

Act No. 306
Public Acts of 2016
Approved by the Governor
October 6, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. Price, Kelly, Crawford, Yonker, Franz, Garcia, Santana, Lyons, Poleski, Cox, Runestad, Chatfield, Callton, Tedder and Schor

ENROLLED HOUSE BILL No. 4822

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to make appropriations for certain purposes; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1280f.

The People of the State of Michigan enact:

Sec. 1280f. (1) The department shall do all of the following to help ensure that more pupils will achieve a score of at least proficient in English language arts on the grade 3 state assessment:

(a) Approve 3 or more valid and reliable screening, formative, and diagnostic reading assessment systems for selection and use by school districts and public school academies in accordance with the following:

(i) Each approved assessment system shall provide a screening assessment, monitoring capabilities for monitoring progress toward a growth target, and a diagnostic assessment.

(ii) In determining which assessment systems to approve for use by school districts and public school academies, the department shall also consider at least the following factors:

(A) The time required to conduct the assessments, with the intention of minimizing the impact on instructional time.

(B) The level of integration of assessment results with instructional support for teachers and pupils.

(C) The timeliness in reporting assessment results to teachers, administrators, and parents.

(b) Recommend or develop an early literacy coach model with the following features:

(i) An early literacy coach shall support and provide initial and ongoing professional development to teachers in all of the following:

(A) Each of the 5 major reading components listed in subsection (3)(a)(iv)(B) as needed, based on an analysis of pupil performance data.

(B) Administering and analyzing instructional assessments.

(C) Providing differentiated instruction and intensive intervention.

(D) Using progress monitoring.

(E) Identifying and addressing reading deficiency.

(ii) An early literacy coach shall also do all of the following:

(A) Model effective instructional strategies for teachers.

(B) Facilitate study groups.

(C) Train teachers in data analysis and using data to differentiate instruction.

(D) Coach and mentor colleagues.

(E) Work with teachers to ensure that evidence-based reading programs such as comprehensive core reading programs, supplemental reading programs, and comprehensive intervention reading programs are implemented with fidelity.

(F) Train teachers to diagnose and address reading deficiency.

(G) Work with teachers in applying evidence-based reading strategies in other content areas, including, but not limited to, prioritizing time spent on those teachers, activities, and roles that will have the greatest impact on pupil achievement and prioritizing coaching and mentoring in classrooms.

(H) Help to increase instructional density to meet the needs of all pupils.

(I) Help lead and support reading leadership teams at the school.

(J) Continue to increase his or her knowledge base in best practices in reading instruction and intervention.

(K) For each teacher who teaches in a classroom for grades K to 3, model for the teacher, and coach the teacher in, instruction with pupils in whole and small groups.

(iii) In the context of performing the functions described in subparagraph (ii), an early literacy coach shall not be asked to perform administrative functions that will confuse his or her role for teachers.

(iv) An early literacy coach must meet all of the following:

(A) Have experience as a successful classroom teacher.

(B) Have sufficient knowledge of scientifically based reading research, special expertise in quality reading instruction and infusing reading strategies into content area instruction, and data management skills.

(C) Have a strong knowledge base in working with adults.

(D) Have a minimum of a bachelor's degree and advanced coursework in reading or have completed professional development in evidence-based literacy instructional strategies.

(v) An early literacy coach shall not be assigned a regular classroom teaching assignment, but shall be expected to work frequently with pupils in whole and small group instruction or tutoring in the context of modeling and coaching in or outside of teachers' classrooms.

(2) Subject to subsection (14), beginning in the 2017-2018 school year, the board of a school district or board of directors of a public school academy shall do all of the following to ensure that more pupils will achieve a score of at least proficient in English language arts on the grade 3 state assessment:

(a) Select 1 valid and reliable screening, formative, and diagnostic reading assessment system from the assessment systems approved by the department under subsection (1)(a). A school district or public school academy shall use this assessment system for pupils in grades K to 3 to screen and diagnose difficulties, inform instruction and intervention needs, and assess progress toward a growth target. A school district or public school academy periodically shall assess a pupil's progress in reading skills at least 3 times per school year in grades K to 3. The first of these assessments for a school year shall be conducted within the first 30 school days of the school year.

(b) For any pupil in grades K to 3 who exhibits a reading deficiency at any time, based upon the reading assessment system selected and used under subdivision (a), provide an individual reading improvement plan for the pupil within 30 days after the identification of the reading deficiency. The individual reading improvement plan shall be created by the pupil's teacher, school principal, and parent or legal guardian and other pertinent school personnel, and shall describe the reading intervention services the pupil will receive to remedy the reading deficiency. A school district or public school academy shall provide intensive reading intervention for the pupil in accordance with the individual reading improvement plan until the pupil no longer has a reading deficiency.

(c) If a pupil in grades K to 3 is identified as having an early literacy delay or reading deficiency, provide written notice to the pupil's parent or legal guardian of the delay or reading deficiency in writing and provide tools to assist the parent or legal guardian to engage in intervention and to address or correct any reading deficiency at home.

(d) Require a school principal or chief administrator to do all of the following:

(i) For a teacher in grades K to 3, target specific areas of professional development based on the reading development needs data for incoming pupils.

(ii) Differentiate and intensify professional development for teachers based on data gathered by monitoring teacher progress in improving pupil proficiency rates among their pupils.

(iii) Establish a collaborative system within the school to improve reading proficiency rates in grades K to 3.

(iv) Ensure that time is provided for teachers to meet for professional development.

(e) Utilize, at least, early literacy coaches provided through the intermediate school district in which the school district or public school academy is located, as provided for under section 35a(4) of the state school aid act of 1979, MCL 388.1635a. However, a public school academy may use an early literacy coach provided by the public school academy, at the expense of the public school academy, rather than using an early literacy coach provided through an intermediate school district if the early literacy coach and the usage of the early literacy coach otherwise meet the requirements of this section.

(3) Subject to subsection (14), a school district or public school academy shall provide reading intervention programs for pupils in grades K to 3, including at least all of the following:

(a) For pupils who exhibit a reading deficiency, a reading intervention program intended to ensure that pupils are proficient readers by the end of grade 3 and that includes some or all of the following features:

(i) Is provided to each pupil in grades K to 3 who is identified with a reading deficiency based on screening and diagnostic tools, and identifies and addresses the pupil's reading deficiency.

(ii) Periodically screens and monitors the progress of each pupil's reading skills, at least 3 times per year.

(iii) Provides evidence-based core reading instruction that is comprehensive and meets the majority of the general education classroom needs.

(iv) Provides reading intervention that meets, at a minimum, the following specifications:

(A) Assists pupils exhibiting a reading deficiency in developing the ability to read at grade level.

(B) Provides intensive development in the 5 major reading components: phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(C) Is systematic, explicit, multisensory, and sequential.

(D) Is implemented during regular school hours in addition to regular classroom reading instruction.

(v) Provides parents, legal guardians, or other providers of care for the pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

(vi) Documents efforts by the pupil's school to engage the pupil's parent or legal guardian and whether or not those efforts were successful.

(vii) Documents any dissenting opinions expressed by school personnel or a parent or legal guardian concerning the individual reading improvement plan provided for the pupil under subsection (2)(b).

(b) For grade 3 pupils exhibiting a reading deficiency as determined by the pupil's teacher through the diagnostic reading assessment system selected by the school district or public school academy under subsection (2)(a), a reading intervention program intended to correct the identified area or areas of reading deficiency and that includes all of the following features as needed by the individual pupil:

(i) Is evidence-based and has proven results in accelerating pupil reading achievement within the same school year.

(ii) Provides more dedicated time than the pupil's previous school year in evidence-based reading instruction and intervention.

(iii) Provides daily targeted small group or 1-to-1 reading intervention based on pupil needs as determined by assessment data, including explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.

(iv) Provides administration of ongoing progress monitoring assessments to frequently monitor pupil progress.

(v) Provides supplemental evidence-based reading intervention delivered by a teacher, tutor, or volunteer with specialized reading training that is provided before school, after school, during school hours but outside of regular English language arts classroom time, or any combination of these.

(vi) Provides parents, legal guardians, or other providers of care for a pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

(vii) Documents efforts by the pupil's school to engage the pupil's parent or legal guardian and whether or not those efforts were successful.

(viii) Documents any dissenting opinions expressed by school personnel or a parent or legal guardian concerning the individual reading improvement plan provided for the pupil under subsection (2)(b).

(c) Subject to subsection (15), for pupils identified as English language learners by the pupil's teacher or by the diagnostic reading assessment selected by the school district or public school academy under subsection (2)(a), intervention services that include at least all of the following:

(i) Ongoing assessments that provide actionable data for teachers to use in interventions.

(ii) Instruction in academic vocabulary.

(iii) Instruction in the 5 major reading components listed in subdivision (a)(iv)(B).

(iv) Common English language development strategies such as modeling, guided practice, and comprehensive input.

(4) For all pupils exhibiting a reading deficiency as determined by the pupil's teacher through the diagnostic reading assessment system selected by the school district or public school academy under subsection (2)(a), school districts and public school academies are encouraged to offer summer reading camps staffed with highly effective teachers of reading, as determined by the teacher evaluation system under section 1249, providing reading intervention services and supports to correct pupils' identified areas of reading deficiency.

(5) Beginning with pupils enrolled in grade 3 during the 2019-2020 school year, all of the following apply:

(a) Subject to subsection (6), the superintendent of the school district or chief administrator of the public school academy in which the pupil is enrolled shall ensure that a pupil whose parent or legal guardian has been provided with the notification under subdivision (d) is not enrolled in grade 4 until 1 of the following occurs:

(i) The pupil achieves a reading score that is less than 1 grade level behind as determined by the department based on the grade 3 state English language arts assessment.

(ii) The pupil demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment approved by the superintendent of public instruction.

(iii) The pupil demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

(b) Subject to subsection (6), if a child younger than 10 years of age seeks to enroll for the first time in a school district or public school academy in grade 4, the superintendent of the school district or chief administrator of the public school academy shall not allow the child to enroll in grade 4 unless 1 of the following occurs:

(i) The child achieves a grade 3 reading score as determined by the department based on the reading portion of the grade 3 state English language arts assessment.

(ii) The child demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment approved by the superintendent of public instruction.

(iii) The child demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

(c) Not later than May 23 of each year or not later than 14 days after the department finalizes the scoring for the grade 3 state assessments, whichever is earlier, the department shall provide CEPI with the grade 3 state assessment scores for every grade 3 pupil enrolled in a public school in this state who was administered 1 or more of those assessments.

(d) Not later than June 1 of each year or not later than 14 days after CEPI receives the grade 3 state assessment results from the department under subdivision (c), whichever is earlier, using those state assessment results, CEPI shall identify each pupil completing grade 3 that year who is subject to not being advanced to grade 4 due to the operation of subdivision (a)(i) and who is not eligible to enroll in grade 4 under subsection (6)(a), and shall notify the parent or legal guardian and the school district or public school academy of each of these pupils that the pupil is subject to being retained in grade 3. A school district or public school academy may also make its own notification to a parent or guardian in addition to the notification by CEPI. The notification by CEPI to a parent or legal guardian shall be by certified mail. The notification by CEPI shall clearly state at least all of the following:

(i) That, based on standardized testing, this state has determined that the pupil may be required to be retained in grade 3 as provided under state law, with a reference to this section along with an explanation that even if the pupil is not eligible to enroll in grade 4 based on state assessments, the pupil may still be allowed to enroll in grade 4 if he or she demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment or through a pupil portfolio.

(ii) That the parent or legal guardian has the right to request a good cause exemption under this section that, if granted, will allow the pupil to enroll in grade 4 in the next school year.

(iii) That the parent or legal guardian must request the good cause exemption within 30 days after the date of the notification by CEPI and must direct the request to the school district or public school academy in which the parent or legal guardian intends to enroll the pupil for grade 4.

(iv) That the parent or legal guardian has the right to request a meeting with school officials to discuss the retention requirement under state law and the standards and processes for a good cause exemption from that requirement.

(e) If a parent or legal guardian receives a notification from CEPI under subdivision (d), the parent or legal guardian may request a meeting with school officials to discuss the retention requirement under state law and the standards and processes for a good cause exemption from that requirement. If a parent or legal guardian requests a meeting described in this subdivision, the school official to whom the request is made shall ensure that an appropriate school official is made available to the parent or legal guardian for such a meeting.

(f) If a pupil is not enrolled in grade 4 at the beginning of a school year due to the operation of this subsection, then before placing the child in grade 4 during the school year, an appropriate school official of the pupil's school district or public school academy shall provide written notification to the pupil's parent or legal guardian of the proposed placement.

(6) Subject to subsection (11), if a pupil or child demonstrates both of the following, then subsection (5)(a) and (b) do not apply and he or she may be enrolled in grade 4:

(a) That he or she is proficient in all subject areas assessed on the grade 3 state assessment other than English language arts, as evidenced by his or her scores on those assessments.

(b) That he or she is proficient in science and social studies as shown through a pupil portfolio and as determined by the teacher who provided the grade 3 instruction to the pupil in science or social studies, as applicable.

(7) For a pupil who is not promoted to grade 4 or a child who is not enrolled in grade 4 due to the operation of subsection (5), and for a pupil or child described in subsection (6) or (11), the school district or public school academy shall provide a reading intervention program that is intended to correct the pupil's specific reading deficiency, as identified by a valid and reliable assessment. This program shall include effective instructional strategies necessary to assist the pupil in becoming a successful reader, and all of the following features, as appropriate for the needs of the individual pupil:

(a) Assigning to a pupil 1 or more of the following:

(i) A highly effective teacher of reading as determined by the teacher evaluation system under section 1249.

(ii) The highest evaluated grade 3 teacher in the school as determined by the teacher evaluation system under section 1249.

(iii) A reading specialist.

(b) Reading programs that are evidence-based and have proven results in accelerating pupil reading achievement within the same school year.

(c) Reading instruction and intervention for the majority of pupil contact time each day that incorporates opportunities to master the grade 4 state standards in other core academic areas, if applicable.

(d) Daily targeted small group or 1-to-1 reading intervention that is based on pupil needs, determined by assessment data, and on identified reading deficiencies and that includes explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.

(e) Administration of ongoing progress monitoring assessments to frequently monitor pupil progress toward a growth target.

(f) Supplemental evidence-based reading intervention delivered by a teacher or tutor with specialized reading training that is provided before school, after school, during regular school hours but outside of regular English language arts classroom time, or any combination of these.

(g) Providing parents, legal guardians, or other providers of care for the pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

(8) If the superintendent of the pupil's school district or chief administrator of the pupil's public school academy, or his or her designee, grants a good cause exemption from the requirements of subsection (5)(a) for a pupil, then a pupil may be promoted to grade 4 without meeting the requirements of subsection (5)(a). A good cause exemption may be granted only according to the procedures under subsection (10) and only for 1 of the following:

(a) The pupil is a student with an individualized education program or with a section 504 plan and the pupil's individualized education program team or section 504 coordinator, as applicable, makes the decision to exempt the pupil from the requirements of subsection (5)(a) based upon the team's or coordinator's knowledge of the pupil.

(b) The pupil is a limited English proficient student who has had less than 3 years of instruction in an English language learner program.

(c) The pupil has received intensive reading intervention for 2 or more years but still demonstrates a reading deficiency and was previously retained in kindergarten, grade 1, grade 2, or grade 3.

(d) The pupil has been continuously enrolled in his or her current school district or public school academy for less than 2 years and there is evidence that the pupil was not provided with an appropriate individual reading improvement plan under subsection (2)(b) by the school district or public school academy in which the pupil was previously enrolled.

(e) The pupil's parent or legal guardian has requested a good cause exemption within the time period provided under subsection (10)(d) and the superintendent or chief administrator, or his or her designee, determines that the good cause exemption is in the best interests of the pupil.

(9) Subject to subsection (14), if a pupil is promoted to grade 4 due to a good cause exemption granted under subsection (8), the pupil remains eligible for reading intervention services designed to enable the pupil to achieve proficiency in reading. The services for a pupil described in this subsection shall be similar to those provided to pupils in grade 3 under this section.

(10) The superintendent of a school district or chief administrator of a public school academy, or his or her designee, shall grant a good cause exemption under subsection (8) only through the following procedure:

(a) For a good cause exemption under subsection (8)(a) to (d), at the request of the pupil's parent or legal guardian or upon the teacher's own initiative, the pupil's grade 3 teacher submits to the superintendent or chief administrator, or his or her designee, a recommendation for a good cause exemption along with documentation that indicates that a good cause exemption under subsection (8)(a) to (d) applies to the pupil.

(b) For a pupil enrolled in a school operated by a school district, the superintendent or his or her designee shall review and discuss the recommendation with the pupil's grade 3 teacher and, if the pupil has an individualized education program, with the pupil's individualized education program team. After this discussion, the superintendent or his or her designee shall make a determination in writing of whether or not to grant the good cause exemption for the pupil. The decision by the superintendent or his or her designee is final.

(c) For a pupil enrolled in a public school academy, the chief administrator of the public school academy, or his or her designee, shall review and discuss the recommendation with the pupil's grade 3 teacher and, if the pupil has an individualized education program, with the pupil's individualized education program team. After this discussion, the chief administrator or his or her designee shall make a determination in writing of whether or not to grant the good cause exemption for the pupil. The decision by the chief administrator or his or her designee is final.

(d) For a pupil for whom a request has been received from the pupil's parent or legal guardian, as described in subsection (8)(e), if the request is received within 30 days after the notification by CEPI under subsection (5)(d), the superintendent of the school district or chief administrator of the public school academy, as applicable, or his or her designee, shall review the request and any supporting information and shall consider whether or not the good cause exemption is in the best interests of the pupil. After this consideration, he or she shall make a determination in writing of whether or not to grant the good cause exemption. This determination shall be made and communicated to the parent or legal guardian at least 30 days before the first day of school for the school year. The decision of the superintendent or chief administrator, or his or her designee, is final.

(e) The superintendent of the pupil's school district or chief administrator of the pupil's public school academy, or his or her designee, shall notify the pupil's parent or legal guardian of the determination and decision under subdivision (b), (c), or (d), as applicable.

(11) For a pupil or child described in subsection (6) or a pupil who has been granted a good cause exemption under subsection (8), the school district or public school academy shall provide intensive reading intervention, as described under subsection (7), for the pupil until he or she no longer has a reading deficiency.

(12) A school district or public school academy shall not require a pupil to repeat grade 3 more than once due to the operation of this section.

(13) Beginning June 4, 2019, if a school district or public school academy cannot furnish the number of teachers needed to satisfy 1 or more of the criteria set forth in this section for a school year, then by the August 15 before the beginning of that school year the school district or public school academy shall develop a staffing plan for providing services under this section. The school district or public school academy shall post the staffing plan on its website for the applicable school year. The staffing plan shall include at least all of the following:

(a) A description of the criteria that will be used to assign a pupil who has been identified as not proficient in English language arts to a teacher.

(b) The credentials or training held by teachers currently teaching at the school.

(c) How the school district or public school academy will meet the requirements under this section.

(14) This section does not require or state an intention to require a school district or public school academy to supplant state funds with federal funds for implementing or supporting the activities under this section and does not prohibit a school district or public school academy from continuing to use federal funds for any of the purposes or activities described in this section.

(15) For pupils identified as English language learners by the pupil's teacher or by the diagnostic reading assessment selected by the school district or public school academy under subsection (2)(a), if available staff resources allow, a school district or public school academy is encouraged to provide the following intervention services in addition to those required under subsection (3)(c):

(a) Instruction in the pupil's native language, with withdrawal of that instruction as appropriate as the pupil improves his or her English language skills. A school district or public school academy is encouraged to provide this support for at least pupils whose native language is Spanish, Chinese, Hindi, Korean, or Arabic.

(b) Opportunities for speech production.

(c) Common English language development strategies such as modeling, guided practice, and comprehensive input.

(d) Feedback for the pupil, including explanations in his or her native language.

(16) Beginning in 2020, not later than September 1 of each year, a school district or public school academy shall submit a retention report to the center for educational performance and information in the form and manner prescribed by the center. The retention report shall contain at least all of the following information for the most recent school year:

(a) The number of pupils retained in grade 3 due to the operation of this section.

(b) The number of pupils promoted to grade 4 due to a good cause exemption under subsection (8), disaggregated by each of the specific exemptions listed in that subsection.

(17) As used in this section:

(a) "Evidence-based" means based in research and with proven efficacy.

(b) "Individualized education program" means that term as described in R 340.1721e of the Michigan administrative code.

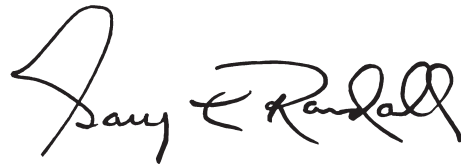
(c) "Kindergarten" includes a classroom for young 5-year-olds, commonly referred to as "young 5s" or "developmental kindergarten".

(d) "Reading deficiency" means scoring below grade level or being determined to be at risk of reading failure based on a screening assessment, diagnostic assessment, standardized summative assessment, or progress monitoring.

(e) "Reading leadership team" means a collaborative system led by a school building's principal or program director and consisting of a cross-section of faculty who are interested in working to improve literacy instruction across the curriculum.

(f) "Section 504 plan" means a plan under section 504 of title V of the rehabilitation act of 1973, 29 USC 794.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor