

Amend CSSB 1365 (senate committee printing) as follows:

(1) In the recital to SECTION 2.03 of the bill (page 4, line 9), between "(a)" and "and", insert ", (a-3),".

(2) In SECTION 2.03 of the bill, immediately following amended Section 39.054(a), Education Code (page 4, between lines 35 and 36), add the following:

(a-3) Not later than August 15 of each year, the following information [~~performance ratings of each district and campus~~] shall be made publicly available as provided by rules adopted under this section:

(1) the performance ratings of each school district and campus; and

(2) if applicable, the number of consecutive school years of unacceptable performance ratings for each district and campus.

(3) In SECTION 2.03 of the bill, in added Section 39.054(a-4), Education Code (page 4, line 44), strike "school" and substitute "campus".

(4) In SECTION 2.03 of the bill, in added Section 39.054(a-4), Education Code (page 4, line 46), following the underlined semicolon, strike "or".

(5) In SECTION 2.03 of the bill, in added Section 39.054(a-4), Education Code (page 4, line 49), strike the underlined period and substitute ";".

(6) In SECTION 2.03 of the bill, in added Section 39.054(a-4), Education Code (page 4, between lines 49 and 50), add the following:

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

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

(7) In SECTION 2.03 of the bill, in added Section 39.054(a-5), Education Code (page 4, line 52), between "years" and "and", insert "of unacceptable performance ratings".

(8) In SECTION 2.03 of the bill, in added Section 39.054(a-5), Education Code (page 4, line 53), strike "for purposes of Chapter 39A" and substitute "of unacceptable performance ratings for purposes of any provision of this code".

(9) Add the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumber subsequent SECTIONS of ARTICLE 2 accordingly:

SECTION 2.____. Sections 39.151(a), (b), and (e), Education Code, are amended to read as follows:

(a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district or school, including a determination of consecutive school years of unacceptable performance ratings.

(b) The rules under Subsection (a) must provide for the commissioner to appoint a committee to make recommendations to the commissioner on a challenge made to an agency decision relating to an academic performance rating or determination, including a determination of consecutive school years of unacceptable performance ratings, or financial accountability rating. The commissioner may not appoint an agency employee as a member of the committee.

(e) A school district or open-enrollment charter school may not challenge an agency decision relating to an academic or financial accountability rating under this chapter, including a decision relating to a determination of consecutive school years of unacceptable performance ratings, in another proceeding if the district or school has had an opportunity to challenge the decision under this section.

SECTION 2.____. If this Act takes effect later than August 15, 2021, the Texas Education Agency shall publish the consecutive school years of unacceptable performance ratings as required by Section 39.054(a-3), Education Code, as amended by this Act, for each school district and campus as soon as practicable after the effective date of this Act.

(10) Strike the recital to SECTION 4.06 of the bill (page 9,

lines 8 through 9), and substitute "Sections 39A.256(a) and (b), Education Code, are amended to read as follows:".

(11) In SECTION 4.06 of the bill, in amended Section 39A.256(a), Education Code (page 9, line 11), strike "or a campus of an open-enrollment charter school" and substitute "[~~or a campus of an open-enrollment charter school~~]".

(12) In SECTION 4.06 of the bill, immediately following amended Section 39A.256(a), Education Code (page 9, between lines 14 and 15), add the following:

(b) Except as otherwise provided by this subsection, the board of managers for an open-enrollment charter school [~~or a campus of an open-enrollment charter school~~] may not serve for a period that exceeds the period authorized by law for a board of managers appointed for a school district. A board of managers appointed to wind up the affairs of a former open-enrollment charter school or campus serves until dissolved by the commissioner.

Amend CSSB 1365 (senate committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2.____. Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0545 to read as follows:

Sec. 39.0545. ALTERNATIVE METHODS AND STANDARDS FOR EVALUATING PERFORMANCE FOR 2020-2021 SCHOOL YEAR. (a) This section applies to a campus:

(1) that meets the participation requirements for all students in all subject areas for the annual measurement of achievement under Section 1111, Every Student Succeeds Act (20 U.S.C. Section 6311(c)(4)(E));

(2) to which the most recent performance rating assigned, other than a "Not Rated" rating, is a D, F, or performance that needs improvement; and

(3) is not subject to the appointment of a board of managers under Section 39A.117(b).

(b) Notwithstanding any other law, the commissioner shall adopt rules to develop and implement alternative methods and standards for evaluating the performance for the 2020-2021 school year of a campus to which this section applies. The rules adopted under this section must evaluate a campus under the domains of indicators of achievement listed in Sections 39.053(c)(1) and (2).

(c) The commissioner shall review a campus to which this section applies under the alternative methods and standards adopted under Subsection (b) on the request of the school district in which the campus is located made by the deadline established by commissioner rule.

(d) An acceptable performance rating assigned under the alternative methods and standards adopted by the commissioner under Subsection (b) is considered a break in consecutive school years of unacceptable performance ratings under this code.

(e) This section does not apply to an intervention ordered on the basis of consecutive school years of unacceptable performance ratings accrued before the effective date of this section.

(f) This section expires September 1, 2027.

SECTION 2.____. As soon as practicable after the effective date of this Act, the commissioner of education shall adopt rules to develop and implement alternative methods and standards for evaluating the performance of a campus for the 2020-2021 school year as required by Section 39.0545, Education Code, as added by this Act.

Amend CSSB 1365 (senate committee printing) as follows:

(1) In SECTION 2.02 of the bill, strike amended Section 39.057(a), Education Code, redesignated as Section 39.003(a), Education Code (page 2, line 2, through page 3, line 12), and substitute the following:

(a) The commissioner may authorize special [~~accreditation~~] investigations to be conducted:

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

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

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

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

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

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

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

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

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the

preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (1);

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

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

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

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

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

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

(16) as the commissioner otherwise determines necessary.

(2) In SECTION 4.03 of the bill, in amended Section 39.0302(a), Education Code (page 8, line 48), strike "(10) [~~(14)~~]" and substitute "(14)".

AMENDMENT #4

Amend CSSB 1365 (senate committee printing) as follows:

(1) In SECTION 2.03 of the bill, strike amended Section 39.054(a), Education Code (page 4, line 11 through line 35), and substitute the following:

(a) Except as provided by Subsection (a-4), the [The] commissioner shall adopt rules to evaluate school district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F. In addition to the overall performance rating, the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Section 39.053(c). An overall or domain performance rating of A reflects exemplary performance. An overall or domain performance rating of B reflects recognized performance. An overall or domain performance rating of C reflects acceptable performance. An overall or domain performance rating of D reflects performance that needs improvement. An overall or domain performance rating of F reflects unacceptable performance. A district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F. If a school district has been approved under Section 39.0544 to assign campus performance ratings and the commissioner has not assigned a campus an overall performance rating of D or F, the commissioner shall assign the campus an overall performance rating based on the school district assigned performance rating under Section 39.0544. A reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, C, or D, except as provided by Section 39.0543, or performance that is exemplary, recognized, or acceptable performance or performance that needs improvement, except as provided by Section 39.0543. A reference in law to an unacceptable performance rating includes an overall or domain performance rating of F and, as provided by Section 39.0543, D or performance that needs improvement.

(2) Strike SECTION 2.10 of the bill, adding Section 39A.117, Education Code (page 5, line 55 through page 6, line 14), and renumber subsequent SECTIONS of the ARTICLE accordingly.

(3) In SECTION 2.15 of the bill, in the transition language:

(A) Strike Subsection (b) of the SECTION (page 7, lines 12 through 14);

(B) Strike Subsections (d) and (e) of the SECTION (page 7, lines 18 through 24); and

(C) Reletter the subsections of the SECTION appropriately.

(4) Add the following appropriately numbered SECTIONS to the appropriate ARTICLE of the bill and renumber subsequent SECTIONS and ARTICLES of the bill accordingly:

SECTION _____. Sections 12.1141(b) and (d), Education Code, are amended to read as follows:

(b) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for expedited renewal of the charter, the charter automatically renews unless, not later than the 30th day after the date the charter holder submits the petition, the commissioner provides written notice to the charter holder that expedited renewal of the charter is denied. The commissioner may not deny expedited renewal of a charter if:

(1) the charter holder has been assigned the highest or second highest performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial performance accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better for the three preceding school years; and

(3) no campus operating under the charter has been assigned an unacceptable [~~the lowest~~] performance rating under Subchapter C, Chapter 39, for the three preceding school years or such a campus has been closed.

(d) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter, the commissioner may not renew the charter and shall allow the charter to expire if:

(1) the charter holder has been assigned an unacceptable [~~the lowest~~] performance rating under Subchapter C,

Chapter 39, for any three of the five preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years;

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for any three of the five preceding school years; or

(4) any campus operating under the charter has been assigned an unacceptable [~~the lowest~~] performance rating under Subchapter C, Chapter 39, for the three preceding school years and such a campus has not been closed.

SECTION _____. Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0543 to read as follows:

Sec. 39.0543. NEEDS IMPROVEMENT OR UNACCEPTABLE PERFORMANCE RATING. (a) A reference in law to an acceptable performance or acceptable performance rating for a school district, open-enrollment charter school, district campus, or charter school campus includes an overall performance rating of D if, since previously receiving an overall performance rating of C or higher, the district, charter school, district campus, or charter school campus:

(1) has not previously received more than one overall performance rating of D; or

(2) has not received an overall performance rating of F.

(a-1) For the purposes of this section, an overall performance rating issued in a previous school year for a school district, open-enrollment charter school, district campus, or charter school campus of:

(1) met standard, academically acceptable, recognized, exemplary, A, B, or C is considered to be a performance rating of C or higher; and

(2) improvement required, academically unacceptable, or F is considered to be a rating of F.

(a-2) Subsection (a-1) and this subsection expire September 1, 2027.

(b) A reference in law to an unacceptable performance or unacceptable performance rating includes a performance rating of D if the rating does not satisfy Subsection (a).

SECTION _____. Section 39A.061(b), Education Code, is amended to read as follows:

(b) The commissioner may authorize a targeted improvement plan, ~~[or]~~ an updated targeted improvement plan, or a local improvement plan to supersede the provisions of and satisfy the requirements of developing, reviewing, and revising a campus improvement plan under Subchapter F, Chapter 11.

SECTION _____. Subchapter B, Chapter 39A, Education Code, is amended by adding Section 39A.065 to read as follows:

Sec. 39A.065. LOCAL IMPROVEMENT PLAN. (a) A school district, open-enrollment charter school, district campus, or charter school campus that is assigned a rating of D that qualifies under Section 39.0543(a) shall develop and implement a local improvement plan.

(b) A local improvement plan must be presented to the board of trustees of the school district or governing board of the open-enrollment charter school.

(c) The commissioner shall adopt rules to establish requirements for a local improvement plan components and training. The commissioner may not require a school district or open-enrollment charter school to submit the local improvement plan to the agency.

SECTION _____. Subchapter C, Chapter 39A, Education Code, is amended by adding Sections 39A.117 and 39A.118 to read as follows:

Sec. 39A.117. INTERVENTION FOR CERTAIN DISTRICTS OR CAMPUSES. (a) For purposes of this section:

(1) an acceptable performance rating includes:

(A) a rating of met standard, academically acceptable, recognized, exemplary, A, B, or C; or

(B) a rating of D that meets the requirements of Section 39.0543(a);

(2) an unacceptable performance rating includes:

(A) a rating of improvement required, academically unacceptable, or F; or

(B) a rating of D that meets the requirements of Section 39.0543(b); and

(3) a rating of not rated is not considered an acceptable or unacceptable performance rating and may not be considered a break in consecutive years of unacceptable performance.

(b) As soon as practicable after the effective date of S.B. 1365, Acts of the 87th Legislature, Regular Session, 2021, or similar legislation, the commissioner shall:

(1) determine the number of school years of unacceptable performance ratings occurring after the 2012-2013 school year for each school district, open-enrollment charter school, and district campus, or charter school campus by determining the number of unacceptable performance ratings assigned to each district, charter school, district campus, or charter school campus since the most recent acceptable performance rating was assigned to the district, charter school, district campus, or charter school campus;

(2) use the number of school years of unacceptable performance ratings as the base number of consecutive years of unacceptable performance for which the performance rating in the 2021-2022 school year will be added; and

(3) order the appointment of a board of managers under Section 39A.111 to the school district or charter school for each campus that is determined under Subdivision (1) to have been assigned an unacceptable performance rating for five or more school years.

(c) Exemptions from interventions authorized under Sections 11.174 and 28.020 and Section 5, Chapter 919 (H.B. 4205), Acts of the 86th Legislature, Regular Session, 2019, apply to an intervention ordered under this section and the commissioner shall make necessary modifications to an intervention ordered under this section in accordance with those provisions of law.

(d) This section may not be construed to:

(1) provide a school district or open-enrollment charter school additional remedies or appellate or other review for previous interventions, sanctions, or performance ratings ordered

or assigned; or

(2) prohibit the commissioner from taking any action or ordering any intervention or sanction otherwise authorized by law.

(e) To the extent of conflict with any other transition provision affecting this section, this transition provision prevails.

(f) This section expires September 1, 2027.

Sec. 39A.118. INTERVENTION IF ASSIGNED CERTAIN PERFORMANCE NEEDS IMPROVEMENT RATING. (a) Until another performance rating is issued, the agency may not implement the intervention or sanctions as provided by Subsection (b) for a school district, open-enrollment charter school, district campus, or charter school campus, if the performance rating initiating the action under Subsection (b) is based on the first or second overall performance rating of D, since previously receiving a rating of C or higher.

(b) The following interventions are subject to a pause under Subsection (a):

(1) revocation of a charter under Section 12.115(c);
(2) annexation under Section 13.054;
(3) change in accreditation status under rules adopted for accreditation under Section 39.052; and

(4) interventions or sanctions under Section 39A.101(a), 39A.107(a) or (c), or 39A.111.

(c) The performance rating identified under Subsection (a):

(1) may not be included in calculating consecutive school years of an unacceptable performance rating; and

(2) is not considered a break in consecutive school years of an unacceptable performance rating.

(d) Interventions or sanctions implemented prior to the intervention pause under Subsection (a) shall continue during the school year for which actions under Subsection (b) are paused.

(e) This section does not apply to a commissioner action based on performance or reasons not listed as interventions under Subsection (b).

SECTION _____. Section 39A.0545, Education Code, is repealed.

AMENDMENT #5

Amend CSSB 1365 (senate committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 4 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 4.____. Section 12.013(b), Education Code, is amended to read as follows:

(b) A home-rule school district is subject to:

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

(2) a provision of this title relating to limitations on liability; 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) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;

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

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085, 25.086, and 25.087;

(F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that fails to satisfy any standard under Section 39.054(e);

(H) high school graduation under Section 28.025;

(I) special education programs under Subchapter A, Chapter 29;

(J) bilingual education under Subchapter B, Chapter 29;

(K) prekindergarten programs under Subchapter E, Chapter 29;

(L) safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004,

and 34.008;

(M) computation and distribution of state aid under Chapters 31, 43, and 48;

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

(P) public school accountability and special investigations under Subchapters A, B, C, D, and J, Chapter 39, and Chapter 39A;

(Q) options for local revenue levels in excess of entitlement under Chapter 49;

(R) a bond or other obligation or tax rate under Chapters 43, 45, and 48; and

(S) purchasing under Chapter 44.

SECTION 4.____. Section 12.056(b), Education Code, is amended to read as follows:

(b) A campus or program for which a charter is granted under this subchapter is subject to:

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

(2) 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;

(C) high school graduation under Section 28.025;

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

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

(F) prekindergarten programs under Subchapter E, Chapter 29;

(G) extracurricular activities under Section 33.081;

(H) health and safety under Chapter 38;

(I) public school accountability and special investigations under Subchapters A, B, C, D, F, and J, Chapter 39, and Chapter 39A; and

(J) the duty to discharge or refuse to hire certain employees or applicants for employment under Section 12.1059.

SECTION 4.____. Section 12.104(b), Education Code, as amended by Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, 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;

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

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

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

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

(H) prekindergarten programs under Subchapter E or E-1, Chapter 29;

(I) extracurricular activities under Section

33.081;

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

(K) health and safety under Chapter 38;

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

(M) the requirement under Section 21.006 to report an educator's misconduct;

(N) intensive programs of instruction under Section 28.0213;

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

(P) bullying prevention policies and procedures under Section 37.0832;

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

(R) the right under Section 37.0151 to report to local law enforcement certain conduct constituting assault or harassment;

(S) a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

(T) establishment of residency under Section 25.001i;

(U) [~~(T)~~] school safety requirements under Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115, 37.207, and 37.2071i;

(V) [~~(T)~~] the early childhood literacy and mathematics proficiency plans under Section 11.185; and

(W) [~~(U)~~] the college, career, and military readiness plans under Section 11.186.

SECTION 4.____. To the extent of any conflict, this article prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.