

As Reported by the Senate Education Committee

**130th General Assembly
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Sub. S. B. No. 21

Senator Lehner

Cosponsors: Senators Sawyer, Gardner

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A B I L L

To amend section 3313.608 of the Revised Code to 1
revise the requirements for reading teachers under 2
the Third-Grade Reading Guarantee and to declare 3
an emergency. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3313.608 of the Revised Code be 5
amended to read as follows: 6

Sec. 3313.608. (A)(1) Beginning with students who enter third 7
grade in the school year that starts July 1, 2009, and until June 8
30, 2013, unless the student is excused under division (C) of 9
section 3301.0711 of the Revised Code from taking the assessment 10
described in this section, for any student who attains a score in 11
the range designated under division (A)(3) of section 3301.0710 of 12
the Revised Code on the assessment prescribed under that section 13
to measure skill in English language arts expected at the end of 14
third grade or who does not attain at least the equivalent level 15
of achievement under that section as determined by the department 16
of education, each school district, in accordance with the policy 17
adopted under section 3313.609 of the Revised Code, shall do one 18
of the following: 19

(a) Promote the student to fourth grade if the student's principal and reading teacher agree that other evaluations of the student's skill in reading demonstrate that the student is academically prepared to be promoted to fourth grade;

(b) Promote the student to fourth grade but provide the student with intensive intervention services in fourth grade;

(c) Retain the student in third grade.

(2) Beginning with students who enter third grade in the 2013-2014 school year, unless the student is excused under division (C) of section 3301.0711 of the Revised Code from taking the assessment described in this section, no school district shall promote to fourth grade any student who attains a score in the range designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade or who does not attain at least the equivalent level of achievement under that section as determined by the department, unless one of the following applies:

(a) The student is a limited English proficient student who has been enrolled in United States schools for less than two full school years and has had less than two years of instruction in an English as a second language program.

(b) The student is a child with a disability entitled to special education and related services under Chapter 3323. of the Revised Code and the student's individualized education program exempts the student from retention under this division.

(c) The student demonstrates an acceptable level of performance on an alternative standardized reading assessment as determined by the department ~~of education.~~

(d) All of the following apply:

(i) The student is a child with a disability entitled to special education and related services under Chapter 3323. of the Revised Code.

(ii) The student has taken the third grade English language arts achievement assessment prescribed under section 3301.0710 of the Revised Code.

(iii) The student's individualized education program or plan under section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 794, as amended, shows that the student has received intensive remediation in reading for two school years but still demonstrates a deficiency in reading.

(iv) The student previously was retained in any of grades kindergarten to three.

(e)(i) The student received intensive remediation for reading for two school years but still demonstrates a deficiency in reading and was previously retained in any of grades kindergarten to three.

(ii) A student who is promoted under division (A)(2)(e)(i) of this section shall continue to receive intensive reading instruction in grade four. The instruction shall include an altered instructional day that includes specialized diagnostic information and specific research-based reading strategies for the student that have been successful in improving reading among low-performing readers.

(B)(1) Beginning in the 2012-2013 school year, to assist students in meeting the third grade guarantee established by this section, each school district board of education shall adopt policies and procedures with which it annually shall assess the reading skills of each student, except those students with significant cognitive disabilities or other disabilities as authorized by the department, enrolled in kindergarten to third

grade by the thirtieth day of September and shall identify 81
students who are reading below their grade level. Each district 82
shall use the diagnostic assessment to measure reading ability for 83
the appropriate grade level adopted under section 3301.079 of the 84
Revised Code, or a comparable tool approved by the department of 85
education, to identify such students. The policies and procedures 86
shall require the students' classroom teachers to be involved in 87
the assessment and the identification of students reading below 88
grade level. 89

(2) For each student identified by the diagnostic assessment 90
prescribed under this section as having reading skills below grade 91
level, the district shall do both of the following: 92

(a) Provide to the student's parent or guardian, in writing, 93
all of the following: 94

(i) Notification that the student has been identified as 95
having a substantial deficiency in reading; 96

(ii) A description of the current services that are provided 97
to the student; 98

(iii) A description of the proposed supplemental 99
instructional services and supports that will be provided to the 100
student that are designed to remediate the identified areas of 101
reading deficiency; 102

(iv) Notification that if the student attains a score in the 103
range designated under division (A)(3) of section 3301.0710 of the 104
Revised Code on the assessment prescribed under that section to 105
measure skill in English language arts expected at the end of 106
third grade, the student shall be retained unless the student is 107
exempt under division (A) of this section. The notification shall 108
specify that the assessment under section 3301.0710 of the Revised 109
Code is not the sole determinant of promotion and that additional 110
evaluations and assessments are available to the student to assist 111

parents and the district in knowing when a student is reading at 112
or above grade level and ready for promotion. 113

(b) Provide intensive reading instruction services and 114
regular diagnostic assessments to the student immediately 115
following identification of a reading deficiency until the 116
development of the reading improvement and monitoring plan 117
required by division (C) of this section. These intervention 118
services shall include research-based reading strategies that have 119
been shown to be successful in improving reading among 120
low-performing readers and instruction targeted at the student's 121
identified reading deficiencies. 122

(3) For each student retained under division (A) of this 123
section, the district shall do all of the following: 124

(a) Provide intense remediation services until the student is 125
able to read at grade level. The remediation services shall 126
include intensive interventions in reading that address the areas 127
of deficiencies identified under this section including, but not 128
limited to, not less than ninety minutes of reading instruction 129
per day, and may include any of the following: 130

(i) Small group instruction; 131

(ii) Reduced teacher-student ratios; 132

(iii) More frequent progress monitoring; 133

(iv) Tutoring or mentoring; 134

(v) Transition classes containing third and fourth grade 135
students; 136

(vi) Extended school day, week, or year; 137

(vii) Summer reading camps. 138

(b) Establish a policy for the mid-year promotion of a 139
student retained under division (A) of this section who 140
demonstrates that the student is reading at or above grade level; 141

(c) Provide each student with a teacher who satisfies one or 142
more of the applicable criteria set forth in division (H) of this 143
section. 144

The district shall offer the option for students to receive 145
applicable services from one or more providers other than the 146
district. Providers shall be screened and approved by the district 147
or the department of education. If the student participates in the 148
remediation services and demonstrates reading proficiency in 149
accordance with standards adopted by the department prior to the 150
start of fourth grade, the district shall promote the student to 151
that grade. 152

(4) For each student retained under division (A) of this 153
section who has demonstrated proficiency in a specific academic 154
ability field, each district shall provide instruction 155
commensurate with student achievement levels in that specific 156
academic ability field. 157

As used in this division, "specific academic ability field" 158
has the same meaning as in section 3324.01 of the Revised Code. 159

(C) For each student required to be provided intervention 160
services under this section, the district shall develop a reading 161
improvement and monitoring plan within sixty days after receiving 162
the student's results on the diagnostic assessment or comparable 163
tool administered under division (B)(1) of this section. The 164
district shall involve the student's parent or guardian and 165
classroom teacher in developing the plan. The plan shall include 166
all of the following: 167

(1) Identification of the student's specific reading 168
deficiencies; 169

(2) A description of the additional instructional services 170
and support that will be provided to the student to remediate the 171
identified reading deficiencies; 172

(3) Opportunities for the student's parent or guardian to be involved in the instructional services and support described in division (C)(2) of this section;

(4) A process for monitoring the extent to which the student receives the instructional services and support described in division (C)(2) of this section;

(5) A reading curriculum during regular school hours that does all of the following:

(a) Assists students to read at grade level;

(b) Provides scientifically based and reliable assessment;

(c) Provides initial and ongoing analysis of each student's reading progress.

(6) A statement that if the student attains a score in the range designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected by the end of third grade or if the student does not attain at least the equivalent level of achievement under that section as determined by the department, the student may be retained in third grade.

Each student with a reading improvement and monitoring plan under this division who enters third grade after July 1, 2013, shall be assigned to a teacher who satisfies one or more of the applicable criteria set forth in division (H) of this section.

The district shall report any information requested by the department about the reading improvement monitoring plans developed under this division in the manner required by the department.

(D) Each school district shall report annually to the department on its implementation and compliance with this section using guidelines prescribed by the superintendent of public

instruction. The superintendent of public instruction annually 203
shall report to the governor and general assembly the number and 204
percentage of students in grades kindergarten through four reading 205
below grade level based on the diagnostic assessments administered 206
under division (B) of this section and the achievement assessments 207
administered under divisions (A)(1)(a) and (b) of section 208
3301.0710 of the Revised Code in English language arts, aggregated 209
by school district and building; the types of intervention 210
services provided to students; and, if available, an evaluation of 211
the efficacy of the intervention services provided. 212

(E) Any summer remediation services funded in whole or in 213
part by the state and offered by school districts to students 214
under this section shall meet the following conditions: 215

(1) The remediation methods are based on reliable educational 216
research. 217

(2) The school districts conduct assessment before and after 218
students participate in the program to facilitate monitoring 219
results of the remediation services. 220

(3) The parents of participating students are involved in 221
programming decisions. 222

(F) Any intervention or remediation services required by this 223
section shall include intensive, explicit, and systematic 224
instruction. 225

(G) This section does not create a new cause of action or a 226
substantive legal right for any person. 227

(H)(1) ~~Prior to July 1, 2014, each~~ Each student described in 228
division (B)(3) or (C) of this section who enters third grade for 229
the first time on or after July 1, 2013, shall be assigned a 230
teacher ~~who has been actively engaged in the reading instruction~~ 231
~~of students for the previous three years and~~ who satisfies one or 232
more of the following criteria: 233

(a) The teacher holds a reading endorsement on the teacher's license and has attained a passing score on the corresponding assessment for that endorsement.

(b) The teacher has completed a master's degree program with a major in reading.

(c) The teacher has demonstrated evidence of ~~a credential~~ earned completion of a program from a list of scientifically research-based reading instruction programs approved by the department.

(d) The teacher ~~was rated "above value added," which means most is an~~ effective in reading instructor, as determined by criteria established by the department, ~~for the last two school years.~~

~~(2) Effective July 1, 2014, each student described in divisions (B)(3) and (C) of this section shall be assigned a teacher who has been actively engaged in the reading instruction of students for the previous three years and who satisfies one or more of the following criteria:~~

~~(a) The teacher holds a reading endorsement on the teacher's license and has attained a passing score on the corresponding assessment for that endorsement.~~

~~(b) The teacher has completed a master's degree program with a major in reading.~~

~~(c) The teacher was rated above "above value added," which means most effective for the last two school years.~~

~~(d)~~(e) The teacher has earned a passing score on a rigorous test of principles of scientifically research-based reading instruction. ~~This test shall be selected through a competitive bidding process and shall be as~~ approved by the state board.

~~(3)(2) If, on the effective date of this amendment, a school~~

district or community school cannot furnish the number of teachers 264
needed who satisfy one or more of the criteria set forth in 265
division (H)(1) of this section for the 2013-2014 school year, the 266
school district or community school shall develop and submit a 267
plan by June 30, 2013, in a manner determined by the department 268
indicating the criteria that will be used to determine those 269
teachers in the school district or community school who will teach 270
during that school year and how the school district or community 271
school will meet the requirements set forth in ~~division (H)(2)~~ 272
divisions (B)(3)(c) and (C)(6) of this section in subsequent 273
school years. 274

A school district or community school may include in this 275
plan the option to contract with another school district or 276
private provider that has been screened and approved by the 277
department to provide intervention services. ~~If the school~~ 278
~~district or community school's plan is not approved by the~~ 279
~~department by August 15, 2013, the school district or community~~ 280
~~school shall use a private contractor from a list approved by the~~ 281
~~department or contract with another district to provide~~ 282
~~intervention services for these students.~~ 283

Section 2. That existing section 3313.608 of the Revised Code 284
is hereby repealed. 285

Section 3. Section 3313.608 of the Revised Code, as amended 286
by this act, shall take effect on March 22, 2013. 287

Section 4. This act is hereby declared to be an emergency 288
measure necessary for the immediate preservation of the public 289
peace, health, and safety. The reason for such necessity is to 290
facilitate timely implementation of the act's revisions regarding 291
reading intervention and to coordinate those revisions with other 292
recently enacted amendments regarding reading intervention. 293

Therefore, this act shall go into immediate effect.

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