

AN ACT

relating to the minutes of operation required for public school districts, charter schools, and other education programs and to calculating the average daily attendance for certain education programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.081, Education Code, is amended to read as follows:

Sec. 25.081. OPERATION OF SCHOOLS. (a) Except as authorized under Subsection (b) of this section, Section 25.084, or Section 29.0821, for each school year each school district must operate ~~[so that the district provides]~~ for at least 75,600 minutes, including time allocated for ~~[of]~~ instruction, ~~[including]~~ intermissions, and recesses~~[7]~~ for students.

(b) The commissioner may approve the operation of schools ~~[instruction of students]~~ for fewer than the number of minutes required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.

(c) If the commissioner does not approve reduced operation ~~[instruction]~~ time under Subsection (b), a school district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes ~~[of instruction]~~ lost due to school closures caused by disaster, flood, extreme weather

1 conditions, fuel curtailment, or another calamity.

2 (d) The commissioner may adopt rules to implement this  
3 section, including rules:

4 (1) for the application, on the basis of the minimum  
5 minutes of operation [~~instruction~~] required by Subsection (a), of  
6 any provision of this title that refers to a minimum number of days  
7 of instruction under this section;

8 (2) to determine the minutes of operation that are  
9 equivalent to a day;

10 (3) defining minutes of operation and instructional  
11 time; and

12 (4) establishing the minimum number of minutes of  
13 instructional time required for a full-day and a half-day program  
14 to meet the time requirements under Subsection (a).

15 (e) A school district or education program is exempt from  
16 the minimum minutes of operation requirement if the district's or  
17 program's average daily attendance is calculated under Section  
18 42.005(j) [~~For purposes of this code, a reference to a day of~~  
19 instruction means 420 minutes of instruction].

20 (f) The commissioner may proportionally reduce the amount  
21 of funding a district receives under Chapter 41, 42, or 46 and the  
22 average daily attendance calculation for the district if the  
23 district operates on a calendar that provides fewer minutes of  
24 operation than required under Subsection (a).

25 SECTION 2. The heading to Section 25.082, Education Code,  
26 is amended to read as follows:

27 Sec. 25.082. [~~SCHOOL DAY,~~] PLEDGES OF ALLEGIANCE; MINUTE OF

1 SILENCE.

2 SECTION 3. Section 29.0822(c), Education Code, is amended  
3 to read as follows:

4 (c) Except in the case of a course designed for a student  
5 described by Subsection (a)(3), a course offered in a program under  
6 this section must provide for at least the same number of  
7 instructional hours as required for a course offered in a program  
8 that meets the required minimum number of minutes of operation  
9 ~~[instructional days]~~ under Section 25.081 ~~[and the required length~~  
10 ~~of school day under Section 25.082]~~.

11 SECTION 4. Section 29.087(j), Education Code, is amended to  
12 read as follows:

13 (j) For purposes of funding under Chapters 41, 42, and 46, a  
14 student attending a program authorized by this section may be  
15 counted in attendance only for the actual number of hours each  
16 school day the student attends the program, in accordance with  
17 Section ~~[Sections]~~ 25.081 ~~[and 25.082]~~.

18 SECTION 5. Subchapter E, Chapter 29, Education Code, is  
19 amended by adding Section 29.162 to read as follows:

20 Sec. 29.162. DETERMINATION OF FULL-DAY AND HALF-DAY. The  
21 commissioner may adopt rules for this subchapter establishing  
22 full-day and half-day minutes of operation requirements as provided  
23 by Section 25.081.

24 SECTION 6. Section 30A.104(a), Education Code, is amended  
25 to read as follows:

26 (a) A course offered through the state virtual school  
27 network must:

1           (1) be in a specific subject that is part of the  
2 required curriculum under Section 28.002(a);

3           (2) be aligned with the essential knowledge and skills  
4 identified under Section 28.002(c) for a grade level at or above  
5 grade level three; and

6           (3) be the equivalent in instructional rigor and scope  
7 to a course that is provided in a traditional classroom setting  
8 during[+]

9                   ~~[(A)] a semester of 90 instructional days[, and~~

10                   ~~[(B) a school day that meets the minimum length~~  
11 ~~of a school day required under Section 25.082].~~

12           SECTION 7. Section 37.008(a), Education Code, is amended to  
13 read as follows:

14           (a) Each school district shall provide a disciplinary  
15 alternative education program that:

16                   (1) is provided in a setting other than a student's  
17 regular classroom;

18                   (2) is located on or off of a regular school campus;

19                   (3) provides for the students who are assigned to the  
20 disciplinary alternative education program to be separated from  
21 students who are not assigned to the program;

22                   (4) focuses on English language arts, mathematics,  
23 science, history, and self-discipline;

24                   (5) provides for students' educational and behavioral  
25 needs;

26                   (6) provides supervision and counseling; and

27                   (7) employs only teachers who meet all certification

1 requirements established under Subchapter B, Chapter 21[~~;~~ and  
2 ~~[(8) provides not less than the minimum amount of~~  
3 ~~instructional time per day required by Section 25.082(a)].~~

4 SECTION 8. Section 42.005, Education Code, is amended by  
5 amending Subsection (a) and adding Subsections (g-1) and (i)  
6 through (n) to read as follows:

7 (a) In this chapter, average daily attendance is:

8 (1) the quotient of the sum of attendance for each day  
9 of the minimum number of days of instruction as described under  
10 Section 25.081(a) divided by the minimum number of days of  
11 instruction;

12 (2) for a district that operates under a flexible year  
13 program under Section 29.0821, the quotient of the sum of  
14 attendance for each actual day of instruction as permitted by  
15 Section 29.0821(b)(1) divided by the number of actual days of  
16 instruction as permitted by Section 29.0821(b)(1); [~~or~~]

17 (3) for a district that operates under a flexible  
18 school day program under Section 29.0822, the average daily  
19 attendance as calculated by the commissioner in accordance with  
20 Sections 29.0822(d) and (d-1); or

21 (4) for a district that operates a half-day program,  
22 one-half of the average daily attendance calculated under  
23 Subdivision (1).

24 (g-1) The commissioner shall adopt rules to calculate  
25 average daily attendance for students participating in a blended  
26 learning program in which classroom instruction is supplemented  
27 with applied workforce learning opportunities, including

1 participation of students in internships, externships, and  
2 apprenticeships.

3 (i) A district or a charter school operating under Chapter  
4 12 that operates a prekindergarten program is eligible to receive  
5 one-half of average daily attendance under Subsection (a) if the  
6 district's or charter school's prekindergarten program provides at  
7 least 32,400 minutes of instructional time to students.

8 (j) A district or charter school is eligible to earn full  
9 average daily attendance under Subsection (a) if the district or  
10 school provides at least 43,200 minutes of instructional time to  
11 students enrolled in:

12 (1) a dropout recovery school or program operating  
13 under Section 12.1141(c) or Section 39.0548;

14 (2) an alternative education program operating under  
15 Section 37.008;

16 (3) a school program located at a day treatment  
17 facility, residential treatment facility, psychiatric hospital, or  
18 medical hospital;

19 (4) a school program offered at a correctional  
20 facility; or

21 (5) a school operating under Section 29.259.

22 (k) A charter school operating under a charter granted under  
23 Chapter 12 before January 1, 2015, is eligible to earn full average  
24 daily attendance under Subsection (a), as that subsection existed  
25 immediately before January 1, 2015, for:

26 (1) all campuses of the charter school operating  
27 before January 1, 2015; and

1           (2) any campus or site expansion approved on or after  
2 January 1, 2015, provided that the charter school received an  
3 academic accountability performance rating of C or higher, and the  
4 campus or site expansion is approved by the commissioner.

5           (1) A school district campus or charter school described by  
6 Subsection (j) may operate more than one program and be eligible for  
7 full average daily attendance for each program if the programs  
8 operated by the district campus or charter school satisfy all  
9 applicable state and federal requirements.

10           (m) The commissioner shall adopt rules necessary to  
11 implement this section, including rules that:

12           (1) establish the minimum amount of instructional time  
13 per day that allows a school district or charter school to be  
14 eligible for full average daily attendance, which may differ based  
15 on the instructional program offered by the district or charter  
16 school;

17           (2) establish the requirements necessary for a school  
18 district or charter school to be eligible for one-half of average  
19 daily attendance, which may differ based on the instructional  
20 program offered by the district or charter school; and

21           (3) proportionally reduce the average daily  
22 attendance for a school district if any campus or instructional  
23 program in the district provides fewer than the required minimum  
24 minutes of instruction to students.

25           (n) To assist school districts in implementing this section  
26 as amended by H.B. 2442, Acts of the 85th Legislature, Regular  
27 Session, 2017, or similar legislation, the commissioner may waive a

1 requirement of this section or adopt rules to implement this  
2 section. This subsection expires at the end of the 2018-2019 school  
3 year.

4 SECTION 9. Section 25.082(a), Education Code, is repealed.

5 SECTION 10. (a) Except as provided by Subsection (b), this  
6 Act applies beginning with the 2018-2019 school year.

7 (b) Section 42.005(n), Education Code, as added by this Act,  
8 applies beginning on the effective date of this Act.

9 SECTION 11. This Act takes effect immediately if it  
10 receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this Act takes effect September 1, 2017.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 2442 was passed by the House on May 4, 2017, by the following vote: Yeas 142, Nays 1, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2442 on May 26, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2442 on May 28, 2017, by the following vote: Yeas 146, Nays 0, 2 present, not voting, and that the House adopted H.C.R. No. 157 authorizing certain corrections in H.B. No. 2442 on May 28, 2017, by the following vote: Yeas 142, Nays 0, 3 present, not voting.

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Chief Clerk of the House

H.B. No. 2442

I certify that H.B. No. 2442 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2442 on May 28, 2017, by the following vote: Yeas 30, Nays 1, and that the Senate adopted H.C.R. No. 157 authorizing certain corrections in H.B. No. 2442 on May 28, 2017, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor