

## CHAPTER 275

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**EDUCATION - PUBLIC SCHOOLS**


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**HOUSE BILL 18-1393**

BY REPRESENTATIVE(S) Hamner and Exum, Becker K., Bridges, Buckner, Coleman, Esgar, Garnett, Gray, Hansen, Herod, Kraft-Tharp, Lee, Lontine, McLachlan, Melton, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Salazar, Valdez, Winter, Young, Duran;  
also SENATOR(S) Gardner, Crowder, Donovan, Fields, Jones, Kefalas, Kerr, Lambert, Martinez Humenik, Moreno, Tate, Todd, Williams A., Zenzinger.

**AN ACT**

**CONCERNING MEASURES TO SUPPORT EFFECTIVE IMPLEMENTATION OF THE "COLORADO READING TO ENSURE ACADEMIC DEVELOPMENT ACT" FOR ALL STUDENTS WHO RECEIVE SERVICES PURSUANT TO READ PLANS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 22-7-1209, **amend** (1) introductory portion, (1)(a), (1)(b), (1)(d), (2)(a)(I), (2)(a)(II)(A), (2)(b) introductory portion, (2)(b)(III), (2)(d), (3) introductory portion, (3)(a), and (3)(c); and **add** (2)(b)(II.5) and (3.5) as follows:

**22-7-1209. State board - rules - department - duties.** (1) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, ~~C.R.S.~~, as necessary to implement the provisions of this part 12, which rules ~~shall~~ **MUST** include, but need not be limited to:

(a) The minimum reading competency skill levels in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension for kindergarten and first, second, and third grades. The state board shall base the minimum skill levels for second and third grades primarily on scores attained on the assessments approved by the state board pursuant to ~~paragraph (b) of this subsection~~ ~~(1)~~ **SUBSECTION (1)(b) OF THIS SECTION.** The state board shall describe the minimum skill levels for students as they complete kindergarten and first grade using matrices of appropriate indicators, which indicators may include measures of students' social and emotional development, physical development, language and comprehension development, and cognition

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

and general knowledge. The state board shall adopt the rules described in this ~~paragraph (a)~~ SUBSECTION (1)(a) by March 31, 2013. THE STATE BOARD SHALL REVIEW THE MINIMUM READING COMPETENCY SKILL LEVELS ON OR BEFORE JULY 1, 2019, AND EVERY FOUR YEARS THEREAFTER AND UPDATE THEM AS NECESSARY.

(b) The list of approved EVIDENCE-BASED OR SCIENTIFICALLY BASED reading assessments, based on the recommendations of the department, that local education providers may use to meet the requirements specified in section 22-7-1205. The state board shall adopt the list of approved reading assessments by March 31, 2013. THE STATE BOARD SHALL REVIEW THE LIST OF APPROVED READING ASSESSMENTS, ON OR BEFORE JULY 1, 2019, AND EVERY FOUR YEARS THEREAFTER AND UPDATE THE LIST AS NECESSARY.

(d) Rules to provide notice and an appeals process, which may be a process for written appeals, for publishers AND LOCAL EDUCATION PROVIDERS who submit materials for inclusion on the list of approved assessments and the advisory lists of instructional programming, and professional development programs. ON APPEAL, THE DEPARTMENT AND THE STATE BOARD MUST, AT A MINIMUM, CONSIDER ANY FINDINGS THAT AN APPELLANT MAY SUBMIT FROM A NATIONALLY RECOGNIZED, EVIDENCE-BASED INFORMATION CLEARINGHOUSE THAT DEMONSTRATE THAT A PROGRAM HAS ACHIEVED POSITIVE RESULTS FOR A SUBSTANTIALLY SIMILAR POPULATION OF STUDENTS WHO ARE IDENTIFIED AS HAVING SIGNIFICANT READING DEFICIENCIES.

(2) (a) (I) Using the procedure developed pursuant to subsection (3) of this section, the department shall review and recommend to the state board reading assessments, including interim, summative, and diagnostic assessments, for kindergarten and first, second, and third grades that, at a minimum, meet the criteria specified in ~~subparagraph (II) of this paragraph (a)~~ SUBSECTION (1)(a)(II) OF THIS SECTION. Following action by the state board to approve reading assessments pursuant to ~~paragraph (b) of subsection (1)~~ SUBSECTION (1)(b) of this section, the department shall create a list of the approved reading assessments for kindergarten and first, second, and third grades for use by local education providers. THE DEPARTMENT SHALL UPDATE THE LIST OF APPROVED READING ASSESSMENTS, ON OR BEFORE JULY 1, 2019, AND EVERY FOUR YEARS THEREAFTER AS NECESSARY. THE DEPARTMENT SHALL WORK WITH THE APPROVED ASSESSMENT PUBLISHERS TO BETTER ALIGN, TO THE EXTENT PRACTICABLE, THE MINIMUM READING COMPETENCY LEVELS FOR THIRD GRADE, WHICH ARE BASED ON THE SCORES ATTAINED ON THE APPROVED ASSESSMENTS, WITH THE PRESCHOOL THROUGH ELEMENTARY AND SECONDARY EDUCATION STANDARDS FOR THIRD-GRADE READING ADOPTED PURSUANT TO SECTION 22-7-1005.

(II) The department shall ensure that:

(A) Each of the recommended reading assessments is EVIDENCE-BASED OR scientifically based ~~except that the department may recommend and the state board may, until July 1, 2016, include on the approved list of assessments any reading assessment approved by the state board prior to July 1, 2012, regardless of whether it is scientifically based~~ AND IS ALIGNED WITH THE PRESCHOOL THROUGH ELEMENTARY AND SECONDARY EDUCATION STANDARDS FOR READING ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 22-7-1005;

(b) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of ~~scientifically based or evidence-based~~ OR SCIENTIFICALLY BASED instructional programming in reading that local education providers are encouraged to use, WHICH PROGRAMMING IS ALIGNED WITH THE RECOMMENDED READING ASSESSMENTS, INCLUDING THE ASSESSMENT REQUIRED IN SUBSECTION (2)(a)(II)(D) OF THIS SECTION. The advisory list ~~shall~~ MAY include only programming that, at a minimum:

(II.5) IS EVIDENCE-BASED OR SCIENTIFICALLY BASED AND IS ALIGNED WITH THE PRESCHOOL THROUGH ELEMENTARY AND SECONDARY EDUCATION STANDARDS FOR READING ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 22-7-1005;

(III) Includes EVIDENCE-BASED OR scientifically based and reliable assessments;

(d) The department shall make the approved list of assessments ~~available on the department website on or before April 1, 2013;~~ and the advisory lists of instructional programming and professional development programs, AND SUBSEQUENT UPDATED LISTS, available on the department website. ~~on or before July 1, 2013.~~ The department is not required to provide copies of any reading assessments, instructional programming, or professional development programs that are included on the lists. If the department does provide copies of any materials that it acquires by purchase of a license for use by local education providers, ~~said~~ THE materials may be used only in accordance with the license.

(3) The department shall develop and implement a procedure for identifying the reading assessments it recommends to the state board for the approved list of reading assessments described in ~~paragraph (a) of subsection (2)~~ SUBSECTION (2)(a) of this section and for creating the advisory lists of instructional programming, and professional development programs described in ~~paragraphs (b) and (c) of subsection (2)~~ SUBSECTIONS (2)(b), (2)(c), AND (2)(d) of this section. At a minimum, the procedure ~~shall~~ MUST include:

(a) ~~Periodically~~ Soliciting through public notice, accepting, and promptly reviewing assessments, instructional programming, and professional development programs from each local education provider and from publishers;

(c) ~~Periodically~~ Reviewing the list of approved assessments AT LEAST EVERY FOUR YEARS and the advisory lists AT LEAST EVERY TWO YEARS to update the lists and add additional items, when appropriate. ~~and~~ IN REVIEWING AND UPDATING THE LIST OF APPROVED ASSESSMENTS AND THE ADVISORY LISTS, THE DEPARTMENT SHALL, AT A MINIMUM, COMPLY WITH THE PROCEDURES DESCRIBED IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION.

(3.5) IN DESIGNING AND PERIODICALLY UPDATING THE PROCEDURE AND THE RUBRIC OF CRITERIA FOR REVIEWING ASSESSMENTS AND MATERIALS AND CREATING THE ADVISORY LISTS, THE DEPARTMENT SHALL CONSULT WITH LOCAL EDUCATION PROVIDERS, INCLUDING THOSE WITH HIGH ENROLLMENTS OF STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS AS DEFINED IN SECTION 22-24-103, AND WITH THIRD-PARTY EXPERTS AS NECESSARY. THE DEPARTMENT SHALL ENSURE THAT THE PROCEDURE FOR REVIEWING THE ASSESSMENTS AND MATERIALS AND CREATING THE ADVISORY LISTS IS INCLUSIVE AND TRANSPARENT.

**SECTION 2.** In Colorado Revised Statutes, 22-7-1210, **amend** (4) introductory portion, (4)(b), (5)(b), and (5)(c); and **add** (6) as follows:

**22-7-1210. Early literacy fund - created.** (4) The ~~moneys~~ MONEY in the fund ~~are~~ IS subject to annual appropriation by the general assembly to the department. The department shall annually expend the ~~moneys~~ MONEY in the fund as follows:

(b) Beginning in the 2013-14 budget year and for budget years thereafter:

(I) The department shall use one million dollars, AS PROVIDED IN THE ANNUAL GENERAL APPROPRIATIONS BILL, to provide literacy support in the form of professional development delivered by experts in literacy on a regional basis to local education providers to assist them in implementing the requirements of this part 12;

(II) The department shall use AT LEAST four million dollars, AS PROVIDED IN THE ANNUAL GENERAL APPROPRIATIONS BILL, for grants awarded through the early literacy grant program created in section 22-7-1211;

(III) The department may use up to one percent of the ~~moneys~~ MONEY annually appropriated from the fund, AS PROVIDED IN THE ANNUAL GENERAL APPROPRIATIONS BILL, to offset the costs of administering this part 12; and

(IV) The department shall allocate the remaining ~~moneys~~ MONEY annually credited to the fund, AS PROVIDED IN THE ANNUAL GENERAL APPROPRIATIONS BILL, to the local education providers as per-pupil intervention ~~moneys~~ MONEY calculated pursuant to subsection (5) of this section.

(5)(b) A local education provider may use the per-pupil intervention money only as follows:

(I) To provide full-day kindergarten services to students enrolled in one or more of the public schools operated by the local education provider;

(II) To operate a summer school literacy program as described in section 22-7-1212;

(III) To purchase tutoring services in reading for students ~~with significant reading deficiencies~~ WHO ARE RECEIVING INSTRUCTIONAL SERVICES PURSUANT TO READ PLANS;

(III.5) For a local education provider that is a small rural school district as defined in section 22-7-1211, to purchase from a board of cooperative services the services of a literacy specialist to provide educator professional development in literacy and other support in implementing the requirements of this part 12; or

(IV) To provide other targeted, scientifically based or evidence-based intervention services to students ~~with significant reading deficiencies~~ WHO ARE RECEIVING INSTRUCTIONAL SERVICES PURSUANT TO READ PLANS, which services are approved by the department;

(V) FOR A LOCAL EDUCATION PROVIDER THAT IS A SMALL RURAL SCHOOL

DISTRICT AS DEFINED IN SECTION 22-7-1211 (4)(a), TO PURCHASE FROM A BOARD OF COOPERATIVE SERVICES THE SERVICES OF A LITERACY SPECIALIST TO PROVIDE EDUCATOR PROFESSIONAL DEVELOPMENT IN LITERACY AND OTHER SUPPORT IN IMPLEMENTING THE REQUIREMENTS OF THIS PART 12; OR

(VI) TO PROVIDE PROFESSIONAL DEVELOPMENT PROGRAMMING TO SUPPORT EDUCATORS IN TEACHING LITERACY; EXCEPT THAT A LOCAL EDUCATION PROVIDER MAY NOT USE MORE THAN FIFTEEN PERCENT OF THE PER-PUPIL INTERVENTION MONEY RECEIVED IN A BUDGET YEAR FOR THIS PURPOSE. PROFESSIONAL DEVELOPMENT PROGRAMMING AUTHORIZED IN THIS SUBSECTION (5)(b)(VI) MAY INCLUDE LITERACY COACHES WHO PROVIDE JOB-EMBEDDED, ONGOING PROFESSIONAL DEVELOPMENT TO SUPPORT KINDERGARTEN-THROUGH-THIRD-GRADE TEACHER COMPETENCE IN THE EVIDENCE-BASED OR SCIENTIFICALLY BASED TEACHING OF PHONEMIC AWARENESS; PHONICS; VOCABULARY DEVELOPMENT; READING FLUENCY, INCLUDING ORAL SKILLS; AND READING COMPREHENSION.

(c) Each budget year, prior to receiving per-pupil intervention ~~moneys~~ MONEY, each local education provider shall submit to the department, for informational purposes, an explanation of the manner in which it will use the ~~moneys~~ MONEY in the coming budget year and the number of students for which the local education provider may receive per-pupil intervention ~~moneys~~ MONEY. If the local education provider intends to provide a service described in ~~subparagraph (IV) of paragraph (b) of this subsection (5)~~ SUBSECTION (5)(b)(IV) OF THIS SECTION, the department shall review the service and provide the per-pupil intervention ~~moneys~~ MONEY for the service only if the service meets the requirements specified in ~~said subparagraph (IV)~~ SUBSECTION (5)(b)(IV) OF THIS SECTION. UPON THE REQUEST OF THE DEPARTMENT, A LOCAL EDUCATION PROVIDER SHALL PROVIDE SPECIFIC EXPENDITURE INFORMATION TO THE DEPARTMENT THAT SPECIFIES THE MANNER IN WHICH THE LOCAL EDUCATION PROVIDER SPENT THE PER-PUPIL INTERVENTION MONEY IT RECEIVED IN A BUDGET YEAR.

(6) EACH LOCAL EDUCATION PROVIDER SHALL ENSURE THAT THE PER-PUPIL INTERVENTION MONEY IT RECEIVES IN EACH BUDGET YEAR IS USED TO IMPROVE THE READING COMPETENCY OF STUDENTS ENROLLED IN KINDERGARTEN AND GRADES ONE THROUGH THREE AND DOES NOT REPLACE OTHER MONEY THAT WOULD OTHERWISE BE USED FOR THIS PURPOSE.

**SECTION 3.** In Colorado Revised Statutes, 22-7-1211, **amend** (1), (3), and (4) as follows:

**22-7-1211. Early literacy grant program - created - definitions.** (1) There is ~~hereby~~ created in the department the early literacy grant program to provide money to local education providers to implement literacy support and intervention instruction programs, including but not limited to related professional development programs, to assist students in kindergarten and first, second, and third grades to achieve reading competency. The state board by rule shall establish the application timelines and the information to be included in each grant application. IN ADOPTING RULES, THE STATE BOARD SHALL ENSURE THAT A LOCAL EDUCATION PROVIDER THAT IS A RURAL SCHOOL DISTRICT OR A SMALL RURAL SCHOOL DISTRICT, OR A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT IS LOCATED WITHIN THE BOUNDARIES OF A RURAL SCHOOL DISTRICT OR SMALL RURAL SCHOOL DISTRICT,

MAY SUBMIT A SIMPLIFIED GRANT APPLICATION. A local education provider may apply individually or as part of a group of local education providers. A rural school district that is a member of a board of cooperative services may seek assistance in writing the grant application from the board of cooperative services. A board of cooperative services may apply for a grant to provide instructional support in literacy for small rural school districts that are members of the board of cooperative services.

(3) Based on the recommendations of the department, the state board shall award grants to applying local education providers or groups of local education providers, which grants are paid from ~~moneys~~ MONEY in the early literacy fund created in section 22-7-1210. OF THE MONEY ALLOCATED FOR THE EARLY LITERACY GRANT PROGRAM PURSUANT TO SECTION 22-7-1210 (4)(b)(II), THE STATE BOARD SHALL ANNUALLY:

(a) AWARD UP TO TEN PERCENT TO APPLICANTS THAT HAVE PREVIOUSLY RECEIVED A GRANT TO FUND SCHOOL-WIDE LITERACY INITIATIVES AND THAT ARE REQUESTING AN ADDITIONAL YEAR OF FUNDING TO ASSIST THE LOCAL EDUCATION PROVIDER IN SUSTAINABILITY PLANNING FOR THE INITIATIVES, INCLUDING THE CONTINUING USE OF LITERACY COACHES;

(b) AWARD UP TO FIFTEEN PERCENT TO FUND PROFESSIONAL DEVELOPMENT INITIATIVES FOR LOCAL EDUCATION PROVIDERS THAT ARE ALREADY IMPLEMENTING EVIDENCE-BASED OR SCIENTIFICALLY BASED UNIVERSAL INSTRUCTION AND INTERVENTIONS; AND

(c) AWARD THE REMAINDER TO APPLICANTS THAT REQUEST FUNDING FOR OTHER EVIDENCE-BASED OR SCIENTIFICALLY BASED LITERACY SUPPORT AND INTERVENTION INSTRUCTION PROGRAMS TO ASSIST STUDENTS IN KINDERGARTEN AND FIRST, SECOND, AND THIRD GRADES TO ACHIEVE READING COMPETENCY.

(4) For purposes of this section:

(a) "RURAL SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT IN COLORADO THAT THE DEPARTMENT OF EDUCATION DETERMINES IS RURAL, BASED ON THE GEOGRAPHIC SIZE OF THE SCHOOL DISTRICT AND THE DISTANCE OF THE SCHOOL DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA.

(b) "Small rural school district" means a RURAL school district ~~in Colorado that the department of education determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area,~~ and that enrolls fewer than one thousand two hundred students in kindergarten through twelfth grade.

**SECTION 4.** In Colorado Revised Statutes, **amend** 22-7-1212 as follows:

**22-7-1212. Summer school literacy programs.** (1) A local education provider may choose to use per-pupil intervention ~~moneys~~ MONEY to provide an evidence-based OR SCIENTIFICALLY BASED summer school literacy program to assist students who are enrolled in kindergarten or first, second, or third grade and who have significant reading deficiencies to achieve reading competency. A local

education provider may allow students who are below grade-level expectations in reading, but who do not have significant reading deficiencies, to participate in a summer school literacy program operated pursuant to this section if capacity remains after serving all of the students with significant reading deficiencies who choose to participate.

(2) A local education provider that intends to use per-pupil intervention ~~moneys~~ MONEY to operate a summer school literacy program shall annually provide to the department information concerning the summer school literacy program the local education provider intends to operate, WHICH DEMONSTRATES THAT THE SUMMER SCHOOL LITERACY PROGRAM MEETS THE REQUIREMENTS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(3) The local education provider shall ensure that the program:

(a) Serves only students enrolled in kindergarten or first, second, or third grade who have significant reading deficiencies, except as specifically allowed in subsection (1) of this section for students who are below grade-level expectations in reading; and

(b) Uses scientifically based or evidence-based instructional programming in reading that:

(I) Has been proven to accelerate student progress in attaining reading competency;

(II) Provides explicit and systematic skill development in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(III) Includes scientifically based and reliable assessments; and

(IV) Provides initial and ongoing analysis of the student's progress in attaining reading competency.

**SECTION 5.** In Colorado Revised Statutes, **add** 22-7-1214 as follows:

**22-7-1214. READ plan evaluation working group - created - report - repeal.**

(1) NO LATER THAN SEPTEMBER 1, 2018, THE COMMISSIONER OF EDUCATION SHALL CONVENE A WORKING GROUP TO REVIEW THE CREATION AND USE OF READ PLANS, INCLUDING THE EXTENT OF PARENT INVOLVEMENT, BY LOCAL EDUCATION PROVIDERS AND TO RECOMMEND ANY NECESSARY REGULATORY OR IMPLEMENTATION CHANGES, INCLUDING RECOMMENDATIONS CONCERNING THE DEPARTMENT'S LEVEL OF TECHNICAL ASSISTANCE AND COMMUNICATION TO LOCAL EDUCATION PROVIDERS, TO CONTINUE AND IMPROVE THE USE AND EFFECTIVENESS OF INDIVIDUAL READ PLANS AND TO REDUCE UNNECESSARY DUPLICATION IN PROCESSES. BECAUSE INDIVIDUAL READ PLANS ARE CRITICAL TO EFFECTIVELY IMPLEMENTING THIS PART 12 AND ACHIEVING THE GOALS SPECIFIED IN SECTION 22-7-1202, THE WORKING GROUP SHALL NEITHER CONSIDER NOR RECOMMEND REPEALING THE REQUIREMENT FOR INDIVIDUAL READ PLANS. THE COMMISSIONER SHALL ENSURE THAT THE MEMBERSHIP OF THE WORKING GROUP, AT A MINIMUM,

REPRESENTS THE INTERESTS AND PERSPECTIVES OF LOCAL EDUCATION PROVIDERS, EDUCATORS, PARENTS, AND STUDENTS THROUGHOUT THE STATE. TO THE EXTENT PROFESSIONALS WITH EXPERTISE IN EVIDENCE-BASED AND SCIENTIFICALLY BASED LITERACY PRACTICES AND EXPERTS IN BILINGUAL LITERACY ARE AVAILABLE TO ASSIST THE WORKING GROUP WITHOUT COMPENSATION, THE COMMISSIONER MAY INCLUDE THE EXPERTS IN THE WORKING GROUP.

(2) NO LATER THAN FEBRUARY 1, 2020, THE COMMISSIONER SHALL SUBMIT TO THE STATE BOARD AND THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT OF THE WORKING GROUP'S FINDINGS AND RECOMMENDATIONS.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020.

**SECTION 6. Appropriation.** For the 2018-19 state fiscal year, \$1,000,000 is appropriated to the department of education. This appropriation is from the marijuana tax cash fund created in section 39-28.8-501 (1), C.R.S. To implement this act, the department may use this appropriation for the early literacy competitive grant program.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 29, 2018