

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 2401

By: Hulbert

AS INTRODUCED

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; exempting students with individualized education programs from certain retention requirements; deleting certain good-cause exemptions; modifying criteria for certain good-cause exemption; 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.

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

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

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

16        2. Any student who is assessed and found not to be reading at  
17 the appropriate grade level shall be provided a program of reading  
18 instruction designed to enable the student to acquire the  
19 appropriate grade level reading skills. Beginning with students  
20 entering the first grade in the 2011-2012 school year, the program  
21 of reading instruction shall include provisions of the READ  
22 Initiative adopted by the school district as provided for in  
23 subsection O of this section.  
24

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

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

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

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

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

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

17        5. Accompanied by a data management system that provides  
18 profiles for students, class, grade level and school building. The  
19 profiles shall identify each student's instructional point of need  
20 and reading achievement level. The State Board shall also determine  
21 other comparable reading assessments for diagnostic purposes and for  
22 periodic and post assessments to be used for students at risk of  
23 reading failure. The State Board shall ensure that any assessments  
24 approved are in alignment with the ~~PASS~~ state curriculum standards.

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

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

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

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

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

22 F. 1. Every school district shall adopt, and implement a  
23 district reading sufficiency plan which has had input from school  
24 administrators, teachers, and parents and if possible a reading

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

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

23 3. The State Board of Education shall adopt rules for the  
24 implementation and evaluation of the provisions of the Reading

1 Sufficiency Act. The evaluation shall include, but not be limited  
2 to, an analysis of the data required in subsection S of this  
3 section.

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

13 H. ~~Beginning~~ Except as otherwise provided, beginning with  
14 students entering the first grade in the 2011-2012 school year, if  
15 the reading deficiency of a student, as identified based on  
16 assessments administered as provided for in subsection B of this  
17 section, is not remedied by the end of third grade, as demonstrated  
18 by scoring at the unsatisfactory level on the reading portion of the  
19 statewide third-grade criterion-referenced test, the student shall  
20 be retained in the third grade. Students who have an individualized  
21 education program (IEP) pursuant to the Individuals with  
22 Disabilities Education Act (IDEA) shall not be subject to the  
23 retention requirements of this subsection.  
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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 has an IEP or is exempt for good cause as  
16 set forth in 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 have an IEP and do not meet  
7 the academic requirements for promotion, a school district may  
8 promote the student for good cause only. Good-cause exemptions for  
9 promotion shall be limited to 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.~~ 3. Students who demonstrate, through a student portfolio,  
20 that the student is reading on grade level as evidenced by  
21 demonstration of mastery of the state standards beyond the retention  
22 level;

23        ~~5. Students with disabilities who participate in the statewide~~  
24 ~~criterion-referenced tests and who have an individualized education~~

~~program 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. 4.~~ 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 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.

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;

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

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

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

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

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

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

18        3. Provide written notification to the parent or guardian of  
19 any student who is to be retained as set forth in subsection H of  
20 this section that the student has not met the proficiency level  
21 required for promotion and the reasons the student is not eligible  
22 for a good-cause exemption. The notification shall include a  
23 description of proposed interventions and intensive instructional  
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1 supports that will be provided to the student to remediate the  
2 identified areas of reading deficiency;

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

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

20 6. In addition to required reading enhancement and acceleration  
21 strategies, provide students who are retained with at least one of  
22 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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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,

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,
- 23  
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- 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. 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. 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

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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