia Handbook, as published by the agency, and its
10 subsequent amendments.

11 (b) The board of trustees of a school district that receives
12 a complaint described by Subsection (a) shall submit the complaint
13 to the agency, in the manner prescribed by the agency, for
14 investigation by the agency in a manner that would satisfy the
15 requirements of 20 U.S.C. Section 1415(b)(6).

16 (c) The policy adopted under Subsection (a) may not
17 interfere with a parent's due process rights under the Individuals
18 with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

19 SECTION 4. Subchapter A, Chapter 29, Education Code, is
20 amended by adding Sections 29.0031, 29.0032, and 29.0053 to read as
21 follows:

22 Sec. 29.0031. DYSLEXIA AND RELATED DISORDERS. (a) In
23 addition to the screening and testing for dyslexia and related
24 disorders required under Section 38.003, a school district shall
25 request consent from the parent of a student enrolled in
26 kindergarten through grade 12 for a full individual and initial
27 evaluation under Section 29.004 to evaluate the student for

dyslexia or a related disorder if the district:

(1) suspects that the student has dyslexia or a related disorder;

(2) identifies the student as at risk for reading difficulties, including dyslexia and related disorders, using quantitative and qualitative data indicating that the student exhibits characteristics of a student with dyslexia or a related disorder or other specific learning disability; or

(3) removes the student from the student's assigned campus and the student is exhibiting academic difficulties in reading, spelling, or written expression or complex conditions or behaviors that may result from an undiagnosed learning disability.

(b) A full individual and initial evaluation under Subsection (a) must:

(1) assess a student for dyslexia and related disorders using:

(A) best practices for identifying dyslexia and related disorders that are aligned with the knowledge and practice standards of the International Dyslexia Association; and

(B) the process outlined in the Texas Dyslexia Handbook, as published by the agency, and its subsequent amendments; and

(2) consider associated academic difficulties and other conditions that regularly affect students with dyslexia and related disorders.

(c) During an evaluation of a student under this section, a school district shall ensure that the student:

1 (1) continues to receive grade-level appropriate,
2 evidence-based core reading instruction; and

3 (2) is provided appropriate tiered interventions.

4 (d) A school district may not delay the evaluation of a
5 student under this section based on the implementation of another
6 intervention process for the student.

7 (e) On determining that a student is at risk for dyslexia or
8 a related disorder, the student may be evaluated by a
9 multidisciplinary team that includes at least one member with
10 specific knowledge regarding the reading process, dyslexia and
11 related disorders, and dyslexia instruction. The member must:

12 (1) hold a licensed dyslexia therapist license under
13 Chapter 403, Occupations Code;

14 (2) hold the most advanced dyslexia-related
15 certification issued by an association accredited by the
16 International Multisensory Structured Language Education Council,
17 including an academic language therapist with a master's degree and
18 certified by the Academic Language Therapy Association; or

19 (3) if a person qualified under Subdivision (1) or (2)
20 is not available in the school district at which the student is
21 enrolled, hold documentation evidencing completion of dyslexia
22 training regarding instructional strategies that are aligned with
23 strategies for dyslexia instruction as established by commissioner
24 rule, including the use of:

25 (A) individualized, intensive, multisensory,
26 phonetic methods; and

27 (B) a variety of writing and spelling components.

1 (f) If a student is evaluated for dyslexia and related
2 disorders by a licensed specialist in school psychology or a
3 diagnostician for dyslexia or a related disorder, a determination
4 that a student has dyslexia or a related disorder must be made in
5 collaboration with a qualified person under Subsection (e). The
6 qualified person shall sign the evaluation to affirm the person's
7 participation in the evaluation.

8 (g) If a student's parent declines to consent to a full
9 individual and initial evaluation of the student under Subsection
10 (a), the school district must submit a statement to the agency
11 documenting that the district has explained to the parent:

12 (1) the rights the parent is waiving under the
13 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
14 et seq.); and

15 (2) that the accommodations and dyslexia
16 interventions offered under a plan created under Section 504,
17 Rehabilitation Act of 1973 (29 U.S.C. Section 794) are available
18 under an individualized education program under Section [29.005](#).

19 (h) The commissioner shall adopt rules as necessary to
20 implement this section. The rules must include:

21 (1) a process by which a school district submits a
22 statement to the agency each time a student's parent declines to
23 consent to a full individual and initial evaluation of the student
24 under Subsection (g); and

25 (2) requirements for annual training and signed
26 affidavits to ensure hearing officers and school district board of
27 trustees are aware and understand changes to the law, commissioner

rules, and any updated guidelines from the State Board of Education related to dyslexia or a related disorder.

Sec. 29.0032. DYSLEXIA SPECIALISTS. (a) A school district shall employ dyslexia therapists, practitioners, specialists, or interventionists to provide dyslexia intervention services to students with dyslexia and related disorders. A person employed under this subsection:

(1) must be fully trained in the district's adopted instructional materials for students with dyslexia; and

(2) is not required to hold a certificate or permit in special education issued under Subchapter B, Chapter 21.

(b) The completion of a literacy achievement academy under Section 21.4552 by an educator who participates in the evaluation or instruction of students with dyslexia and related disorders does not satisfy the requirements of Subsection (a)(1).

(c) A dyslexia therapist licensed under Chapter 403, Occupations Code, is not required to hold a certificate or permit issued under Subchapter B, Chapter 21, to provide dyslexia intervention services or serve as a member of a multidisciplinary evaluation team for a school district under Section 29.0031.

Sec. 29.0053. DYSLEXIA INTERVENTION. (a) If a student is determined, as a result of dyslexia or a related disorder, to need additional instruction that is not provided to students without dyslexia or a related disorder or additional instruction to meet the student's academic goals related to the required curriculum, the committee established under Section 29.005 shall:

(1) develop an individualized education program for

1 the student under Section 29.005; and

2 (2) ensure that the individualized education program
3 aligns with the processes established in the Texas Dyslexia
4 Handbook, as published by the agency, and its subsequent amendments
5 while meeting the individual needs of the student.

6 (b) If a student's parent declines to consent to the
7 development of an individualized education program for the student
8 under this section, the school district must submit a statement to
9 the agency documenting that the district has explained to the
10 parent:

11 (1) the rights the parent is waiving under the
12 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
13 et seq.); and

14 (2) that the accommodations and dyslexia
15 interventions offered under a plan created under Section 504,
16 Rehabilitation Act of 1973 (29 U.S.C. Section 794) are available
17 under an individualized education program under Section 29.005.

18 (c) The commissioner shall adopt rules as necessary to
19 implement this section. The rules must include a process by which a
20 school district submits a statement to the agency each time a
21 student's parent declines to consent to the development of an
22 individualized education program for the student under Subsection
23 (b).

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

26 (g-2) In accordance with a notification program developed
27 by the commissioner by rule, a school district shall notify the

parent or guardian of each student determined, on the basis of a screening under Section 29.0031 or 38.003 or another ~~[other]~~ basis, to be at risk for or have dyslexia or a related disorder, or determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties, of the program maintained by the Texas State Library and Archives Commission providing students with reading disabilities the ability to borrow audiobooks free of charge.

SECTION 6. Section 29.003(b), Education Code, is amended to read as follows:

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

(1) is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services; or

(2) is at least three but not more than 21 years of age and has one or more of the following disabilities that prevents the student from being adequately or safely educated in public school without the provision of special services:

- (A) physical disability;
- (B) intellectual or developmental disability;
- (C) emotional disturbance;
- (D) learning disability;
- (E) autism;
- (F) speech disability; ~~[or]~~
- (G) traumatic brain injury; or

1 (H) dyslexia or a related disorder.

2 SECTION 7. As soon as practicable after the effective date
3 of this Act:

4 (1) the commissioner of education shall adopt rules
5 necessary to implement this Act using a negotiated rulemaking
6 process under Chapter 2008, Government Code;

7 (2) each school district shall notify the parent or
8 person standing in parental relation to a student who has been
9 identified as having dyslexia or a related disorder and who
10 received dyslexia and instructional support under Section 504,
11 Rehabilitation Act of 1973 (29. U.S.C. Section 794), during the
12 2022-2023 school year of the parent's or person's right to request a
13 full individual and initial evaluation under Section 29.004,
14 Education Code; and

15 (3) the commissioner of education shall develop and
16 make available a model notice that a school district may use to
17 provide the notice required by Subdivision (2) of this section.

18 SECTION 8. To the extent of any conflict, this Act prevails
19 over another Act of the 88th Legislature, Regular Session, 2023,
20 relating to nonsubstantive additions to and corrections in enacted
21 codes.

22 SECTION 9. Not later than September 1, 2023, the Texas
23 Education Agency shall provide additional training materials to
24 school districts regarding the evaluation and identification of
25 students with dyslexia or a related disorder in accordance with
26 this Act.

27 SECTION 10. This Act applies beginning with the 2023-2024

1 school year.

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