STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2773 By: Nollan

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2011, Section 1210.508C, as last amended by Section 96, Chapter 15, O.S.L. 2013 (70 O.S. Supp. 2013, Section 1210.508C), which relates to the Reading Sufficiency Act; changing obsolete language; requiring certain reading instruction for students granted an appeal; directing school districts to adopt an appeal process for retained students; stating conditions for appeal; requiring the board of education to make a decision within certain number of days; requiring certain instruction for promoted students; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508C, as last amended by Section 96, Chapter 15, O.S.L. 2013 (70 O.S. Supp. 2013, Section 1210.508C), is amended to read as follows:

Section 1210.508C A. 1. Each student enrolled in kindergarten in a public school in this state shall be screened for reading skills including, but not limited to, phonological awareness, letter recognition, and oral language skills as identified in the ~~Priority Academic Student Skills (PASS)~~ state curriculum standards adopted by

the State Board of Education. A screening instrument approved by the State Board shall be utilized for the purposes of this section.

2. For those kindergarten children at risk for reading difficulties, teachers shall emphasize reading skills as identified in the ~~PASS~~ state curriculum standards, monitor progress throughout the year and measure year-end reading progress.

3. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. 1. Each student enrolled in kindergarten, first, second and third grade of the public schools of this state shall be assessed at the beginning of each school year using a screening instrument approved by the State Board of Education for the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension.

2. Any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade-level reading skills. Beginning with students entering the first grade in the 2011-2012 school year, the program of reading instruction shall include provisions of the READ

Initiative adopted by the school district as provided for in subsection ~~O~~ P of this section.

3. Throughout the year progress monitoring shall continue, and diagnostic assessment, if determined appropriate, shall be provided. Year-end reading skills shall be measured to determine reading success.

C. The State Board of Education shall approve screening instruments for use at the beginning of the school year, for monitoring of progress, and for measurement of reading skills at the end of the school year as required in subsections A and B of this section; provided, at least one of the screening instruments shall meet the following criteria:

1. Assess for phonological awareness, phonics, reading fluency, and comprehension;

2. Document the validity and reliability of each assessment;

3. Can be used for diagnosis and progress monitoring;

4. Can be used to assess special education and limited-English-proficient students;

5. Accompanied by a data management system that provides profiles for students, class, grade level and school building. The profiles shall identify each student's instructional point of need and reading achievement level. The State Board shall also determine other comparable reading assessments for diagnostic purposes and for periodic and post assessments to be used for students at risk of

reading failure. The State Board shall ensure that any assessments approved are in alignment with the ~~PASS~~ state curriculum standards.

D. The program of reading instruction required in subsection B of this section shall align with the ~~PASS~~ state curriculum standards, shall include provisions of the READ Initiative adopted by the school district as provided for in subsection ~~O~~ P of this section beginning with students entering the first grade in the 2011-2012 school year and may include, but is not limited to:

1. Sufficient additional in-school instructional time for the acquisition of phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension;

2. If necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day or one-thousand-eighty-hour school year required in Section 1-109 of this title; and

3. Assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.

E. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level.

F. 1. Every school district shall adopt, and implement a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted electronically to and approved by the State Board of Education. The plan shall be updated annually. School districts shall not be required to electronically submit the annual updates to the Board if the last plan submitted to the Board was approved and expenditures for the program include only expenses relating to individual and small group tutoring, purchase of and training in the use of screening and assessment measures, summer school programs and Saturday school programs. If any expenditure for the program is deleted or changed or any other type of expenditure for the program is implemented, the school district shall be required to submit the latest annual update to the Board for approval. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.

2. Each school site shall establish a committee, composed of educators, which if possible shall include a certified reading specialist, to develop the required programs of reading instruction.

A parent or guardian of the student shall be included in the development of the program of reading instruction for that student.

3. The State Board of Education shall adopt rules for the implementation and evaluation of the provisions of the Reading Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection ~~S~~ T of this section.

G. For any third-grade student found not to be reading at grade level as determined by reading assessments administered pursuant to this section, a new program of reading instruction, including provisions of the READ Initiative adopted by the school district as provided for in subsection ~~O~~ P of this section, shall be developed and implemented as specified in this section. If possible, a fourth-grade teacher shall be involved in the development of the program of reading instruction. In addition to other requirements of the Reading Sufficiency Act, the plan may include specialized tutoring.

H. Beginning with students entering the first grade in the 2011-2012 school year, if the reading deficiency of a student, as identified based on assessments administered as provided for in subsection B of this section, is not remedied by the end of third grade, as demonstrated by scoring at the unsatisfactory level on the reading portion of the statewide third-grade criterion-referenced test, the student shall be retained in the third grade.

I. The parent of any student who is found to have a reading deficiency and is not reading at the appropriate grade level and has been provided a program of reading instruction as provided for in subsection B of this section shall be notified in writing of the following:

1. That the student has been identified as having a substantial deficiency in reading;

2. A description of the current services that are provided to the student;

3. A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;

4. That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is exempt for good cause as set forth in subsection K of this section <u>or is granted an appeal as provided for in subsection O of this section</u>;

5. Strategies for parents to use in helping their child succeed in reading proficiency;

6. That while the results of the statewide criterion-referenced tests administered pursuant to Section 1210.508 of this title are the initial determinant, it is not the sole determiner of promotion and that portfolio reviews and assessments are available; and

7. The specific criteria and policies of the school district for midyear promotion implemented as provided for in paragraph 4 of subsection N of this section.

J. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

K. For those students who do not meet the academic requirements for promotion, a school district may promote the student for good cause only. Good-cause exemptions for promotion shall be limited to the following:

1. Limited-English-proficient students who have had less than two (2) years of instruction in an English language learner program;

2. Students with disabilities whose individualized education program (IEP), consistent with state law, indicates that the student is to be assessed with alternate achievement standards through the Oklahoma Alternate Assessment Program (OAAP);

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education;

4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level;

5. Students with disabilities who participate in the statewide criterion-referenced tests and who have an individualized education program (IEP) that reflects that the student has received intensive

remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and was previously retained in kindergarten, first grade, second grade, or third grade; and

6. Students who have received intensive remediation in reading through a program of reading instruction for two (2) or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, first grade, second grade, or third grade for a total of two (2) years.

L. A student who is promoted for good cause as provided for in subsection K of this section <u>or who is granted an appeal as provided for in subsection O of this section</u> shall be provided intensive reading instruction during an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist schools and teachers to implement reading strategies for the promoted students that research has shown to be successful in improving reading among low-performing readers.

M. Requests to exempt students from the mandatory retention requirements based on one of the good-cause exemptions as described in subsection K of this section shall be made using the following process:

1. Documentation submitted from the teacher of the student to the school principal that indicates the student meets one of the good-cause exemptions and promotion of the student is appropriate.

In order to minimize paperwork requirements, the documentation shall consist only of the alternative assessment results or student portfolio work and the individual education plan (IEP), as applicable;

2. The principal of the school shall review and discuss the documentation with the teacher. If the principal determines that the student meets one of the good-cause exemptions and should be promoted based on the documentation provided, the principal shall make a recommendation in writing to the school district superintendent; and

3. After review, the school district superintendent shall accept or reject the recommendation of the principal in writing.

N. Beginning with the 2011-2012 school year, each school district shall:

1. Conduct a review of the program of reading instruction for all students who score at the unsatisfactory level on the reading portion of the statewide criterion-referenced test administered pursuant to Section 1210.508 of this title and did not meet the criteria for one of the good-cause exemptions as set forth in subsection K of this section. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each retained student;

2. Provide to students who have been retained as set forth in subsection H of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:

a. small group instruction,

b. reduced teacher-student ratios,

c. more frequent progress monitoring,

d. tutoring or mentoring,

e. transition classes containing third- and fourth-grade students,

f. extended school day, week, or year, and

g. summer reading academies as provided for in Section 1210.508E of this title, if available;

3. Provide written notification to the parent or guardian of any student who is to be retained as set forth in subsection H of this section that the student has not met the proficiency level required for promotion and the reasons the student is not eligible for a good-cause exemption. The notification shall include a description of proposed interventions and intensive instructional

supports that will be provided to the student to remediate the identified areas of reading deficiency;

4. Implement a policy for the midyear promotion of a retained student who can demonstrate that the student is a successful and independent reader, is reading at or above grade level, and is ready to be promoted to the fourth grade. Tools that school districts may use in reevaluating any retained student may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Retained students may only be promoted midyear prior to November 1 and only upon demonstrating a level of proficiency required to score above the unsatisfactory level on the statewide third-grade criterion-referenced test and upon showing progress sufficient to master appropriate fourth-grade-level skills, as determined by the school. A midyear promotion shall be made only upon agreement of the parent or guardian of the student and the school principal;

5. Provide students who are retained with a high-performing teacher who can address the needs of the student, based on student performance data and above-satisfactory performance appraisals; and

6. In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:

a. supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,

b. a parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage regular parent-guided home reading, or

c. a mentor or tutor with specialized reading training.

O. Beginning with the 2014-2015 school year, each school district shall establish an appeal process for those students who do not meet the academic requirements for promotion and who are not promoted based on one of the good-cause exemptions as set forth in subsection K of this section. The grounds for an appeal may be based on but is not limited to a hardship or extenuating circumstances. If the teacher of the student, the parent or guardian of the student, the principal of the school and a reading specialist, if one is assigned to the school, agree to recommend promotion of the student, the parent or guardian may file a petition for an appeal with the board of education of the school district. The board of education shall take action on the petition for an appeal not later than forty-five (45) days after receiving the petition. If the board of education grants the appeal and the student is promoted to the fourth grade, the student shall be

provided intensive reading instruction as provided for in subsection L of this section.

P. Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:

1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension;

2. Be provided during regular school hours in addition to the regular reading instruction; and

3. Provide a state-approved reading curriculum that, at a minimum, meets the following specifications:

a. assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,

b. provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension,

c. provides a scientific-research-based and reliable assessment,

d. provides initial and ongoing analysis of the reading progress of each student,

e. is implemented during regular school hours,

f. provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects,

g. establishes at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently score at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year. The Intensive Acceleration Class shall:

(1) be provided to any student in the third grade who scores at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests and who was retained in the third grade the prior year because of scoring at the

unsatisfactory level on the reading portion of the statewide criterion-referenced tests,

(2) have a reduced teacher-student ratio,

(3) provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the fourth-grade state standards in other core subject areas,

(4) use a reading program that is scientific-research-based and has proven results in accelerating student reading achievement within the same school year,

(5) provide intensive language and vocabulary instruction using a scientific-research-based program, including use of a speech-language therapist,

(6) include weekly progress monitoring measures to ensure progress is being made, and

(7) provide reports to the State Department of Education, in the manner described by the Department, outlining the progress of students in the class at the end of the first semester,

h. provide reports to the State Board of Education, upon request, on the specific intensive reading

interventions and supports implemented by the school district. The State Superintendent of Public Instruction shall annually prescribe the required components of the reports, and

i. provide to a student who has been retained in the third grade and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. A transitional setting shall specifically be designed to produce learning gains sufficient to meet fourth-grade performance standards while continuing to remediate the areas of reading deficiency.

~~P.~~ Q. In addition to the requirements set forth in this section, each school district board of education shall annually report to the parent or guardian of each student in the district the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The school district board of education shall report to the parent or guardian of each student the results on statewide criterion-referenced tests. The evaluation of the progress of each student shall be based upon classroom work, observations, tests, district and state assessments, and other relevant information.

Progress reporting shall be provided to the parent or guardian in writing.

~~Q.~~ R. 1. Each school district board of education shall annually publish on the school website, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

a. the provisions of this section relating to public school student progression and the policies and procedures of the school district on student retention and promotion,

b. by grade, the number and percentage of all students in grades three through ten performing at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,

c. by grade, the number and percentage of all students retained in grades three through ten,

d. information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above, and

e. any revisions to the policies of the school district on student retention and promotion from the prior year.

2. The State Department of Education shall establish a uniform format for school districts to report the information required in

this subsection. The format shall be developed with input from school districts and shall be provided not later than ninety (90) days prior to the annual due date. The Department shall annually compile the information required along with state-level summary information, and report the information to the public, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

~~R.~~ S. The State Department of Education shall provide technical assistance as needed to aid school districts in administering the provision of the Reading Sufficiency Act.

~~S.~~ T. On or before December 1 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a Reading Report Card for the state and each school district and elementary site which shall include, but is not limited to, trend data detailing three (3) years of data, disaggregated by student subgroups to include economically disadvantaged, major racial or ethnic groups, students with disabilities, and English language learners, as appropriate for the following:

1. The number and percentage of students in kindergarten through third grade determined to be at risk for reading difficulties compared to the total number of students enrolled in each grade;

2. The number and percentage of students in kindergarten who continue to be at risk for reading difficulties as determined by the year-end measurement of reading progress;

3. The number and percentage of students in kindergarten through third grade who have successfully completed their program of reading instruction and are reading on grade level as determined by the results of approved reading assessments;

4. The number and percentage of students scoring at each performance level on the reading portion of the statewide third-grade criterion-referenced test;

5. The amount of funds for reading remediation received by each district;

6. An evaluation and narrative interpretation of the report data analyzing the impact of the Reading Sufficiency Act on students' ability to read at grade level; and

7. Any recommendations for improvements or amendments to the Reading Sufficiency Act.

The State Department of Education may contract with an independent entity for the reporting and analysis requirements of this subsection.

~~T.~~ U. Copies of the results of the assessments administered shall be made a part of the permanent record of each student.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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