

By: Creighton, et al.

S.B. No. 8

A BILL TO BE ENTITLED

1 AN ACT
2 relating to public education, including parental rights and public
3 school responsibilities regarding instructional materials and the
4 establishment of an education savings account program.

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

6 ARTICLE 1. PARENTAL RIGHTS AND CURRICULUM

7 SECTION 1.001. Chapter 1, Education Code, is amended by
8 adding Section 1.009 to read as follows:

9 Sec. 1.009. INFRINGEMENT OF PARENTAL RIGHTS PROHIBITED.

10 The fundamental rights granted to parents by their Creator and
11 upheld by the United States Constitution, the Texas Constitution,
12 and the laws of this state, including the right to direct the moral
13 and religious training of the parent's child, make decisions
14 concerning the child's education, and consent to medical,
15 psychiatric, and psychological treatment of the parent's child
16 under Section 151.001, Family Code, may not be infringed on by any
17 public elementary or secondary school or state governmental entity,
18 including the state or a political subdivision of the state, unless
19 the infringement is:

20 (1) necessary to further a compelling state interest,
21 such as providing life-saving care to a child; and

22 (2) narrowly tailored using the least restrictive
23 means to achieve that compelling state interest.

24 SECTION 1.002. Section 11.161, Education Code, is amended

1 to read as follows:

2 Sec. 11.161. FRIVOLOUS SUIT OR PROCEEDING. (a) In a civil
3 suit or administrative proceeding brought under state law or rules
4 [7] against an independent school district or an officer of an
5 independent school district acting under color of office, the court
6 or another person authorized to make decisions regarding the
7 proceeding may award costs and reasonable attorney's fees if:

8 (1) the court or other authorized person finds that
9 the suit or proceeding is frivolous, unreasonable, and without
10 foundation; and

11 (2) the suit or proceeding is dismissed or judgment is
12 for the defendant.

13 (b) This section does not apply to a civil suit or
14 administrative proceeding brought under the Individuals with
15 Disabilities Education Act (20 U.S.C. Section 1400 et seq.). A
16 civil suit or administrative proceeding described by this
17 subsection is governed by the attorney's fees provisions under 20
18 U.S.C. Section 1415.

19 SECTION 1.003. Section 25.036, Education Code, is amended
20 to read as follows:

21 Sec. 25.036. TRANSFER OF STUDENT. (a) Any child, other
22 than a high school graduate, who is younger than 21 years of age and
23 eligible for enrollment on September 1 of any school year may apply
24 to transfer for in-person instruction annually from the child's
25 school district of residence to another district in this state for
26 in-person instruction [~~if both the receiving district and the~~
27 ~~applicant parent or guardian or person having lawful control of the~~

1 ~~child jointly approve and timely agree in writing to the transfer].~~

2 (b) A transfer application approved [~~agreement~~] under this
3 section shall be filed and preserved as a receiving district record
4 for audit purposes of the agency.

5 (c) A school district may deny approval of a transfer under
6 this section only if:

7 (1) the district or a school in the district to which a
8 student seeks to transfer is at full student capacity or has more
9 requests for transfers than available positions after the district
10 has filled available positions in accordance with Subsection (e);

11 (2) at the time a student seeks to transfer, the
12 student is suspended or expelled by the district in which the
13 student is enrolled; or

14 (3) approving the transfer would supersede a
15 court-ordered desegregation plan.

16 (d) For the purpose of determining whether a school in a
17 school district is at full student capacity under Subsection
18 (c)(1), the district may not consider equity as a factor in the
19 district's decision-making process.

20 (e) A school district that has more applicants for transfer
21 under this section than available positions must fill the available
22 positions by lottery and must give priority to applicants in the
23 following order:

24 (1) students who:

25 (A) do not reside in the district but were
26 enrolled in the district in the preceding school year; or

27 (B) are dependents of an employee of the

1 receiving district; and

2 (2) students:

3 (A) receiving special education services under
4 Subchapter A, Chapter 29;

5 (B) who are dependents of military personnel;

6 (C) who are dependents of law enforcement
7 personnel;

8 (D) in foster care;

9 (E) who are the subject of court-ordered
10 modification of an order establishing conservatorship or
11 possession and access; or

12 (F) who are siblings of a student who is enrolled
13 in the receiving district at the time the student seeks to transfer.

14 (f) A student who transfers to another school district under
15 this section may not be charged tuition. The student is included in
16 the average daily attendance of the district to which the student
17 transfers, beginning on the date the student begins attending
18 classes at that district.

19 (g) A receiving school district may, but is not required to,
20 provide transportation to a student who transfers to the receiving
21 district under this section.

22 (h) A receiving school district may revoke, at any time
23 during the school year, the approval of the student's transfer if:

24 (1) the student:

25 (A) fails to comply with a condition specified in
26 the agreement that is:

27 (i) a circumstance specified in the student

1 code of conduct under Section 37.001(a)(1);
2 (ii) a condition specified in the student
3 code of conduct under Section 37.001(a)(2);
4 (iii) conduct for which a student is
5 required or permitted to be removed from class and placed in a
6 disciplinary alternative education program under Section 37.006;
7 or
8 (iv) conduct for which a student is
9 required or permitted to be expelled from school under Section
10 37.007; or
11 (B) fails to maintain a specified school
12 attendance rate; and
13 (2) before revoking approval of the student's
14 transfer, the district ensures the student is afforded appropriate
15 due process and complies with any requirements of state law or
16 district policy relating to the expulsion of a student to the same
17 extent as if the student were being expelled under Section 37.007.

18 SECTION 1.004. Section 26.001, Education Code, is amended
19 by amending Subsections (a), (c), (d), and (e) and adding
20 Subsections (a-1) and (c-1) to read as follows:

21 (a) As provided under Section 151.001, Family Code, a parent
22 has the right to direct the moral and religious training of the
23 parent's child, make decisions concerning the child's education,
24 and consent to medical, psychiatric, and psychological treatment of
25 the child without obstruction or interference from this state, any
26 political subdivision of this state, a school district or
27 open-enrollment charter school, or any other governmental entity.

1 (a-1) Parents are partners with educators, administrators,
2 and school district boards of trustees in their children's
3 education. Parents shall be encouraged to actively participate in
4 creating and implementing educational programs for their children.

5 (c) Unless otherwise provided by law, a board of trustees,
6 administrator, educator, or other person shall comply with Section
7 1.009 and may not limit parental rights or withhold information
8 from a parent regarding the parent's child.

9 (c-1) A school district may not be considered to have
10 withheld information from a parent regarding the parent's child if
11 the district's actions are in accordance with other law, including
12 the Family Education Rights and Privacy Act of 1974 (20 U.S.C.
13 Section 1232g).

14 (d) Each board of trustees shall:

15 (1) provide for procedures to consider complaints that
16 a parent's right has been denied; ~~[-]~~

17 (2) develop a plan for parental participation in the
18 district to improve parent and teacher cooperation, including in
19 the areas of homework, school attendance, and discipline;

20 (3) ~~[(c) Each board of trustees shall]~~ cooperate in
21 the establishment of ongoing operations of at least one
22 parent-teacher organization at each school in the district to
23 promote parental involvement in school activities; and

24 (4) provide to a parent of a child on the child's
25 enrollment in the district for the first time and to the parent of
26 each child enrolled in the district at the beginning of each school
27 year information about parental rights and options, including the

1 right to withhold consent for or exempt the parent's child from
2 certain activities and instruction, that addresses the parent's
3 rights and options concerning:

4 (A) the child's course of study and supplemental
5 services;

6 (B) instructional materials and library
7 materials;

8 (C) health education instruction under Section
9 28.004;

10 (D) instruction regarding sexual orientation and
11 gender identity under Section 28.0043;

12 (E) school options, including virtual and remote
13 schooling options;

14 (F) immunizations under Section 38.001;

15 (G) gifted and talented programs;

16 (H) promotion, retention, and graduation
17 policies;

18 (I) grade, class rank, and attendance
19 information;

20 (J) state standards and requirements;

21 (K) data collection practices;

22 (L) health care services, including notice and
23 consent under Section 26.0083(g); and

24 (M) the local grievance procedure under Section
25 26.011.

26 (e) The agency shall develop a form for use by school
27 districts in providing information about parental rights and

1 options under Subsection (d)(4). Each school district shall post
2 the form in a prominent location on the district's Internet
3 website.

4 SECTION 1.005. Chapter 26, Education Code, is amended by
5 adding Sections 26.0026, 26.0061, and 26.0083 to read as follows:

6 Sec. 26.0026. RIGHT TO SELECT EDUCATIONAL SETTING. A
7 parent is entitled to choose the educational setting for the
8 parent's child, including public school, private school, or home
9 school.

10 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
11 REVIEW. (a) The board of trustees of each school district shall
12 establish a process by which a parent of a student, as indicated on
13 the student registration form at the student's campus, may request
14 an instructional material review under Section 31.0236 for a
15 subject area in the grade level in which the student is enrolled.

16 (b) A process established under Subsection (a):

17 (1) may not require more than one parent of a student
18 to make the request;

19 (2) must provide for the board of trustees of the
20 school district to determine if the request will be granted, either
21 originally or through an appeal process; and

22 (3) may permit the requesting parent to review the
23 instructional material directly before the district conducts an
24 instructional material review under Section 31.0236.

25 (c) If the parents of at least 25 percent of the students
26 enrolled at a campus present to the board of trustees of the school
27 district in which the campus is located a petition for the board to

1 conduct an instructional material review under Section 31.0236, the
2 board shall conduct the review, unless, by a majority vote, the
3 board denies the request.

4 (d) Notwithstanding Subsection (c), if the parents of at
5 least 50 percent of the students enrolled at a school district
6 campus present to the board of trustees of the district a petition
7 to conduct an instructional material review under Section 31.0236,
8 the board shall conduct the review.

9 (e) A review conducted under Subsection (c) or (d) shall
10 include a review of instructional materials for each subject area
11 or grade level specified in the petition.

12 (f) The commissioner may adopt rules to implement this
13 section.

14 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,
15 EMOTIONAL, AND PHYSICAL HEALTH AND HEALTH-RELATED SERVICES. (a)
16 The agency shall adopt a procedure for school districts to notify
17 the parent of a student enrolled in the district regarding any
18 change in services provided to or monitoring of the student related
19 to the student's mental, emotional, or physical health or
20 well-being.

21 (b) A procedure adopted under Subsection (a) must reinforce
22 the fundamental right of a parent to make decisions regarding the
23 upbringing and control of the parent's child by requiring school
24 district personnel to:

25 (1) encourage a student to discuss issues relating to
26 the student's well-being with the student's parent; or

27 (2) facilitate a discussion described under

1 Subdivision (1).

2 (c) A school district may not adopt a procedure that:

3 (1) prohibits a district employee from notifying the
4 parent of a student regarding:

5 (A) information about the student's mental,
6 emotional, or physical health or well-being; or

7 (B) a change in services provided to or
8 monitoring of the student related to the student's mental,
9 emotional, or physical health or well-being;

10 (2) encourages or has the effect of encouraging a
11 student to withhold from the student's parent information described
12 by Subdivision (1)(A); or

13 (3) prevents a parent from accessing education or
14 health records concerning the parent's child.

15 (d) Subsections (a) and (c) do not require the disclosure of
16 information to a parent if a reasonably prudent person would
17 believe the disclosure is likely to result in the student suffering
18 abuse or neglect, as those terms are defined by Section [261.001](#),
19 Family Code.

20 (e) A school district employee may not discourage or
21 prohibit parental knowledge of or involvement in critical decisions
22 affecting a student's mental, emotional, or physical health or
23 well-being.

24 (f) Any student support services training developed or
25 provided by a school district to district employees must comply
26 with any student services guidelines, standards, and frameworks
27 established by the State Board of Education and the agency.

1 (g) Before the first instructional day of each school year,
2 a school district shall provide to the parent of each student
3 enrolled in the district written notice of each health-related
4 service offered at the district campus the student attends. The
5 notice must include a statement of the parent's right to withhold
6 consent for or decline a health-related service. A parent's
7 consent to a health-related service does not waive a requirement of
8 Subsection (a), (c), or (e).

9 (h) Before administering a student well-being questionnaire
10 or health screening form to a student enrolled in prekindergarten
11 through 12th grade, a school district must provide a copy of the
12 questionnaire or form to the student's parent and obtain the
13 parent's consent to administer the questionnaire or form.

14 (i) This section may not be construed to:

15 (1) limit or alter the requirements of Section 38.004
16 of this code or Chapter 261, Family Code; or

17 (2) limit a school district employee's ability to
18 inquire about a student's daily well-being without parental
19 consent.

20 (j) Not later than June 30, 2024, the agency, the State
21 Board of Education, and the State Board for Educator Certification,
22 as appropriate, shall review and revise as necessary the following
23 to ensure compliance with this section:

24 (1) school counseling frameworks and standards;

25 (2) educator practices and professional conduct
26 principles; and

27 (3) any other student services personnel guidelines,

1 standards, or frameworks.

2 (k) Subsection (j) and this subsection expire September 1,
3 2025.

4 SECTION 1.006. Section 26.004(b), Education Code, is
5 amended to read as follows:

6 (b) A parent is entitled to access to all written records of
7 a school district concerning the parent's child, including:

- 8 (1) attendance records;
- 9 (2) test scores;
- 10 (3) grades;
- 11 (4) disciplinary records;
- 12 (5) counseling records;
- 13 (6) psychological records;
- 14 (7) applications for admission;
- 15 (8) medical records in accordance with Section
16 38.0095, including health and immunization information;
- 17 (9) teacher and school counselor evaluations;
- 18 (10) reports of behavioral patterns; and
- 19 (11) records relating to assistance provided for
20 learning difficulties, including information collected regarding
21 any intervention strategies used with the child.

22 SECTION 1.007. Chapter 26, Education Code, is amended by
23 adding Section 26.0071 to read as follows:

24 Sec. 26.0071. COMMUNITY ENGAGEMENT POLICY. Each board of
25 trustees of a school district shall develop a parental engagement
26 policy that:

- 27 (1) provides for an Internet portal through which

1 parents of students enrolled in the district may submit comments to
2 campus or district administrators and the board;

3 (2) requires the board to prioritize public comments
4 by presenting those comments at the beginning of each board
5 meeting; and

6 (3) requires board meetings to be held outside of
7 typical work hours.

8 SECTION 1.008. Section 26.008, Education Code, is amended
9 to read as follows:

10 Sec. 26.008. RIGHT TO FULL INFORMATION CONCERNING STUDENT.

11 (a) Except as provided by Section 38.004, a [A] parent is entitled
12 to:

13 (1) full information regarding the school activities
14 of a parent's child; and

15 (2) notification not later than one school business
16 day after the date a school district employee first suspects that a
17 criminal offense has been committed against the parent's child
18 [except as provided by Section 38.004].

19 (b) An attempt by any school district employee to encourage
20 or coerce a child to withhold information from the child's parent is
21 grounds for discipline under Section 21.104, 21.156, or 21.211, as
22 applicable, or by the State Board for Educator Certification, if
23 applicable.

24 SECTION 1.009. Section 26.009, Education Code, is amended
25 by amending Subsection (a) and adding Subsections (a-1), (a-2),
26 (a-3), (c), and (d) to read as follows:

27 (a) An employee of a school district must obtain the written

1 consent of a child's parent in the manner required by Subsection
2 (a-2) before the employee may:

3 (1) conduct a psychological examination, test, or
4 treatment, unless the examination, test, or treatment is required
5 under Section 38.004 or state or federal law regarding requirements
6 for special education; ~~[or]~~

7 (2) subject to Subsection (b), make or authorize the
8 making of a videotape of a child or record or authorize the
9 recording of a child's voice;

10 (3) unless authorized by other law:

11 (A) disclose a child's health or medical
12 information to any person other than the child's parent; or

13 (B) collect, use, store, or disclose to any
14 person other than the child's parent a child's biometric
15 identifiers; or

16 (4) subject to Subsection (a-3), provide health care
17 services or medication or conduct a medical procedure.

18 (a-1) For purposes of Subsection (a), "biometric
19 identifier" means a blood sample, hair sample, skin sample, DNA
20 sample, body scan, retina or iris scan, fingerprint, voiceprint, or
21 record of hand or face geometry.

22 (a-2) Written consent for a parent's child to participate in
23 a district activity described by Subsection (a) must be signed by
24 the parent and returned to the district. A child may not
25 participate in the activity unless the district receives the
26 parent's signed written consent to that activity.

27 (a-3) For the purpose of obtaining written consent for

1 actions described by Subsection (a)(4) that are determined by a
2 school district to be routine care provided by a person who is
3 authorized by the district to provide physical or mental
4 health-related services, the district may obtain consent at the
5 beginning of the school year or at the time of the child's
6 enrollment in the district. Unless otherwise provided by a child's
7 parent, written consent obtained in accordance with this subsection
8 is effective until the end of the school year in which the consent
9 was obtained.

10 (c) Before the first instructional day of each school year,
11 a school district shall provide to the parent of each student
12 enrolled in the district written notice of any actions the district
13 may take involving the authorized collection, use, or storage of
14 information as described by Subsection (a)(3). The notice must:

15 (1) include a plain language explanation for the
16 district's collection, use, or storage of the child's information
17 and the district's legal authority to engage in that collection,
18 use, or storage; and

19 (2) be signed by the parent and returned to the
20 district.

21 (d) A school district shall take disciplinary action
22 against an employee responsible for allowing a child to participate
23 in an activity described by Subsection (a)(4) if the district did
24 not obtain a parent's consent for the child's participation in that
25 activity.

26 SECTION 1.010. Section 26.011, Education Code, is amended
27 to read as follows:

1 Sec. 26.011. LOCAL GRIEVANCE PROCEDURE [~~COMPLAINTS~~].

2 (a) The board of trustees of each school district shall adopt a
3 grievance procedure under which the board shall:

4 (1) address each grievance [~~complaint~~] that the board
5 receives concerning a violation of a right guaranteed by Section
6 1.009 or this chapter:

7 (A) if the grievance is filed not later than six
8 school weeks after the date on which the parent received notice of
9 an incident giving rise to the grievance; or

10 (B) regardless of whether the grievance was filed
11 during the period prescribed by Paragraph (A) if the grievance was
12 informally brought to the attention of school district personnel
13 during that period;

14 (2) allow a parent at any time before a final decision
15 by the board to provide additional evidence regarding the parent's
16 grievance; and

17 (3) allow a parent to file more than one grievance at
18 the same time.

19 (b) The board of trustees of a school district is not
20 required by Subsection (a) or Section [11.1511\(b\)\(13\)](#) to address a
21 grievance [~~complaint~~] that the board receives concerning a
22 student's participation in an extracurricular activity that does
23 not involve a violation of a right guaranteed by this chapter. This
24 subsection does not affect a claim brought by a parent under the
25 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
26 et seq.) or a successor federal statute addressing special
27 education services for a child with a disability.

1 (c) The board of trustees of a school district shall ensure
2 a grievance procedure adopted under Subsection (a):

3 (1) authorizes a parent to file a grievance with the
4 principal of the district campus the parent's child attends or the
5 person designated by the district to receive grievances for that
6 campus;

7 (2) requires that a principal or the person designated
8 by the district to receive grievances for a campus:

9 (A) acknowledge receipt of a grievance under
10 Subdivision (1) not later than two school business days after
11 receipt of the grievance; and

12 (B) not later than the 14th school business day
13 after receipt of a grievance described by Subdivision (1), provide
14 to the parent who submitted the grievance written documentation of
15 the decision regarding the issue that gave rise to the grievance,
16 including:

17 (i) an explanation of the findings that
18 contributed to the decision;

19 (ii) notification regarding the parent's
20 right to appeal the decision; and

21 (iii) the timeline for appealing the
22 decision;

23 (3) requires that, if a parent appeals a decision
24 under Subdivision (2) not later than the 14th school business day
25 after receiving notice of the decision, the superintendent or the
26 superintendent's designee provide to the parent not later than the
27 14th school business day after receipt of the appeal written

1 documentation of the decision regarding the issue that gave rise to
2 the grievance, including:

3 (A) an explanation of the findings that
4 contributed to the decision;

5 (B) notification regarding the parent's right to
6 appeal the decision; and

7 (C) the timeline for appealing the decision;

8 (4) requires that, if a parent appeals a decision
9 under Subdivision (3) not later than the 14th school business day
10 after receiving notice of the decision, the board hear the
11 grievance in a closed session at the board's next regular meeting
12 that occurs on or after the 14th school business day after the date
13 the board receives notice of the appeal; and

14 (5) requires that, not later than the 10th school
15 business day after the date of a board meeting described by
16 Subdivision (4), the board provide to the parent written
17 documentation of the board's decision regarding the issue that gave
18 rise to the grievance, including notice that the parent may appeal
19 to the commissioner in writing under Section 7.057, if applicable.

20 (d) The parties may mutually agree to adjust the timeline
21 for the procedure under this section.

22 (e) Notwithstanding Subsection (d), if a grievance
23 submitted under this section involves an employee who is on
24 documented leave that is scheduled to begin or has begun before the
25 grievance is submitted, the district may alter the timeline for the
26 procedure under this section to make a reasonable accommodation for
27 the employee's leave. The district must provide notice of the

1 change to the parent who submitted the grievance.

2 SECTION 1.011. Chapter 26, Education Code, is amended by
3 adding Sections 26.0111 and 26.0112 to read as follows:

4 Sec. 26.0111. GRIEVANCE HEARING BEFORE HEARING EXAMINER.

5 (a) This section applies only to a grievance regarding a violation
6 of:

7 (1) Section 28.0022, 28.004, or 28.0043 or Chapter 38
8 or the implementation of those provisions by a school district; or

9 (2) Chapter 551, Government Code, involving school
10 district personnel.

11 (b) If a parent has exhausted the parent's options under the
12 local grievance procedure established by the board of trustees of a
13 school district under Section 26.011 regarding a grievance to which
14 this section applies, and the grievance is not resolved to a
15 parent's satisfaction, the parent may file a written request with
16 the commissioner for a hearing before a hearing examiner under this
17 section not later than the 30th school business day after the date
18 on which the board of trustees of the district resolved the parent's
19 grievance under Section 26.011. The parent must provide the
20 district with a copy of the request and must provide the
21 commissioner with a copy of the district's resolution of the
22 grievance. The parties may agree in writing to extend by not more
23 than 10 school business days the deadline for requesting a hearing.

24 (c) The commissioner shall assign a hearing examiner to
25 review the grievance in the manner provided by Section 21.254. The
26 hearing examiner has the powers described by Sections 21.255 and
27 21.256 and shall conduct the hearing in the manner provided by those

1 sections as if the parent were a teacher.

2 (d) Not later than the 60th business day after the date on
3 which the commissioner receives a parent's written request for a
4 hearing, the hearing examiner shall complete the hearing and make a
5 written recommendation that includes proposed findings of fact and
6 conclusions of law. The recommendation of the hearing examiner is
7 final and may not be appealed.

8 (e) Sections 21.257(c), (d), and (e) apply to a hearing
9 under this section in the same manner as a hearing conducted under
10 Subchapter F, Chapter 21.

11 (f) Section 21.258 applies to the State Board of Education
12 in the same manner as if the board were the board of trustees of the
13 school district or board subcommittee.

14 (g) Chapter 2001, Government Code, does not apply to the
15 State Board of Education's actions regarding the recommendation of
16 the hearing examiner.

17 (h) The costs of the hearing examiner, the court reporter,
18 the original hearing transcript, and any hearing room costs, if the
19 hearing room is not provided by the school district, shall be paid
20 by the school district if the hearing examiner finds in favor of the
21 parent.

22 (i) Notwithstanding Subsection (d), if a parent fails to
23 appear at a hearing under this section, the hearing examiner is not
24 required to complete the hearing and may not make a recommendation
25 in favor of the parent.

26 Sec. 26.0112. TESTIMONY BEFORE STATE BOARD OF EDUCATION.
27 If a hearing examiner reviews and finds against a school district

1 under Section 26.0111 in at least five grievances to which that
2 section applies involving the district during a school year, the
3 superintendent of the school district must appear before the State
4 Board of Education to testify regarding the hearing examiner's
5 findings and the frequency of grievances against the district.

6 SECTION 1.012. Section 28.002, Education Code, is amended
7 by adding Subsection (c-4) to read as follows:

8 (c-4) The State Board of Education may not adopt standards
9 in violation of Section 28.0043.

10 SECTION 1.013. Subchapter A, Chapter 28, Education Code, is
11 amended by adding Section 28.0043 to read as follows:

12 Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL
13 ORIENTATION AND GENDER IDENTITY. (a) A school district,
14 open-enrollment charter school, or district or charter school
15 employee may not provide or allow a third party to provide
16 instruction, guidance, activities, or programming regarding sexual
17 orientation or gender identity to students enrolled in
18 prekindergarten through 12th grade.

19 (b) This section may not be construed to limit:

20 (1) a student's ability to engage in speech or
21 expressive conduct protected by the First Amendment to the United
22 States Constitution or by Section 8, Article I, Texas Constitution,
23 that does not result in material disruption to school activities;
24 or

25 (2) the ability of a person who is authorized by the
26 district to provide physical or mental health-related services to
27 provide the services to a student, subject to any required parental

1 consent.

2 SECTION 1.014. Section 28.02124, Education Code, is amended
3 by amending Subsection (a) and adding Subsections (a-1) and (a-2)
4 to read as follows:

5 (a) Subject to Subsection (c), a parent or guardian may
6 elect for a student to:

7 (1) repeat prekindergarten;

8 (2) enroll in prekindergarten, if the student would
9 have been eligible to enroll in prekindergarten during the previous
10 school year under Section 29.153(b) and the student has not yet
11 enrolled in kindergarten;

12 (3) repeat kindergarten;

13 (4) enroll in kindergarten, if the student would have
14 been eligible to enroll in kindergarten in the previous school year
15 and has not yet enrolled in first grade; or

16 (5) for grades one through eight [~~three~~], repeat the
17 grade in which the student was enrolled during the previous school
18 year.

19 (a-1) Subject to Subsection (c), for courses taken for high
20 school credit, a parent or guardian may elect for a student to
21 repeat any course in which the student was enrolled during the
22 previous school year. A parent or guardian may not elect for a
23 student to repeat a course under this subsection if the school
24 district or open-enrollment charter school determines the student
25 has met all of the requirements for graduation.

26 (a-2) A parent or guardian may make an election under
27 Subsection (a)(5) or (a-1), or both.

1 SECTION 1.015. The heading to Section 28.022, Education
2 Code, is amended to read as follows:

3 Sec. 28.022. NOTICE TO PARENT OF UNSATISFACTORY
4 PERFORMANCE; CONFERENCES.

5 SECTION 1.016. Section 28.022(a), Education Code, is
6 amended to read as follows:

7 (a) The board of trustees of each school district shall
8 adopt a policy that:

9 (1) provides for at least two opportunities for
10 in-person conferences during each school year [~~a conference~~]
11 between each parent of a child enrolled in the district and the
12 child's [~~parents and~~] teachers;

13 (2) requires the district, at least once every 12
14 weeks, to give written notice to a parent of a student's performance
15 in each class or subject; and

16 (3) requires the district, at least once every three
17 weeks, or during the fourth week of each nine-week grading period,
18 to give written notice to a parent or legal guardian of a student's
19 performance in a subject included in the foundation curriculum
20 under Section 28.002(a)(1) if the student's performance in the
21 subject is consistently unsatisfactory, as determined by the
22 district.

23 SECTION 1.017. Subchapter B, Chapter 31, Education Code, is
24 amended by adding Section 31.0236 to read as follows:

25 Sec. 31.0236. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
26 MATERIAL. (a) The agency shall adopt rules developing a process by
27 which a school district may conduct a review of instructional

1 materials used by a classroom teacher in a foundation curriculum
2 course under Section 28.002(a)(1) to determine the degree to which
3 the material:

4 (1) complies with the instructional materials adopted
5 by the school district; and

6 (2) is appropriately rigorous for the grade level in
7 which it is being used.

8 (b) A review conducted under this section may only be
9 conducted using a rubric developed by the agency and approved by the
10 State Board of Education.

11 (c) The agency, in developing a review process under
12 Subsection (a):

13 (1) shall minimize, to the extent possible, the time a
14 classroom teacher is required to spend complying with a review
15 conducted under this section;

16 (2) may not require a teacher to spend more than 30
17 minutes on a single review conducted under this section unless the
18 teacher determines that spending more than 30 minutes on the review
19 is necessary; and

20 (3) shall permit a regional education service center
21 to conduct the review for a school district, if the center has
22 completed the training offered by the agency under Subsection (d).

23 (d) The agency shall provide to regional education service
24 centers training relating to appropriately conducting a review
25 under this section.

26 SECTION 1.018. Section 12.104(b), Education Code, as
27 amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B.

1 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th
2 Legislature, Regular Session, 2021, is reenacted and amended to
3 read as follows:

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

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

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

9 (3) 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 to monitor compliance with
14 this subchapter as determined by the commissioner;

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

17 (C) reading instruments and accelerated reading
18 instruction programs under Section 28.006;

19 (D) accelerated instruction under Section
20 28.0211;

21 (E) high school graduation requirements under
22 Section 28.025;

23 (F) special education programs under Subchapter
24 A, Chapter 29;

25 (G) bilingual education under Subchapter B,
26 Chapter 29;

27 (H) prekindergarten programs under Subchapter E

1 or E-1, Chapter 29, except class size limits for prekindergarten
2 classes imposed under Section 25.112, which do not apply;

3 (I) extracurricular activities under Section
4 33.081;

5 (J) discipline management practices or behavior
6 management techniques under Section 37.0021;

7 (K) health and safety under Chapter 38;

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

9 (M) public school accountability and special
10 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
11 39, and Chapter 39A;

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

14 (O) intensive programs of instruction under
15 Section 28.0213;

16 (P) the right of a school employee to report a
17 crime, as provided by Section 37.148;

18 (Q) bullying prevention policies and procedures
19 under Section 37.0832;

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

23 (S) the right under Section 37.0151 to report to
24 local law enforcement certain conduct constituting assault or
25 harassment;

26 (T) a parent's right to information regarding the
27 provision of assistance for learning difficulties to the parent's

1 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

2 (U) establishment of residency under Section
3 25.001;

4 (V) school safety requirements under Sections
5 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
6 37.207, and 37.2071;

7 (W) the early childhood literacy and mathematics
8 proficiency plans under Section 11.185;

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

11 (Y) ~~(X)~~ parental options to retain a student
12 under Section 28.02124;

13 (Z) parental access to instructional materials
14 and curricula under Section 26.0061;

15 (AA) the adoption of a community engagement
16 policy as provided by Section 26.0071; and

17 (BB) parental rights to information regarding a
18 student's mental, emotional, and physical health-related needs and
19 related services offered by the school as provided by Section
20 26.0083.

21 SECTION 1.019. Section 28.004(i-3), Education Code, is
22 repealed.

23 ARTICLE 2. EDUCATION SAVINGS ACCOUNT PROGRAM

24 SECTION 2.001. The purpose of this article is to:

25 (1) provide additional educational options to assist
26 families in this state in exercising the right to direct the
27 educational needs of their children; and

1 (2) achieve a general diffusion of knowledge.

2 SECTION 2.002. Chapter 29, Education Code, is amended by
3 adding Subchapter J to read as follows:

4 SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

5 Sec. 29.351. DEFINITIONS. In this subchapter:

6 (1) "Account" means an education savings account
7 established under the program.

8 (2) "Certified educational assistance organization"
9 means an organization certified under Section 29.354 to support the
10 administration of the program.

11 (3) "Child with a disability" means a child who is
12 eligible to participate in a school district's special education
13 program under Section 29.003.

14 (4) "Higher education provider" means an institution
15 of higher education or a private or independent institution of
16 higher education, as those terms are defined by Section 61.003.

17 (5) "Parent" means a resident of this state who is a
18 natural or adoptive parent, managing or possessory conservator,
19 legal guardian, custodian, or other person with legal authority to
20 act on behalf of a child.

21 (6) "Program" means the program established under this
22 subchapter.

23 (7) "Program participant" means a child and a parent
24 of a child enrolled in the program.

25 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
26 shall establish a program to provide funding for approved
27 education-related expenses of children participating in the

1 program.

2 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
3 account in the general revenue fund to be administered by the
4 comptroller.

5 (b) The fund is composed of:

6 (1) general revenue transferred to the fund;

7 (2) money appropriated to the fund;

8 (3) gifts, grants, and donations received under
9 Section 29.370; and

10 (4) any other money available for purposes of the
11 program.

12 (c) Money in the fund may be appropriated only for the uses
13 specified by this subchapter.

14 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
15 ORGANIZATIONS. (a) An organization may apply to the comptroller
16 for certification as a certified educational assistance
17 organization during an application period established by the
18 comptroller.

19 (b) To be eligible for certification, an organization must:

20 (1) have the ability to perform the duties and
21 functions required of a certified educational assistance
22 organization under this subchapter;

23 (2) be in good standing with the state; and

24 (3) be able to assist the comptroller in administering
25 the program, including the ability to:

26 (A) accept, process, and track applications for
27 the program;

1 (B) assist prospective applicants, applicants,
2 and program participants with finding preapproved education
3 service providers and vendors of educational products;

4 (C) accept and process payments for approved
5 education-related expenses; and

6 (D) verify that program funding is used only for
7 approved education-related expenses.

8 (c) The comptroller may certify not more than five
9 educational assistance organizations to support the administration
10 of the program, including by:

11 (1) administering:

12 (A) the application process under Section
13 29.356; and

14 (B) the program expenditures process under
15 Section 29.360; and

16 (2) assisting prospective applicants, applicants, and
17 program participants with understanding approved education-related
18 expenses and finding preapproved education service providers and
19 vendors of educational products.

20 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
21 participate in the program and may, subject to available funding
22 and the requirements of this subchapter, initially enroll in the
23 program for the school year following the school year in which the
24 child's application is submitted under Section 29.356 if the child:

25 (1) is eligible to:

26 (A) attend a public school under Section 25.001;
27 or

1 (B) enroll in a public school's prekindergarten
2 program under Section 29.153; and

3 (2) either:

4 (A) attended any public school in this state for
5 at least 90 percent of the school year preceding the school year for
6 which the child applies to enroll in the program; or

7 (B) is enrolling in prekindergarten or
8 kindergarten for the first time, including a child who was
9 homeschooled before enrollment.

10 (a-1) Notwithstanding Subsection (a) and subject to Section
11 29.356(b-1), a child is eligible to participate in the program if
12 the child:

13 (1) meets the qualifications under Subsection (a)(1);

14 (2) attended private school on a full-time basis for
15 the preceding school year; and

16 (3) is a member of a household with a total annual
17 income that is at or below 200 percent of the federal poverty
18 guidelines.

19 (b) A child who establishes eligibility under this section
20 may, subject to available funding and the requirements of this
21 subchapter, participate in the program until the earliest of the
22 following dates:

23 (1) the date on which the child graduates from high
24 school;

25 (2) the date on which the child is no longer eligible
26 to attend a public school under Section 25.001;

27 (3) the date on which the child enrolls in a public

1 school, including an open-enrollment charter school, in a manner in
2 which the child will be counted toward the school's average daily
3 attendance for purposes of the allocation of funding under the
4 foundation school program; or

5 (4) the date on which the child is declared ineligible
6 for the program by the comptroller under this subchapter.

7 (c) Notwithstanding Subsection (a) or (b), a child is not
8 eligible to participate in the program during the period in which
9 the child's parent or legal guardian is a state representative or
10 state senator.

11 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
12 eligible child may apply to a certified educational assistance
13 organization to enroll the child in the program for the following
14 school year. The comptroller shall establish quarterly deadlines
15 by which an applicant must complete and submit an application form
16 to participate in the program.

17 (b) On receipt of more acceptable applications during an
18 application period for admission under this section than available
19 positions in the program due to insufficient funding, a certified
20 educational assistance organization shall, at the direction of the
21 comptroller:

22 (1) for not more than two-thirds of the available
23 positions, prioritize applicants who would otherwise attend a
24 campus with an overall performance rating under Section 39.054 of
25 C, D, or F;

26 (2) fill the remaining available positions with
27 applicants who would otherwise attend a campus with an overall

1 performance rating under Section 39.054 of A or B; and

2 (3) subject to Subdivisions (1) and (2), consider
3 applications in the order received.

4 (b-1) This subsection applies only to children who are
5 eligible to participate in the program under Section 29.355(a-1).

6 Not more than 10 percent of available positions in the program may
7 be provided to children to whom this subsection applies. Each year,
8 the comptroller shall notify each certified educational assistance
9 organization regarding the number of children to whom this
10 subsection applies that the organization may accept for
11 participation in the program for that year. In accepting children
12 to whom this subsection applies to participate in the program, a
13 certified educational assistance organization shall ensure, to the
14 extent feasible, that the organization accepts an equivalent number
15 of children from each region of this state.

16 (c) The comptroller shall create an application form for the
17 program and each certified educational assistance organization
18 shall make the application form readily available through various
19 sources, including the organization's Internet website. The
20 application form must state the quarterly application deadlines
21 established by the comptroller under Subsection (a). Each
22 organization shall ensure that the application form, including any
23 required supporting document, is capable of being submitted to the
24 organization electronically.

25 (d) A certified educational assistance organization shall
26 post on the organization's Internet website an applicant and
27 participant handbook with a description of the program, including:

1 (1) expenses allowed under the program under Section
2 29.359;

3 (2) a list of preapproved education service providers
4 and vendors of educational products under Section 29.358;

5 (3) a description of the application process under
6 this section and the program expenditures process under Section
7 29.360; and

8 (4) a description of the responsibilities of program
9 participants.

10 (e) A certified educational assistance organization shall
11 annually provide to the parent of each child participating in the
12 program the information described by Subsection (d). The
13 organization may provide the information electronically.

14 (f) A certified educational assistance organization:

15 (1) may require the parent of a child participating in
16 the program to submit annual notice regarding the parent's intent
17 for the child to continue participating in the program for the next
18 school year; and

19 (2) may not require a program participant in good
20 standing to annually resubmit an application for continued
21 participation in the program.

22 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
23 under the program, a parent of a child participating in the program
24 must agree to:

25 (1) spend money received through the program only for
26 expenses allowed under Section 29.359;

27 (2) share or authorize the administrator of an

1 assessment instrument to share with the program participant's
2 certified educational assistance organization the results of any
3 assessment instrument required to be administered to the child
4 under Section 29.358(b)(1)(B) or other law;

5 (3) refrain from selling an item purchased with
6 program money; and

7 (4) notify the program participant's certified
8 educational assistance organization not later than 30 business days
9 after the date on which the child:

10 (A) enrolls in a public school, including an
11 open-enrollment charter school;

12 (B) graduates from high school; or

13 (C) is no longer eligible to either:

14 (i) enroll in a public school under Section
15 25.001; or

16 (ii) enroll in a public school's
17 prekindergarten program under Section 29.153.

18 Sec. 29.358. PREAPPROVED PROVIDERS. (a) The comptroller
19 shall by rule establish a process for the preapproval of education
20 service providers and vendors of educational products for
21 participation in the program. The comptroller shall allow for the
22 submission of applications on a rolling basis.

23 (b) The comptroller shall approve an education service
24 provider or vendor of educational products for participation in the
25 program if the provider or vendor:

26 (1) for a private school, demonstrates:

27 (A) accreditation by an organization recognized

1 by:

2 (i) the Texas Private School Accreditation
3 Commission; or

4 (ii) the agency; and

5 (B) annual administration of a nationally
6 norm-referenced assessment instrument or the appropriate
7 assessment instrument required under Subchapter B, Chapter 39;

8 (2) for a public school, demonstrates:

9 (A) accreditation by the agency; and

10 (B) the ability to provide services or products
11 to children participating in the program in a manner in which the
12 children are not counted toward the school's average daily
13 attendance;

14 (3) for a private tutor, therapist, or teaching
15 service:

16 (A) demonstrates that the tutor or therapist or
17 each employee of the teaching service who intends to provide
18 educational services to a child participating in the program:

19 (i) is an educator employed by or a retired
20 educator formerly employed by a school accredited by the agency, an
21 organization recognized by the agency, or an organization
22 recognized by the Texas Private School Accreditation Commission;

23 (ii) holds a relevant license or
24 accreditation issued by a state, regional, or national
25 certification or accreditation organization; or

26 (iii) is employed in or retired from a
27 teaching or tutoring capacity at a higher education provider;

1 (B) the tutor or therapist or each employee of
2 the teaching service who intends to provide educational services to
3 a child participating in the program either:

4 (i) completes a national criminal history
5 record information review; or

6 (ii) provides to the comptroller
7 documentation indicating that the tutor, therapist, or employee, as
8 applicable, has completed a national criminal history record
9 information review within a period established by comptroller rule;
10 and

11 (C) the tutor or therapist or each employee of
12 the teaching service who intends to provide educational services to
13 a child participating in the program is not included in the registry
14 under Section 22.092; or

15 (4) for a higher education provider, demonstrates
16 nationally recognized postsecondary accreditation.

17 (c) The comptroller shall review the national criminal
18 history record information or documentation for each private tutor,
19 therapist, or teaching service employee who submits information or
20 documentation under this section and verify that the individual is
21 not included in the registry under Section 22.092. The tutor,
22 therapist, or service must provide the comptroller with any
23 information requested by the comptroller to enable the comptroller
24 to complete the review.

25 (d) An education service provider or vendor of educational
26 products shall provide information requested by the comptroller to
27 verify the provider's or vendor's eligibility for preapproval under

1 Subsection (b). The comptroller may not approve a provider or
2 vendor if the comptroller cannot verify the provider's or vendor's
3 eligibility for preapproval.

4 (e) An education service provider or vendor of educational
5 products that no longer satisfies the requirements of this section
6 must notify the comptroller not later than the 30th business day
7 after the date that the provider or vendor no longer meets the
8 requirements.

9 (f) This section may not be construed to allow a learning
10 pod, as defined by Section 27.001, or a home school to qualify as an
11 approved education service provider or vendor of educational
12 products.

13 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
14 Subject to Subsection (b), money received under the program may be
15 used only for the following education-related expenses incurred by
16 a child participating in the program at a preapproved education
17 service provider or vendor of educational products:

18 (1) tuition and fees for a private school;

19 (2) the purchase of textbooks or other instructional
20 materials or uniforms required by a school, higher education
21 provider, or course in which the child is enrolled, including
22 purchases made through a third-party vendor of educational
23 products;

24 (3) costs related to academic assessments;

25 (4) fees for services provided by a private tutor or
26 teaching service;

27 (5) fees for transportation provided by a

1 fee-for-service transportation provider for the child to travel to
2 and from a preapproved education service provider or vendor of
3 educational products; and

4 (6) fees for educational therapies or services
5 provided by a practitioner or provider, only for fees that are not
6 covered by any federal, state, or local government benefits such as
7 Medicaid or the Children's Health Insurance Program (CHIP) or by
8 any private insurance that the child is enrolled in at the time of
9 receiving the therapies or services.

10 (b) Money received under the program may not be used to pay
11 any person who is related to the program participant within the
12 third degree by consanguinity or affinity, as determined under
13 Chapter 573, Government Code.

14 (c) A finding that a program participant used money
15 distributed under the program to pay for an expense not allowed
16 under Subsection (a) does not affect the validity of any payment
17 made by the participant for an approved education-related expense
18 that is allowed under that subsection.

19 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
20 shall disburse from the program fund to each certified educational
21 assistance organization the amount specified under Section
22 29.361(a) for each child participating in the program served by the
23 organization.

24 (b) To initiate payment to an education service provider or
25 vendor of educational products for an education-related expense
26 approved under Section 29.359, the parent of a child participating
27 in the program must submit a request in a form prescribed by

1 comptroller rule to the certified educational assistance
2 organization that serves the child.

3 (c) Subject to Subsection (d) and Sections 29.362(h) and
4 29.364, on receiving a request under Subsection (b), a certified
5 educational assistance organization shall verify that the request
6 is for an expense approved under Section 29.359 and, not later than
7 the 15th business day after the date the organization verifies the
8 request, send payment to the education service provider or vendor
9 of educational products.

10 (d) A disbursement under this section may not exceed the
11 applicable program participant's account balance.

12 (e) A certified educational assistance organization shall
13 provide program participants with electronic access to:

- 14 (1) view the participant's current account balance;
15 (2) initiate the payment process under Subsection (b);

16 and

17 (3) view a summary of the participant's past account
18 activity, including payments from the account to education service
19 providers and vendors of educational products.

20 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
21 of the quarterly deadline by which the parent applies for
22 enrollment in the program under Section 29.356(a), a parent of a
23 child participating in the program shall receive each year that the
24 child participates in the program payments from the state from
25 funds available under Section 29.353 to the child's account equal
26 to a total amount of \$8,000.

27 (b) This subsection applies only to a school district with a

1 student enrollment of less than 20,000. For the first five school
2 years during which a child residing in the district participates in
3 the program, a school district to which this subsection applies is
4 entitled to receive \$10,000 from money appropriated for purposes of
5 this subchapter.

6 (c) Any money remaining in a child's account at the end of a
7 fiscal year is carried forward to the next fiscal year unless
8 another provision of this subchapter mandates the closure of the
9 account.

10 (d) The parent of a child participating in the program may
11 make payments for the expenses of educational programs, services,
12 and products not covered by money in the child's account.

13 (e) A payment under Subsection (a) may not be financed using
14 federal money or money from the available school fund or
15 instructional materials fund.

16 (f) Payments received under this subchapter do not
17 constitute taxable income to a parent of a child participating in
18 the program, unless otherwise provided by federal law.

19 (g) Not later than May 1 of each year, the agency shall
20 submit to the comptroller the data necessary to calculate the
21 amount specified under Subsection (a).

22 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt
23 of money distributed by the comptroller for purposes of making
24 payments to program participants, a certified educational
25 assistance organization shall make quarterly payments to the
26 account of each child participating in the program served by the
27 organization in equal amounts on or before the first day of July,

1 October, January, and April.

2 (b) Each year, the comptroller may deduct from the total
3 amount of money appropriated for purposes of this subchapter an
4 amount, not to exceed three percent of that total amount, to cover
5 the comptroller's cost of administering the program.

6 (c) Not later than the first day of the month preceding the
7 start of each quarter, each certified educational assistance
8 organization shall submit to the comptroller in the form prescribed
9 by comptroller rule an estimate of the organization's costs of
10 administering the program for that quarter.

11 (d) Each quarter, the comptroller shall disburse from money
12 appropriated for the program to each certified educational
13 assistance organization the amount necessary to cover the
14 organization's costs of administering the program for that quarter,
15 calculated as provided by Subsection (e). The total amount
16 disbursed to a certified educational assistance organization under
17 this subsection for a state fiscal year may not exceed five percent
18 of the amount distributed to the organization under the program for
19 that fiscal year.

20 (e) The amount of a certified educational assistance
21 organization's disbursement under Subsection (d) is the lesser of:

22 (1) the amount of the organization's estimate
23 submitted under Subsection (c);

24 (2) the product of the total amount to be disbursed and
25 the average percentage of program participants served by the
26 organization during the preceding quarter; or

27 (3) five percent of the amount distributed to the

1 organization for purposes of making payments to program
2 participants for that quarter.

3 (f) On or before the first day of October and February, a
4 certified educational assistance organization shall:

5 (1) verify with the agency that each child
6 participating in the program is not enrolled in a public school,
7 including an open-enrollment charter school, in a manner in which
8 the child is counted toward the school's average daily attendance
9 for purposes of the allocation of state funding under the
10 foundation school program; and

11 (2) notify the comptroller if the organization
12 determines that a child participating in the program is enrolled in
13 a public school, including an open-enrollment charter school, in a
14 manner in which the child is counted toward the school's average
15 daily attendance for purposes of the allocation of state funding
16 under the foundation school program.

17 (g) The comptroller by rule shall establish a process by
18 which a program participant may authorize the comptroller or a
19 certified education assistance organization to make a payment
20 directly from the participant's account to a preapproved education
21 service provider or vendor of educational products for an expense
22 allowed under Section 29.359.

23 (h) On the date on which a child who participated in the
24 program is no longer eligible to participate in the program under
25 Section 29.355 and payments for any education-related expenses
26 allowed under Section 29.359 from the child's account have been
27 completed, the child's account shall be closed and any remaining

1 money returned to the comptroller for deposit in the program fund.

2 (i) Each quarter, any interest or other earnings
3 attributable to money held by a certified education assistance
4 organization for purposes of the program shall be remitted to the
5 comptroller for deposit in the program fund.

6 Sec. 29.363. AUDITING. (a) The comptroller shall contract
7 with a private entity to audit accounts and student eligibility
8 data not less than once per year to ensure compliance with
9 applicable law and program requirements. The audit must include a
10 review of:

11 (1) a certified educational assistance organization's
12 internal controls over program transactions; and

13 (2) compliance by:

14 (A) program participants with the requirements
15 of Section 29.357; and

16 (B) certified educational assistance
17 organizations with the requirements of Section 29.354.

18 (b) In conducting an audit, the private entity may require a
19 program participant or a certified educational assistance
20 organization to provide information and documentation regarding
21 any transaction occurring under the program.

22 (c) The private entity shall report to the comptroller any
23 violation of this subchapter or other relevant law, including any
24 transactions the entity determines to be unusual or suspicious,
25 found by the entity during an audit conducted under this section.
26 The comptroller shall report the violation or transaction to:

27 (1) the applicable certified educational assistance

1 organization;

2 (2) the education service provider or vendor of
3 educational products, as applicable; and

4 (3) the parent of each child participating in the
5 program who is affected by the violation or transaction.

6 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
7 shall suspend the account of a program participant who fails to
8 remain in good standing by complying with applicable law or a
9 requirement of the program.

10 (b) On suspension of an account under Subsection (a), the
11 comptroller shall notify the program participant in writing that
12 the account has been suspended and that no additional payments may
13 be made from the account. The notification must specify the grounds
14 for the suspension and state that the participant has 30 business
15 days to respond and take any corrective action required by the
16 comptroller.

17 (c) On the expiration of the 30-day period under Subsection
18 (b), the comptroller shall:

19 (1) order closure of the suspended account;

20 (2) order temporary reinstatement of the account,
21 conditioned on the performance of a specified action by the program
22 participant; or

23 (3) order full reinstatement of the account.

24 (d) The comptroller may recover money distributed under the
25 program that was used for expenses not allowed under Section 29.359
26 or for a child who was not eligible to participate in the program at
27 the time of the expenditure. The money may be recovered from the

1 program participant or the entity that received the money in
2 accordance with Subtitles A and B, Title 2, Tax Code, or as provided
3 by other law if the program participant's account is suspended or
4 closed under this section. The comptroller shall deposit money
5 recovered under this subsection to the credit of the program fund.

6 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
7 education service provider or vendor of educational products may
8 not charge a child participating in the program an amount greater
9 than the standard amount charged for that service or product by the
10 provider or vendor.

11 (b) An education service provider or vendor of educational
12 products receiving money distributed under the program may not in
13 any manner rebate, refund, or credit to or share with a program
14 participant, or any person on behalf of a participant, any program
15 money paid or owed by the participant to the provider or vendor.

16 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
17 comptroller obtains evidence of fraudulent use of an account or
18 money distributed under the program by a certified educational
19 assistance organization or program participant, the comptroller
20 shall notify the appropriate local county or district attorney with
21 jurisdiction over the principal place of business of the certified
22 educational assistance organization or the residence of the program
23 participant, as applicable.

24 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified
25 educational assistance organization shall post on the
26 organization's Internet website and provide to each parent who
27 submits an application for the program a notice that:

1 (1) states that a private school is not subject to
2 federal and state laws regarding the provision of educational
3 services to a child with a disability in the same manner as a public
4 school; and

5 (2) provides information regarding rights to which a
6 child with a disability is entitled under federal and state law if
7 the child attends a public school, including:

8 (A) rights provided under the Individuals with
9 Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

10 (B) rights provided under Subchapter A.

11 (b) A private school in which a child with a disability who
12 is a program participant enrolls shall provide to the child's
13 parent a copy of the notice required under Subsection (a).

14 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
15 AUTONOMY. (a) An education service provider or vendor of
16 educational products that receives money distributed under the
17 program is not a recipient of federal financial assistance and may
18 not be considered to be an agent of state government on the basis of
19 receiving that money.

20 (b) A rule adopted or other governmental action taken
21 related to the program may not impose requirements that are
22 contrary to or limit the religious or institutional values or
23 practices of an education service provider, vendor of educational
24 products, or program participant, including by limiting the ability
25 of the provider, vendor, or participant, as applicable, to:

26 (1) determine the methods of instruction or curriculum
27 used to educate students;

1 (2) determine admissions and enrollment practices,
2 policies, and standards;

3 (3) modify or refuse to modify the provider's,
4 vendor's, or participant's religious or institutional values or
5 practices, including operations, conduct, policies, standards,
6 assessments, or employment practices that are based on the
7 provider's, vendor's, or participant's religious or institutional
8 values or practices; or

9 (4) exercise the provider's, vendor's, or
10 participant's religious or institutional practices as determined
11 by the provider, vendor, or participant.

12 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
13 request by the parent of a child participating or seeking to
14 participate in the program, the school district or open-enrollment
15 charter school that the child would otherwise attend shall provide
16 a copy of the child's school records possessed by the district or
17 school, if any, to the child's parent or, if applicable, the private
18 school the child attends.

19 (b) As necessary to verify a child's eligibility for the
20 program, the agency, a school district, or an open-enrollment
21 charter school shall provide to a certified educational assistance
22 organization any information available to the agency, district, or
23 school requested by the organization regarding a child who
24 participates or seeks to participate in the program, including
25 information regarding the child's public school enrollment status
26 and whether the child can be counted toward a public school's
27 average daily attendance for purposes of the allocation of funding

1 under the foundation school program. The organization may not
2 retain information provided under this subsection beyond the period
3 necessary to determine a child's eligibility to participate in the
4 program.

5 (c) The certified educational assistance organization or an
6 education service provider or vendor of educational products that
7 obtains information regarding a child participating in the program:

8 (1) shall comply with state and federal law regarding
9 the confidentiality of student educational information; and

10 (2) may not sell or otherwise distribute information
11 regarding a child participating in the program.

12 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
13 and a certified educational assistance organization may solicit and
14 accept gifts, grants, and donations from any public or private
15 source for any expenses related to the administration of the
16 program, including establishing the program and contracting for the
17 report required under Section 29.371.

18 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
19 require that each certified educational assistance organization
20 compile program data and produce an annual longitudinal report
21 regarding:

22 (1) the number of program applications received,
23 accepted, and waitlisted, disaggregated by age;

24 (2) program participant satisfaction;

25 (3) the results of assessment instruments shared in
26 accordance with Section 29.357(2);

27 (4) the effect of the program on public and private

1 school capacity, availability, and quality;

2 (5) the amount of cost savings accruing to the state as
3 a result of the program;

4 (6) in a report submitted in an even-numbered year
5 only, an estimate of the total amount of funding required for the
6 program for the next state fiscal biennium;

7 (7) the amount of gifts, grants, and donations
8 received under Section 29.370; and

9 (8) based on surveys of former program participants or
10 other sources available to an organization, the number and
11 percentage of children participating in the program who, within one
12 year after graduating from high school, are:

13 (A) college ready, as indicated by earning a
14 minimum of 12 non-remedial semester credit hours or the equivalent
15 or an associate degree from a postsecondary educational
16 institution;

17 (B) career ready, as indicated by:

18 (i) earning a credential of value included
19 in the library of credentials established under Section [2308A.007](#),
20 Government Code; or

21 (ii) employment at or above the median wage
22 in the child's region; or

23 (C) military ready, as indicated by achieving a
24 passing score set by the applicable military branch on the Armed
25 Services Vocational Aptitude Battery and enlisting in the armed
26 forces of the United States or the Texas National Guard.

27 (b) In producing the report, each certified educational

1 assistance organization shall:

2 (1) use appropriate analytical and behavioral science
3 methodologies to ensure public confidence in the report; and

4 (2) comply with the requirements regarding the
5 confidentiality of student educational information under the
6 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
7 Section 1232g).

8 (c) The report must cover a period of not less than five
9 years and include, subject to Subsection (b)(2), the data analyzed
10 and methodology used.

11 (d) The comptroller and each certified educational
12 assistance organization shall post the report on the comptroller's
13 and organization's respective Internet websites.

14 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
15 adopt rules and procedures as necessary to implement, administer,
16 and enforce this subchapter.

17 Sec. 29.373. APPEAL; JUDICIAL REVIEW. (a) A program
18 participant may appeal to the comptroller an administrative
19 decision made by the comptroller or a certified educational
20 assistance organization under this subchapter, including a
21 decision regarding eligibility, allowable expenses, or the
22 participant's removal from the program.

23 (b) A program participant, education service provider, or
24 vendor of educational products who is adversely affected or
25 aggrieved by a decision made by the comptroller or a certified
26 educational assistance organization under this subchapter may file
27 a suit challenging the decision in a district court in the county in

1 which the program participant resides or the provider or vendor has
2 its principal place of business, as applicable.

3 Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A
4 program participant, education service provider, or vendor of
5 educational products may intervene in any civil action challenging
6 the constitutionality of the program.

7 (b) A court in which a civil action described by Subsection
8 (a) is filed may require that all program participants, education
9 service providers, and vendors of educational products wishing to
10 intervene in the action file a joint brief. A program participant,
11 education service provider, or vendor of educational products may
12 not be required to join a brief filed on behalf of the state or a
13 state agency.

14 SECTION 2.003. Section 22.092(d), Education Code, is
15 amended to read as follows:

16 (d) The agency shall provide equivalent access to the
17 registry maintained under this section to:

- 18 (1) private schools;
19 (2) public schools; ~~and~~
20 (3) nonprofit teacher organizations approved by the
21 commissioner for the purpose of participating in the tutoring
22 program established under Section 33.913; and

23 (4) the comptroller for the purpose of preapproving
24 education service providers and vendors of educational products
25 under Section 29.358 for participation in the program established
26 under Subchapter J, Chapter 29.

27 SECTION 2.004. Section 411.109, Government Code, is amended

1 by adding Subsection (c) to read as follows:

2 (c) The comptroller is entitled to obtain criminal history
3 record information maintained by the department about a person who
4 is a private tutor, a therapist, or an employee of a teaching
5 service or school who intends to provide educational services to a
6 child participating in the program established under Subchapter J,
7 Chapter 29, Education Code, and is seeking approval to receive
8 money distributed under that program.

9 SECTION 2.005. Subchapter J, Chapter 29, Education Code, as
10 added by this article, applies beginning with the 2024-2025 school
11 year.

12 SECTION 2.006. (a) Not later than February 15, 2024, the
13 comptroller of public accounts shall adopt rules as provided by
14 Section 29.372, Education Code, as added by this article.

15 (b) The comptroller of public accounts may identify rules
16 required by the passage of Subchapter J, Chapter 29, Education
17 Code, as added by this article, that must be adopted on an emergency
18 basis for purposes of the 2024-2025 school year and may use the
19 procedures established under Section 2001.034, Government Code,
20 for adopting those rules. The comptroller of public accounts is not
21 required to make the finding described by Section 2001.034(a),
22 Government Code, to adopt emergency rules under this subsection.

23 SECTION 2.007. (a) The constitutionality and other
24 validity under the state or federal constitution of all or any part
25 of Subchapter J, Chapter 29, Education Code, as added by this
26 article, may be determined in an action for declaratory judgment
27 under Chapter 37, Civil Practice and Remedies Code, in a district

1 court in the county in which the violation is alleged to have
2 occurred or where the plaintiff resides or has its principal place
3 of business.

4 (b) An order, however characterized, of a trial court
5 granting or denying a temporary or otherwise interlocutory
6 injunction or a permanent injunction on the grounds of the
7 constitutionality or unconstitutionality, or other validity or
8 invalidity, under the state or federal constitution of all or any
9 part of Subchapter J, Chapter 29, Education Code, as added by this
10 article, may be reviewed only by direct appeal to the Texas Supreme
11 Court filed not later than the 15th business day after the date on
12 which the order was entered. The Texas Supreme Court shall give
13 precedence to appeals under this section over other matters.

14 (c) The direct appeal is an accelerated appeal.

15 (d) This section exercises the authority granted by Section
16 3-b, Article V, Texas Constitution.

17 (e) The filing of a direct appeal under this section will
18 automatically stay any temporary or otherwise interlocutory
19 injunction or permanent injunction granted in accordance with this
20 section pending final determination by the Texas Supreme Court,
21 unless the supreme court makes specific findings that the applicant
22 seeking such injunctive relief has pleaded and proved that:

23 (1) the applicant has a probable right to the relief it
24 seeks on final hearing;

25 (2) the applicant will suffer a probable injury that
26 is imminent and irreparable, and that the applicant has no other
27 adequate legal remedy; and

1 (3) maintaining the injunction is in the public
2 interest.

3 (f) An appeal under this section, including an
4 interlocutory, accelerated, or direct appeal, is governed, as
5 applicable, by the Texas Rules of Appellate Procedure, including
6 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
7 40.1(b), and 49.4.

8 (g) This section does not authorize an award of attorney's
9 fees against this state, and Section 37.009, Civil Practice and
10 Remedies Code, does not apply to an action filed under this section.

11 (h) This section does not authorize a taxpayer suit to
12 contest the denial of a tax credit by the comptroller of public
13 accounts.

14 SECTION 2.008. It is the intent of the legislature that
15 every provision, section, subsection, sentence, clause, phrase, or
16 word in this article, and every application of the provisions in
17 this article to each person or entity, is severable from each other.
18 If any application of any provision in this article to any person,
19 group of persons, or circumstances is found by a court to be invalid
20 for any reason, the remaining applications of that provision to all
21 other persons and circumstances shall be severed and may not be
22 affected.

23 ARTICLE 3. TRANSITION; EFFECTIVE DATE

24 SECTION 3.001. To the extent of any conflict, this Act
25 prevails over another Act of the 88th Legislature, Regular Session,
26 2023, relating to nonsubstantive additions to and corrections in
27 enacted codes.

1 SECTION 3.002. (a) Except as provided by Subsection (b) of
2 this section, this Act takes effect immediately if it receives a
3 vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2023.

7 (b) Article 2 of this Act takes effect September 1, 2023.