

1 SB269
2 205776-2
3 By Senator Whatley
4 RFD: Education Policy
5 First Read: 05-MAR-20

SYNOPSIS: Under existing law, the Alabama Literacy Act, commencing with the 2021-2022 school year, third grade students who fail to demonstrate sufficient reading skills will not be promoted to fourth grade, unless a good cause exemption is granted.

This bill would delete the provisions against promoting students who fail to demonstrate sufficient reading skills to the fourth grade and would delete all references to good cause exemptions.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Literacy Act; to amend Section 5 of Act 2019-523, now appearing as Section 16-6G-5, Code of Alabama 1975, to delete the requirement that third grade students who fail to demonstrate sufficient reading

1 skills not be promoted to fourth grade; and to delete
2 references to good cause exemptions to nonpromotion.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 5 of Act 2019-523, now appearing
5 as Section 16-6G-5 of the Code of Alabama 1975, is amended to
6 read as follows:

7 "§16-6G-5.

8 "(a) To ensure that public school students are able
9 to read at or above grade level by the end of third grade,
10 each local education agency shall offer a comprehensive core
11 reading program to all students based on the science of
12 reading which develops foundational reading skills. In
13 addition, no school district may use any curriculum for public
14 K-3 students that does not have instructional time included.

15 "(b) Based on the results of the reading assessment
16 in Section 16-6G-3, each K-3 student who exhibits a reading
17 deficiency, or the characteristics of dyslexia, shall be
18 provided an appropriate reading intervention program to
19 address his or her specific deficiencies. Additionally,
20 students shall be evaluated after every grading period and, if
21 a student is determined to have a reading deficiency, the
22 school shall provide the student with additional tutorial
23 support. The State Superintendent of Education shall provide a
24 list of vetted and approved comprehensive reading and
25 intervention programs with the advice of the task force
26 established under subsection (a) of Section 16-6G-3. The
27 intervention program shall be provided in addition to the

1 comprehensive core reading instruction that is provided to all
2 students in the general education classroom. Dyslexia specific
3 intervention, as defined by rule of the State Board of
4 Education, shall be provided to students who have the
5 characteristics of dyslexia and all struggling readers. The
6 reading intervention program shall do all of the following:

7 "(1) Provide explicit, direct instruction that is
8 systematic, sequential, and cumulative in language
9 development, phonological awareness, phonics, fluency,
10 vocabulary, and comprehension, as applicable.

11 "(2) Provide daily targeted small group reading
12 interventions based on student need in phonological awareness,
13 phonics including decoding and encoding, sight words,
14 vocabulary, or comprehension.

15 "(3) Be implemented during regular school hours.

16 "(c) The parent or legal guardian of any K-3 student
17 who exhibits a consistent deficiency in letter naming fluency,
18 letter sound fluency, nonsense word reading, sight words, oral
19 reading accuracy, vocabulary, or comprehension at any time
20 during the school year shall be notified in writing no later
21 than 15 school days after the identification. The written
22 notification shall include all of the following:

23 "(1) A statement that the student has been
24 identified as having a deficiency in reading or exhibits the
25 characteristics of dyslexia, and that a reading improvement
26 plan shall be developed by the teacher, principal, other
27 pertinent school personnel, and the parent or legal guardian.

1 "(2) A description of the current services that are
2 provided to the student.

3 "(3) A description of the proposed evidence-based
4 reading interventions and supplemental instructional services
5 and supports that shall be proposed for discussion while
6 establishing the student's reading improvement plan as
7 provided in subsection (d).

8 "(4) Notification that the parent or legal guardian
9 shall be informed in writing at least monthly of the progress
10 of the student towards grade level reading.

11 "(5) Strategies and resources for the parent or
12 legal guardian to use at home to help the student succeed in
13 reading.

14 ~~"(6) A statement that if the reading deficiency of
15 the student is not addressed by the end of third grade, the
16 student will not be promoted to fourth grade unless a good
17 cause exemption is satisfied.~~

18 ~~"(7) A statement that while the statewide reading
19 assessment is the initial determinant for promotion, the
20 assessment is not the sole determiner at the end of third
21 grade. Additionally, students shall be provided with a
22 test-based student portfolio option and an alternative reading
23 assessment option to demonstrate sufficient reading skills for
24 promotion to fourth grade.~~

25 "(d) Any K-3 student who exhibits a reading
26 deficiency at any time, as provided in subsection (b), shall

1 receive an individual reading improvement plan no later than
2 30 days after the identification of the reading deficiency.

3 "(1) The reading improvement plan shall be created
4 by the teacher, principal, other pertinent school personnel,
5 and the parent or legal guardian of the student, and shall
6 describe the evidence-based reading intervention services,
7 including dyslexia specific intervention services, that the
8 student shall receive to improve the reading deficit.

9 "(2) Each identified student shall receive intensive
10 reading intervention until the student no longer has a
11 deficiency in reading, as determined by a State Board of
12 Education approved reading assessment.

13 "(3) Funds allocated to procuring curricula for
14 student interventions pursuant to subdivision (5) of
15 subsection (a) of Section 16-6G-4 shall be divided, based on a
16 per pupil allocation determined by the number of students of
17 each local education agency who are not proficient on a state
18 approved reading assessment during the prior academic year,
19 and distributed by the State Superintendent of Education.

20 "(e) Each local education agency shall provide
21 summer reading camps to all K-3 students identified with a
22 reading deficiency as described in subsection (b).

23 "(1) Summer reading camps shall be staffed with
24 highly effective teachers of reading as demonstrated by
25 student reading performance data, completion of multisensory
26 structured language education, and teacher performance
27 evaluations.

1 "(2) The highly effective teacher of reading shall
2 provide direct, explicit, and systematic reading intervention
3 services and supports to improve any identified area of
4 reading deficiency.

5 "(3) Summer reading camps, at a minimum, shall
6 include 70 hours of time in scientifically based reading
7 instruction and intervention.

8 "(4) A State Board of Education approved reading
9 assessment system shall be administered at the beginning and
10 end of the summer reading camp to measure student progress.

11 "(5) Summer reading camps may be held in conjunction
12 with existing summer programs in the school district or in
13 partnership with community-based summer programs, designated
14 as effective by the State Superintendent of Education and the
15 task force established under subsection (a) of Section
16 16-6G-3.

17 "(f) The Alabama Summer Achievement Program is
18 established and shall be available to all K-3 students in
19 public elementary schools that are among the lowest performing
20 five percent of elementary schools.

21 "(1) The program shall be administered and funded by
22 the allocation provided in subdivision (2) of subsection (a)
23 of Section 16-6G-4.

24 "(2) Funds allocated to the program in excess of the
25 amount needed to fully fund summer programs in public
26 elementary schools that are among the lowest five percent
27 performing schools shall be divided, based on a per pupil

1 allocation, and distributed by the State Superintendent of
2 Education, to support high quality summer camps at elementary
3 schools that are not among the lowest five percent performing
4 elementary schools. The State Superintendent of Education
5 shall award the funds to each local education agency based on
6 the number of students who scored deficient, as determined by
7 the task force established under subsection (a) of Section
8 16-6G-3, on a state-approved reading assessment used to
9 determine reading proficiency during the administration of the
10 assessment during the preceding academic year.

11 "(3) The State Superintendent of Education shall
12 provide guidelines for the administration of the Alabama
13 Summer Achievement Program, and shall oversee all of the
14 following:

15 "a. The administration of the Alabama Summer
16 Achievement Program in the lowest five percent performing
17 elementary schools.

18 "b. The response to instruction process in the
19 lowest five percent performing elementary schools.

20 "c. The Alabama Reading Initiative regional literacy
21 specialists and local reading specialists.

22 "d. All other aspects of implementation of this
23 chapter including, but not limited to, collaboration among
24 State Department of Education staff and the task force
25 established under subsection (a) of Section 16-6G-3 to improve
26 the reading proficiency of public K-3 students and

1 implementation of rules adopted by the State Board of
2 Education.

3 "e. The implementation of rules adopted by the State
4 Board of Education pertaining to dyslexia.

5 "f. Collaboration with the Alabama Reading
6 Initiative state staff and the Alabama Department of Early
7 Childhood Education for appropriate professional learning
8 approved by the State Department of Education.

9 "g. The development of guidelines for identifying
10 the characteristics of dyslexia.

11 "(g) Any incoming third grade student identified
12 with a reading deficiency shall be provided more intensified
13 reading interventions to improve his or her specific reading
14 deficiency. Reading intervention services shall include
15 effective instructional strategies to accelerate student
16 progress. Each local education agency shall conduct a review
17 of student reading improvement plans for all incoming third
18 grade students identified with a reading deficiency. The
19 review shall address additional supports and services, as
20 described in this section, necessary to improve any identified
21 area of reading deficiency. The local education agency shall
22 provide all of the following services for third grade students
23 identified with a reading deficiency, and those services may
24 be funded with funds received through the allocation provided
25 in subdivision (2) of subsection (a) of Section 16-6G-4:

1 "(1) An effective or highly effective teacher of
2 reading as demonstrated by student reading performance data
3 and teacher performance evaluations.

4 "(2) Reading intervention services and supports to
5 improve any identified area of reading deficiency including,
6 but not limited to, all of the following:

7 "a. Additional instructional time devoted to
8 scientifically based and evidence based reading instruction
9 and intervention.

10 "b. The use of evidence based reading strategies or
11 programs, or both, that have been vetted and approved by the
12 State Superintendent of Education and the task force
13 established under subsection (a) of Section 16-6G-3, that have
14 demonstrated proven results in accelerating student reading
15 achievement within the same school year.

16 "c. Daily targeted small group reading intervention
17 based on student need.

18 "d. Explicit and systematic instruction with more
19 detailed explanations, more extensive opportunities for guided
20 practice, and more opportunities for error correction and
21 feedback.

22 "e. Frequent monitoring of the progress of the
23 reading skills of each student throughout the school year and
24 adjusting instruction according to student need.

25 "(3) Before school or after school, or both,
26 supplemental evidence-based reading intervention delivered by
27 a teacher or tutor with specialized reading training.

1 "(4) A read at home plan, including participation in
2 parent training workshops or regular parent guided home
3 reading activities.

4 ~~"(h) Commencing with the 2021-2022 school year,~~
5 ~~third grade students shall demonstrate sufficient reading~~
6 ~~skills for promotion to fourth grade. Students shall be~~
7 ~~provided all of the following options to demonstrate~~
8 ~~sufficient reading skills for promotion to fourth grade, and~~
9 ~~the State Superintendent of Education shall provide guidelines~~
10 ~~for the implementation of this subsection:~~

11 ~~"(1) Scoring above the lowest achievement level, as~~
12 ~~determined by rule of the State Board of Education, on a~~
13 ~~board-approved assessment in reading as provided in Section~~
14 ~~16-6G-3.~~

15 ~~"(2) Earning an acceptable score on an alternative~~
16 ~~standardized reading assessment as determined and approved by~~
17 ~~the State Superintendent of Education.~~

18 ~~"(3) Demonstrating mastery of third grade minimum~~
19 ~~essential state reading standards as evidenced by a student~~
20 ~~reading portfolio. The State Superintendent of Education and~~
21 ~~the task force established under subsection (a) of Section~~
22 ~~16-6G-3 shall establish criteria for minimum essential~~
23 ~~standards and the student reading portfolios and a definition~~
24 ~~of what constitutes mastery of all third grade state reading~~
25 ~~standards.~~

26 ~~"(i) If a student does not demonstrate sufficient~~
27 ~~reading skills on one of the three options listed in~~

1 ~~subsection (h) and does not qualify for a good cause~~
2 ~~exemption, the student may not be promoted to fourth grade.~~

3 ~~"(j) A local education agency may only exempt~~
4 ~~students from mandatory retention, as provided in subsection~~
5 ~~(i), for good cause. A student who is promoted to fourth grade~~
6 ~~with a good cause exemption shall continue to receive~~
7 ~~intensive reading intervention that includes specific reading~~
8 ~~strategies prescribed in the individual reading improvement~~
9 ~~plan of the student until the deficiency is improved. The~~
10 ~~local education agency shall assist schools and teachers with~~
11 ~~the implementation of reading strategies that research has~~
12 ~~shown to be successful in improving reading among students~~
13 ~~with reading difficulties. Good cause exemptions shall be~~
14 ~~limited to the following:~~

15 ~~"(1) Students with disabilities whose Individual~~
16 ~~Education Plan indicates that participation in the statewide~~
17 ~~assessment program is not appropriate, consistent with state~~
18 ~~law.~~

19 ~~"(2) Students identified as English language~~
20 ~~learners who have had less than two years of instruction in~~
21 ~~English as a second language.~~

22 ~~"(3) Students with disabilities who participate in~~
23 ~~the statewide English language arts reading assessment and who~~
24 ~~have an Individual Education Plan or a Section 504 plan that~~
25 ~~reflects that the student has received intensive reading~~
26 ~~intervention for more than two years and who still~~
27 ~~demonstrates a deficiency in reading and was previously~~

1 ~~retained in kindergarten, first grade, second grade, or third~~
2 ~~grade.~~

3 ~~"(4) Students who have received intensive reading~~
4 ~~intervention for two or more years and who still demonstrate a~~
5 ~~deficiency in reading and who were previously retained in~~
6 ~~kindergarten, first grade, second grade, or third grade for a~~
7 ~~total of two years.~~

8 ~~"(k) No student shall be retained more than twice in~~
9 ~~kindergarten through third grade.~~

10 ~~"(l) A request to exempt a student from the~~
11 ~~mandatory retention requirement using one of the good cause~~
12 ~~exemptions listed in subsection (j) shall be made consistent~~
13 ~~with the following:~~

14 ~~"(1) Documentation shall be submitted to the school~~
15 ~~principal from the teacher of the student that indicates that~~
16 ~~the promotion of the student is appropriate. Documentation~~
17 ~~shall include a statement identifying which good cause~~
18 ~~exemption is requested, as well as the existing reading~~
19 ~~improvement plan or Individual Education Plan of the student,~~
20 ~~as applicable.~~

21 ~~"(2) The school principal shall review the~~
22 ~~recommendation of the teacher, determine if the student meets~~
23 ~~one of the good cause exemptions, and shall make his or her~~
24 ~~determination in writing to the local superintendent of~~
25 ~~education. The local superintendent of education, in writing,~~
26 ~~shall approve or reject the recommendation of the school~~
27 ~~principal.~~

1 ~~"(3) The local education agency shall assist schools~~
2 ~~under its jurisdiction in providing written notification to~~
3 ~~the parent of any student who is retained in third grade for~~
4 ~~not achieving the reading level required for promotion. Notice~~
5 ~~shall clearly state the reasons why the student is not~~
6 ~~eligible for a good cause exemption and shall include a~~
7 ~~description of the proposed interventions and supports that~~
8 ~~shall be provided to the student to improve any identified~~
9 ~~area of reading deficiency during the retained year.~~

10 ~~"(4) There shall be established at each school, as~~
11 ~~applicable, an intensive acceleration for any student retained~~
12 ~~in third grade. In addition to the criteria established in~~
13 ~~subdivisions (1) to (4), inclusive, of subsection (g), the~~
14 ~~intensive acceleration shall be taught by a highly effective~~
15 ~~teacher of reading who has received training in the science of~~
16 ~~reading and multisensory language instruction, as demonstrated~~
17 ~~by student reading performance data and teacher performance~~
18 ~~evaluations; shall have a reduced teacher-student ratio; and~~
19 ~~shall provide explicit and systematic reading instruction and~~
20 ~~intervention for the majority of student contact time each~~
21 ~~day.~~

22 ~~"(m) (h) Annually, on or before September 30, each~~
23 ~~local education agency shall report in writing to the State~~
24 ~~Superintendent of Education the following information on the~~
25 ~~previous school year:~~

1 "(1) By grade, the number and percentage of all K-3
2 students identified with a reading deficiency on a State
3 Department of Education approved reading assessment.

4 "(2) By grade, the number and percentage of students
5 screened for dyslexia characteristics, the number and
6 percentage of students identified as demonstrating the
7 characteristics of dyslexia and receiving dyslexia specific
8 intervention, and the name of the dyslexia specific
9 intervention being provided.

10 "(3) By grade, the number and percentage of all K-3
11 students performing on grade level or above on a State Board
12 of Education approved reading assessment.

13 "(4) The total number and percentage of students
14 starting third grade with a reading deficiency, which shall
15 include the specific area of reading deficiency.

16 "(5) The total number and percentage of third grade
17 students who started third grade with a reading deficiency but
18 completed third grade on grade level as determined by the
19 third grade state standardized assessment in reading.

20 "(6) By grade, the total number and percentage of
21 eligible K-3 students who attended the Alabama Summer
22 Achievement Program or other mandatory summer reading camp.

23 "(7) By grade, pre- and post-Alabama Summer
24 Achievement Program reading assessment scores and other
25 mandatory summer camp data.

26 ~~"(8) By grade, the number and percentage of all~~
27 ~~students retained in grades K-3.~~

1 ~~"(9) The total number and percentage of students in~~
2 ~~third grade who demonstrated sufficient reading skills for~~
3 ~~promotion on the alternative reading assessment.~~

4 ~~"(10) The total number and percentage of students in~~
5 ~~third grade who were promoted for good cause, by each category~~
6 ~~of good cause specified in subsection (j).~~

7 ~~"(11) In succeeding years, the performance of~~
8 ~~students promoted with a good cause on the state standardized~~
9 ~~assessment in reading.~~

10 ~~"(12)~~ (8) By school, the number of teachers who are
11 participating in or have completed professional development in
12 the science of reading and who hold advanced certifications in
13 those areas.

14 ~~"(13)~~ (9) By school, the number of teachers who have
15 completed training in dyslexia awareness, multisensory
16 strategies, and satisfy the definition of a dyslexia
17 interventionist as defined by rule of the State Board of
18 Education.

19 ~~"(n)~~ (i) The State Superintendent of Education shall
20 establish a uniform format for local school systems to use in
21 reporting the information required by subsection ~~(m)~~ (h). The
22 format shall be developed with input from local education
23 agencies and shall be provided to each local education agency
24 no later than 90 days before the annual due date. Annually, on
25 or before December 1, the State Superintendent of Education
26 shall compile the information received from the local
27 education agencies into state level summary information and

1 report the information to the State Board of Education, the
2 public, the Governor, the Lieutenant Governor, the President
3 Pro Tempore of the Senate, the Speaker of the House of
4 Representatives, and the Chairs of the House Ways and Means
5 Education Committee and Senate Finance and Taxation Education
6 Committee.

7 "(1) The State Superintendent of Education and the
8 task force established under subsection (a) of Section 16-6G-3
9 shall establish annual reading growth and proficiency targets
10 based on the information required to be reported to the
11 superintendent in subsection ~~(m)~~ (h).

12 "(2) Of the funds allocated to the Alabama Reading
13 Initiative pursuant to subdivision (6) of subsection (a) of
14 Section 16-6G-4 for state administration, the State
15 Superintendent of Education may allocate such sums as he or
16 she deems appropriate to establish an Alabama Reading
17 Initiative Incentive Program that shall distribute monetary
18 incentives to schools based on a formula, approved by the
19 State Superintendent of Education with the Alabama Committee
20 on Grade Level Reading created in Section 16-6G-7, that shall
21 factor the size and geography of the school, reading growth
22 and proficiency, and the composition of student subgroups."

23 Section 2. This act shall become effective on the
24 seventh calendar day following its passage and approval by the
25 Governor, or its otherwise becoming law.