

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2862

By: Sherrer

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7 AS INTRODUCED

8 An Act relating to schools; amending 70 O.S. 2011,
9 Section 1210.508C, as last amended by Section 96,
10 Chapter 15, O.S.L. 2013 (70 O.S. Supp. 2013, Section
11 1210.508C), which relates to the Reading Sufficiency
12 Act; changing obsolete language; modifying criteria
13 for certain good-cause exemption; adding
14 documentation requirements; and declaring an
15 emergency.

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

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

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

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

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

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

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

18 2. Any student who is assessed and found not to be reading at
19 the appropriate grade level shall be provided a program of reading
20 instruction designed to enable the student to acquire the
21 appropriate grade level reading skills. Beginning with students
22 entering the first grade in the 2011-2012 school year, the program
23 of reading instruction shall include provisions of the READ
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1 Initiative adopted by the school district as provided for in
2 subsection O of this section.

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

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

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

15 2. Document the validity and reliability of each assessment;

16 3. Can be used for diagnosis and progress monitoring;

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

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

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

3 D. The program of reading instruction required in subsection B
4 of this section shall align with the ~~PASS~~ state curriculum
5 standards, shall include provisions of the READ Initiative adopted
6 by the school district as provided for in subsection O of this
7 section beginning with students entering the first grade in the
8 2011-2012 school year and may include, but is not limited to:

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

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

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

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

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

21 2. Each school site shall establish a committee, composed of
22 educators, which if possible shall include a certified reading
23 specialist, to develop the required programs of reading instruction.
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1 A parent or guardian of the student shall be included in the
2 development of the program of reading instruction for that student.

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

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

17 H. Beginning with students entering the first grade in the
18 2011-2012 school year, if the reading deficiency of a student, as
19 identified based on assessments administered as provided for in
20 subsection B of this section, is not remedied by the end of third
21 grade, as demonstrated by scoring at the unsatisfactory level on the
22 reading portion of the statewide third-grade criterion-referenced
23 test, the student shall be retained in the third grade.

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

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

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

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

13 4. That the student will not be promoted to the fourth grade if
14 the reading deficiency is not remediated by the end of the third
15 grade, unless the student is exempt for good cause as set forth in
16 subsection K of this section;

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

19 6. That while the results of the statewide criterion-referenced
20 tests administered pursuant to Section 1210.508 of this title are
21 the initial determinant, it is not the sole determiner of promotion
22 and that portfolio reviews and assessments are available; and
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1 7. The specific criteria and policies of the school district
2 for midyear promotion implemented as provided for in paragraph 4 of
3 subsection N of this section.

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

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

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

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

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

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

22 5. Students with disabilities who participate in the statewide
23 criterion-referenced tests and, who have an individualized education
24 program ~~that reflects that the student has received intensive~~

1 ~~remediation in reading for more than two (2) years but still~~
2 ~~demonstrates a deficiency in reading and was previously retained in~~
3 ~~kindergarten, first grade, second grade, or third grade (IEP) and~~
4 whose IEP team has recommended promotion of the student; and

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

10 L. A student who is promoted for good cause as provided for in
11 subsection K of this section shall be provided intensive reading
12 instruction during an altered instructional day that includes
13 specialized diagnostic information and specific reading strategies
14 for each student. The school district shall assist schools and
15 teachers to implement reading strategies for the promoted students
16 that research has shown to be successful in improving reading among
17 low-performing readers.

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

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

1 In order to minimize paperwork requirements, the documentation shall
2 consist only of the alternative assessment results or student
3 portfolio work and the individual education plan (IEP), as
4 applicable. For the good-cause exemption described in paragraph 5
5 of subsection K of this section the documentation shall include the
6 recommendation to promote the student by the IEP team;

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

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

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

17 1. Conduct a review of the program of reading instruction for
18 all students who score at the unsatisfactory level on the reading
19 portion of the statewide criterion-referenced test administered
20 pursuant to Section 1210.508 of this title and did not meet the
21 criteria for one of the good-cause exemptions as set forth in
22 subsection K of this section. The review shall address additional
23 supports and services, as described in this subsection, needed to
24 remediate the identified areas of reading deficiency. The school

1 district shall require a student portfolio to be completed for each
2 retained student;

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

- 11 a. small group instruction,
- 12 b. reduced teacher-student ratios,
- 13 c. more frequent progress monitoring,
- 14 d. tutoring or mentoring,
- 15 e. transition classes containing third- and fourth-grade
16 students,
- 17 f. extended school day, week, or year, and
- 18 g. summer reading academies as provided for in Section
19 1210.508E of this title, if available;

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

1 description of proposed interventions and intensive instructional
2 supports that will be provided to the student to remediate the
3 identified areas of reading deficiency;

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

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

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

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- 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 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

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

- 3 a. assists students assessed as exhibiting a reading
4 deficiency in developing the ability to read at grade
5 level,
- 6 b. provides skill development in phonemic awareness,
7 phonics, fluency, vocabulary, and comprehension,
- 8 c. provides a scientific-research-based and reliable
9 assessment,
- 10 d. provides initial and ongoing analysis of the reading
11 progress of each student,
- 12 e. is implemented during regular school hours,
- 13 f. provides a curriculum in core academic subjects to
14 assist the student in maintaining or meeting
15 proficiency levels for the appropriate grade in all
16 academic subjects,
- 17 g. establishes at each school, where applicable, an
18 Intensive Acceleration Class for retained third-grade
19 students who subsequently score at the unsatisfactory
20 level on the reading portion of the statewide
21 criterion-referenced tests. The focus of the
22 Intensive Acceleration Class shall be to increase the
23 reading level of a child at least two grade levels in
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1 one (1) school year. The Intensive Acceleration Class
2 shall:

- 3 (1) be provided to any student in the third grade who
4 scores at the unsatisfactory level on the reading
5 portion of the statewide criterion-referenced
6 tests and who was retained in the third grade the
7 prior year because of scoring at the
8 unsatisfactory level on the reading portion of
9 the statewide criterion-referenced tests,
- 10 (2) have a reduced teacher-student ratio,
- 11 (3) provide uninterrupted reading instruction for the
12 majority of student contact time each day and
13 incorporate opportunities to master the fourth-
14 grade state standards in other core subject
15 areas,
- 16 (4) use a reading program that is scientific-
17 research-based and has proven results in
18 accelerating student reading achievement within
19 the same school year,
- 20 (5) provide intensive language and vocabulary
21 instruction using a scientific-research-based
22 program, including use of a speech-language
23 therapist,
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1 (6) include weekly progress monitoring measures to
2 ensure progress is being made, and

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

7 h. provide reports to the State Board of Education, upon
8 request, on the specific intensive reading
9 interventions and supports implemented by the school
10 district. The State Superintendent of Public
11 Instruction shall annually prescribe the required
12 components of the reports, and

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

22 P. In addition to the requirements set forth in this section,
23 each school district board of education shall annually report to the
24 parent or guardian of each student in the district the progress of

1 the student toward achieving state and district expectations for
2 proficiency in reading, writing, science, and mathematics. The
3 school district board of education shall report to the parent or
4 guardian of each student the results on statewide criterion-
5 referenced tests. The evaluation of the progress of each student
6 shall be based upon classroom work, observations, tests, district
7 and state assessments, and other relevant information. Progress
8 reporting shall be provided to the parent or guardian in writing.

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

- 13 a. the provisions of this section relating to public
14 school student progression and the policies and
15 procedures of the school district on student retention
16 and promotion,
- 17 b. by grade, the number and percentage of all students in
18 grades three through ten performing at the
19 unsatisfactory level on the reading portion of the
20 statewide criterion-referenced tests,
- 21 c. by grade, the number and percentage of all students
22 retained in grades three through ten,

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- 1 d. information on the total number and percentage of
2 students who were promoted for good cause, by each
3 category of good cause as specified above, and
4 e. any revisions to the policies of the school district
5 on student retention and promotion from the prior
6 year.

7 2. The State Department of Education shall establish a uniform
8 format for school districts to report the information required in
9 this subsection. The format shall be developed with input from
10 school districts and shall be provided not later than ninety (90)
11 days prior to the annual due date. The Department shall annually
12 compile the information required along with state-level summary
13 information, and report the information to the public, the Governor,
14 the President Pro Tempore of the Senate, and the Speaker of the
15 House of Representatives.

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

19 S. On or before December 1 of each year, the State Department
20 of Education shall issue to the Governor and members of the Senate
21 and House of Representatives Education Committees a Reading Report
22 Card for the state and each school district and elementary site
23 which shall include, but is not limited to, trend data detailing
24 three (3) years of data, disaggregated by student subgroups to

1 include economically disadvantaged, major racial or ethnic groups,
2 students with disabilities, and English language learners, as
3 appropriate for the following:

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

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

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

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

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

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

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

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

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

6 SECTION 2. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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