

SUBJECT: Requiring inclusion of certain information with statement of student's IEP

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, M. González, Huberty, K. King, Talarico, VanDeaver

0 nays

1 absent — Meza

SENATE VOTE: On final passage, April 13 — 31-0

WITNESSES: No public hearing.

BACKGROUND: Education Code sec. 29.005 requires a school district, before a child is enrolled in the district's special education program, to establish a committee to develop the child's individualized education program (IEP).

Sec. 29.005(b) requires the committee to develop the program by agreement of the committee members or, if those persons cannot agree, by an alternate method provided by the Texas Education Agency. Under sec. 29.005(b-1), the written statement of the individualized education program must document the committee's decisions and include certain information, such as whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the committee's decisions.

DIGEST: SB 89 would establish the COVID-19 Special Education Recovery Act, which would require a school district to prepare a supplement to include with the written statement of the individualized education program developed for the child.

The bill would apply to each child enrolled in a district's special education program during the 2019-2020 school year or the 2020-2021 school year.

Under the bill, the supplement would have to include information indicating:

- if applicable, whether the written report of the child's full individual and initial evaluation was completed during the 2019-2020 or the 2020-2021 school year and, if so, whether the report was completed by the required date;
- if applicable, whether the child's initial individualized education program was developed during the 2019-2020 or 2020-2021 school year and, if so, whether the program was developed by the required date;
- whether the provision of special services to the child under the individualized education program during the 2019-2020 or 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued; and
- whether compensatory educational services were appropriate for the child based on the above information or any other factors.

By May 1, 2022, school district would have to complete each required supplement to a written statement of an individualized education program.

The required supplement would not apply if during the 2020-2021 school year the written statement of the child's individualized education program documented that information. The bill also would provide other specified exceptions.

The commissioner of education could adopt rules to implement the bill's provisions.

The bill's provisions would expire September 1, 2023.

The 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, 2021.

SUPPORTERS SAY: SB 89 would establish the COVID-19 Special Education Recovery Act, which would help school districts identify interruptions in the provision of special services for a student in an individualized education program during the COVID-19 pandemic.

The pandemic disrupted special education services for students with disabilities, which for some students stalled learning progress and caused a regression in skills. The bill would ensure detailed information is documented for affected students in special education programs and would help determine whether compensatory education is appropriate for the 2021-2022 school year.

CRITICS SAY: No concerns identified.

NOTES: The House companion bill, HB 144 by M. González, was considered by the House Public Education Committee in a public hearing on March 23, reported favorably as substituted on April 23, and finally passed by the House on May 13.