

SUBJECT: Notifying parents of certain intervention strategies for struggling students

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, April 26 — 31-0, on Local and Consent Calendar

WITNESSES: For — Steven Aleman, Disability Rights Texas; Columba Wilson; (*Registered, but did not testify*: Christine Yanas, Methodist Healthcare Ministries of South Texas; Ted Melina Raab, Texas AFT (American Federation of Teachers); Barry Haenisch, Texas Association of Community Schools; Ramiro Canales, Texas Association of School Administrators; Lindsay Gustafson, Texas Classroom Teachers Association; Janna Lilly, Texas Council of Administrators of Special Education; Kyle Ward, Texas PTA)

Against — None

On — (*Registered, but did not testify*: Kara Belew, Von Byer, and Gene Lenz, Texas Education Agency)

BACKGROUND: Education Code, sec. 26.0081(c) requires the Texas Education Agency to produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education.

Education Code, sec. 42.006 requires school districts to provide certain information about student demographics and academic performance through the Public Education Information Management System (PEIMS).

29 U.S.C. sec. 794 protects otherwise qualified individuals with a disability from being excluded from participation in, being denied the

benefits of, or being subjected to discrimination under any program or activity receiving federal funds. The section is part of the Rehabilitation Act of 1973.

DIGEST: SB 1153 would require school districts and charter schools to notify parents when their child was receiving assistance for learning disabilities. The bill also would require schools to report additional information to the state on students who were receiving certain intervention strategies.

Parental notification. The bill would entitle parents to access additional written records concerning their child, including records relating to assistance provided for learning difficulties and information collected on any intervention strategies used with the child. An "intervention strategy" would be defined as a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term would include response to intervention (RtI) and other early intervening strategies.

The bill would add to existing requirements for information that the Texas Education Agency must provide to districts explaining the options and requirements for assisting students who have learning difficulties or who need or may need special education. The explanation would state that parents were entitled at any time to request an evaluation of their child for aids, accommodations, or services under the federal Rehabilitation Act of 1973, which prevents federally funded programs from discriminating against individuals with disabilities.

Each school year, each district and open-enrollment charter school would be required to notify a parent of each child, other than a child enrolled in a special education program, who received assistance for learning difficulties, including through use of intervention strategies. The notice would be written in English or, to the extent practicable, the parent's native language, and would include:

- a reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;

- information collected regarding any intervention in the base tier of a multi-tiered system of supports that had previously been used with the child;
- an estimate of the duration for which the assistance would be provided;
- the estimated time frames within which a report on the child's progress with the assistance would be provided to the parent; and
- a copy of the explanation provided by TEA to school districts on options and requirements for providing assistance to students with learning difficulties and the statement of the parent's right to request their child be evaluated, as discussed above.

Notification could be provided to a child's parent at a meeting of the team established for the child under the Rehabilitation Act of 1973, if applicable.

The Commissioner of Education would adopt rules requiring each district and charter school to annually report through the Public Education Information Management System (PEIMS) information on the total number of students provided with aids, accommodations, or services. Districts and charter schools also would be required to annually report the total number of other students with whom intervention strategies were used.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2017-18 school year.

**SUPPORTERS
SAY:**

SB 1153 would increase transparency and parental rights by requiring schools to inform parents on the strategies being used with their student's education. The notification would include a description of the interventions used, the duration for which assistance would be provided, the estimated time frame within which a report on the child's progress would be provided, and the rights of parents to request their child be evaluated for special education services.

A newspaper investigation of the state's relatively low percentage of students receiving special education services discussed the practice some districts use of Response to Intervention (RtI) models before referring a student to be evaluated for special education. The RtI process can be used effectively to help students who are struggling with learning but can be abused if it delays the identification of students who qualify for special education services and may need them to be successful.

The bill would address one shortfall of the RtI process by ensuring parents were aware of the specific strategies and how long schools expected to use them. Schools are unlikely to over-identify students for special education services. Instead, the bill could prod districts to correct the identified trend of students who qualify for special education being denied services.

Uniform state rules about parental involvement during the RtI process would empower the parents of children who have been labeled by schools as struggling learners but might instead have a hidden disability. The bill would neither require nor prohibit schools from using RtI but would provide basic information to parents on what is entailed with their child receiving interventions for learning difficulties.

SB 1153 also would give the state access to better information on the number of students receiving intervention strategies and accommodations outside of special education programs. While RtI is not a new practice, no data are available about how many Texas school children participate in it. Schools already enter vast amounts of information about their students into the data system known as PEIMS, and two additional data codes would not burden schools or the Texas Education Agency.

OPPONENTS SAY: SB 1153 could have the unintended consequence of discouraging schools from using proven RtI strategies to address the learning needs of students who are struggling because of poor instruction or a behavioral concern, and not because of a hidden disability. The requirement that schools report the number of students for whom they are using RtI strategies could have the effect of discouraging schools from using those strategies and instead

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placing everybody with learning difficulties into special education. Such a development would represent a step backward for a system that has too often incorrectly labeled certain students as learning disabled because they were behind in some subjects or had legitimate physical or emotional needs.

NOTES: A companion bill, HB 3599 by Huberty, was referred to the House Public Education Committee on March 30.