

# Texas Education Code §28.006 (State Law)

## READING DIAGNOSIS.

(a) The commissioner shall develop recommendations for school districts for:

- (1) administering reading instruments to diagnose student reading development and comprehension;
- (2) training educators in administering the reading instruments; and
- (3) applying the results of the reading instruments to the instructional program.

(b) The commissioner shall adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension. For use in diagnosing the reading development and comprehension of kindergarten students, the commissioner shall adopt a multidimensional assessment tool that includes a reading instrument and tests at least three developmental skills, including literacy. A multidimensional assessment tool administered as provided by this subsection is considered to be a reading instrument for purposes of this section. A district-level committee established under Subchapter F, Chapter 11, may adopt a list of reading instruments for use in the district in a grade level other than kindergarten in addition to the reading instruments on the commissioner's list. Each reading instrument adopted by the commissioner or a district-level committee must be based on scientific research concerning reading skills development and reading comprehension. A list of reading instruments adopted under this subsection must provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29.

(b-1) The commissioner may approve an alternative reading instrument for use in diagnosing the reading development and comprehension of kindergarten students that complies with the requirements under Subsection (b).

(c) Each school district shall administer, at the first and second grade levels, a reading instrument on the list adopted by the commissioner or by the district-level committee. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(c-1) Each school district shall administer at the beginning of the seventh grade a reading instrument adopted by the commissioner to each student whose performance on the assessment instrument in reading administered under Section 39.023(a) to the student in grade six did not demonstrate reading proficiency, as determined by the

commissioner. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(c-2) Each school district shall administer at the kindergarten level a reading instrument adopted by the commissioner under Subsection (b) or approved by the commissioner under Subsection (b-1). The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(c-3) The commissioner by rule shall determine the performance on the reading instrument adopted under Subsection (b) that indicates kindergarten readiness.

(d) The superintendent of each school district shall:

(1) report to the commissioner and the board of trustees of the district the results of the reading instruments;

(2) not later than the 60th calendar day after the date on which a reading instrument was administered report, in writing, to a student's parent or guardian the student's results on the instrument; and

(3) using the school readiness certification system provided to the school district in accordance with Section 29.161(e), report electronically each student's raw score on the reading instrument to the agency for use in the school readiness certification system.

(d-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(a)(11), eff. September 1, 2019.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(a)(11), eff. September 1, 2019.

(f) The agency shall ensure at least one reading instrument for each grade level for which a reading instrument is required to be administered under this section is available to school districts at no cost.

(g) A school district shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on a reading

instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection.

(g-1) A school district shall provide additional reading instruction and intervention to each student in seventh grade assessed under Subsection (c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by this subsection shall be provided by regional education service centers and teacher reading academies established under Section 21.4551, and may be provided by other public and private providers.

(g-2) In accordance with a notification program developed by the commissioner by rule, a school district shall notify the parent or guardian of each student determined, on the basis of a screening under Section 38.003 or other basis, to have dyslexia or a related disorder, or determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties, of the program maintained by the Texas State Library and Archives Commission providing students with reading disabilities the ability to borrow audiobooks free of charge.

(h) The school district shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language.

(i) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds.

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(5) and may implement interventions or sanctions under Chapter 39A. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(k) The provisions of this section relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the commissioner certifies that funds

have been appropriated during a school year for administering the accelerated reading instruction program specified under this section.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 450 (S.B. 2075), Sec. 2

(l) The agency by rule shall develop procedures designed to allow the agency to:

(1) effectively audit and monitor and periodically conduct site visits of all school districts to ensure that districts are complying with this section;

(2) identify any problems school districts experience in complying with this section; and

(3) develop reasonable and appropriate remedial strategies to address school district noncompliance and ensure the purposes of this section are accomplished.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 2.012

(l) The commissioner may adopt rules as necessary to implement this section. Section 2001.0045, Government Code, does not apply to rules adopted under this subsection.

Added by Acts 1997, 75th Leg., ch. 397, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.11, eff. Sept. 1, 1999.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 3.05, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1058 (H.B. 2237), Sec. 6, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1340 (S.B. 1871), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 895 (H.B. 3), Sec. 26, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1314 (S.B. 172), Sec. 1, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 21.003(16), eff.

September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 450 (S.B. 2075), Sec. 2, eff. June 4, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 2.012, eff. June 12, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(a)(11), eff. September 1, 2019.