

Colorado Revised Statutes 2019

TITLE 22

EDUCATION

PART 12

COLORADO READ ACT

22-7-1201. Short title. This part 12 is known and may be cited as the "Colorado Reading to Ensure Academic Development Act" or "Colorado READ Act".

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 646, § 2, effective July 1.

22-7-1202. Legislative declaration. (1) The general assembly finds that:

(a) All students can succeed in school if they have the foundational skills necessary for academic success. While foundational skills go beyond academic skills to include such skills as social competence and self-discipline, they must also include the ability to read, understand, interpret, and apply information.

(b) Colorado has prioritized early learning through its investments in the Colorado preschool program, established in 1988, and full-day kindergarten, and the general assembly recognizes that these investments can best be leveraged by adopting policies that support a continuum of learning from preschool through third grade and beyond;

(c) It is more cost-effective to invest in effective early literacy education rather than to absorb costs for remediation in middle school, high school, and beyond;

(d) A comprehensive approach to early literacy education can improve student achievement, reduce the need for costly special education services, and produce a better educated, more skilled, and more competitive workforce;

(e) An important partnership between a parent and child begins before the child enters kindergarten, when the parent helps the child develop rich linguistic experiences, including listening comprehension and speaking, that help form the foundation for reading and writing, which are the main vehicles for content acquisition;

(f) The greatest impact for ensuring student success lies in a productive collaboration among parents, teachers, and schools in providing a child's education, so it is paramount that parents are informed about the status of their children's educational progress and that teachers and schools receive the financial resources and other resources and support they need, including valid assessments, instructional programming that is proven to be effective, and training and professional development programs, to effectively teach the science of reading, assess students' achievement, and enable each student to achieve the grade level expectations for reading; and

(g) The state recognizes that the provisions of this part 12 are not a comprehensive solution to ensuring that all students graduate from high school ready to enter the workforce or postsecondary education, but they assist local education providers in setting a solid foundation for students' academic success and will require the ongoing commitment of financial and other resources from both the state and local levels.

(1.5) (a) The general assembly further finds that:

(I) Reading is a critical skill that every child must develop early in the child's educational career to be successful;

(II) Research shows that reading instruction that is focused around the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension is highly effective in teaching young children to read;

(III) Section 15 of article IX of the state constitution grants to the elected board of education in each school district the authority to have control of instruction in the public schools of the school district, and section 16 of article IX of the state constitution prohibits the general assembly and the state board of education from prescribing the textbooks to be used in public schools;

(IV) However, section 2 of article IX of the state constitution requires the general assembly to provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, and section 1 of article IX of the state constitution vests the general supervision of the public schools of the state in the state board of education;

(V) In interpreting these constitutional provisions, the Colorado supreme court has found that, because they are competing interests, none are absolute; these interests must be balanced to identify the contours of the responsibility assigned to each entity; and

(VI) It is the general assembly that initially strikes this balance.

(b) The general assembly finds, therefore, that ensuring that each child has access through the public schools to evidence-based reading instruction that is focused on developing the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension is a significant component of ensuring that the system of free public schools throughout the state is thorough and uniform. In exercising its authority of general supervision of the public schools of the state, it is appropriate that the state board of education, supported by the department of education, hold local education providers accountable for demonstrating that the reading instruction they provide is focused on these five foundational reading skills. And, in maintaining control of the instruction in the classrooms of the public schools of their respective school districts, it is appropriate that each school district board of education select the core reading instructional programs and reading interventions to be used in those public schools, so long as they are focused on phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension to ensure that the students educated in the public schools throughout the state consistently receive evidence-based instruction that is proven to effectively teach children to read.

(2) It is therefore the intent of the general assembly that each local education provider that enrolls students in kindergarten or first, second, or third grade will work closely with the parents and teachers of these students to provide the students the instructional programming, intervention instruction, and support, at home and in school, necessary to ensure that students, by

the completion of third grade, can demonstrate a level of competency in reading skills that is necessary to support them in achieving the academic standards and expectations applicable to the fourth-grade curriculum. It is further the intent of the general assembly that each local education provider adopt a policy whereby, if a student has a significant reading deficiency at the end of any school year prior to fourth grade, the student's parent and teacher and other personnel of the local education provider decide whether the student should or should not advance to the next grade level based on whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level.

(3) The general assembly further finds that:

(a) The purpose of this part 12 is to provide students with the necessary supports they need to be able to read with proficiency by third grade so that their academic growth and achievement is not hindered by low literacy skills in fourth grade and beyond;

(b) It is a priority in the public schools of Colorado to provide high-quality instruction that enables each student to attain proficiency in English, regardless of the student's native language;

(c) Research demonstrates that a person who has strong reading skills in one language will more easily learn and become literate in a second language; and

(d) While the "Colorado READ Act", this part 12, is not designed to measure or support a student's acquisition of English as a second language, ensuring that a student has strong reading skills in his or her native language by third grade will help to ensure that the student will attain proficiency in English more quickly.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 646, § 2, effective July 1. **L. 2017:** (3) added, (HB 17-1160), ch. 389, p. 2009, § 1, effective June 6. **L. 2019:** (1.5) added, (SB 19-199), ch. 154, p. 1822, § 1, effective May 10.

22-7-1203. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Body of evidence" means a collection of information about a student's academic performance which, when considered in its entirety, documents the level of a student's academic performance. A body of evidence, at a minimum, shall include scores on formative or interim assessments and work that a student independently produces in a classroom, including but not limited to the school readiness assessments adopted pursuant to section 22-7-1004 (2)(a). A body of evidence may include scores on summative assessments if a local education provider decides that summative assessments are appropriate and useful in measuring students' literacy skills.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title.

(4) "Evidence based" means the instruction or item described is based on reliable, trustworthy, and valid evidence and has demonstrated a record of success in adequately increasing students' reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension.

(5) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(6) "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(7) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(7.5) "Multi-tiered systems of supports" means a systemic preventive approach that addresses the academic and social-emotional needs of all students at the universal, targeted, and intensive levels. Through the multi-tiered systems of supports, a teacher provides high-quality, scientifically based or evidence-based instruction and intervention that is matched to student needs; uses a method of monitoring progress frequently to inform decisions about instruction and goals; and applies the student's response data to important educational decisions.

(8) (a) "Parent" means a student's biological or adoptive parent, stepparent, foster parent, or legal guardian.

(b) As provided in section 2-4-102, C.R.S., the singular use of "parent" includes the plural, and local education providers shall, to the extent practicable, involve both of a student's parents, as defined in this subsection (8), in implementing the provisions of this part 12.

(9) "Per-pupil intervention money" means the money calculated and distributed to local education providers pursuant to section 22-7-1210.5.

(10) "Reading competency" means a student meets the grade level expectations in reading adopted by the state board.

(11) "Reading to ensure academic development plan" or "READ plan" means an intervention plan created pursuant to section 22-7-1206 to remediate a student's significant reading deficiency.

(12) Repealed.

(13) "School district" means a school district, other than a local college district, organized and existing pursuant to law.

(14) "Scientifically based" means that the instruction or item described is based on research that applies rigorous, systematic, and objective procedures to obtain valid knowledge that is relevant to reading development, reading instruction, and reading difficulties.

(15) "Significant reading deficiency" means that a student does not meet the minimum skill levels for reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension established by the state board pursuant to section 22-7-1209 for the student's grade level.

(16) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(17) "Teacher" means the educator who is the main instructor for a class of students or an educator who provides specific literacy instruction to selected students.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 648, § 2, effective July 1.
L. 2019: (7.5) added, (9) amended, and (12) repealed, (SB 19-199), ch. 154, p. 1823, § 2, effective May 10.

22-7-1204. Early literacy education. Each local education provider that enrolls students in kindergarten or first, second, or third grade shall provide to the students enrolled in said grades the instructional programming and services necessary to ensure to the greatest extent possible that students, as they progress through kindergarten, first, second, and third grade, develop the necessary reading skills to enable them to master the academic standards and expectations applicable to the fourth-grade curriculum and beyond. The instructional programming and services for teaching students to read must be evidence based and scientifically based and must focus on reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 649, § 2, effective July 1.
L. 2019: Entire section amended, (SB 19-199), ch. 154, p. 1824, § 3, effective May 10.

22-7-1205. Reading competency - assessments - READ plan creation - parental involvement. (1) (a) Each local education provider that enrolls students in kindergarten or first, second, or third grade shall ensure that teachers measure each student's reading competency using interim reading assessments at least once during the spring semester of the 2012-13 school year and throughout the year in subsequent school years. A local education provider may also administer a summative assessment to measure students' reading competency at the conclusion of kindergarten, first, and second grades. Each local education provider shall select from the list of approved assessments adopted by rule of the state board pursuant to section 22-7-1209 (1) those assessments it shall use to measure a student's reading competency. A local education provider may choose to use other reading assessments in addition to but not in lieu of the approved assessments.

(a.5) Each local education provider is required to administer a reading assessment to students enrolled in kindergarten during the first ninety days of the school year. If the local education provider administers the reading assessment within the first sixty days of the school year, it is not required to administer the literacy component of the school readiness assessment as provided in section 22-7-1014 (1)(a).

(a.7) (I) The local education provider shall determine whether a student who is an English language learner, as defined in section 22-24-103, and whose native language is Spanish, takes the reading assessments in English or in Spanish. If the student takes the reading assessments in Spanish, the local education provider may also administer a reading assessment in English to the student at the request of the student's parent. If the state board adopts a list of approved reading assessments pursuant to section 22-7-1209 that includes assessments in languages other than English or Spanish, the local education provider shall determine whether a student who is an English language learner and whose native language is not Spanish takes the reading assessments in English or in the student's native language if there is an approved reading assessment in the student's native language. If the student takes the reading assessments in the student's native language, the local education provider may also administer a reading assessment in English to the student at the request of the student's parent. If the local education provider decides that a student who is an English language learner must take the reading assessments in a language other than English, the local education provider shall determine, and communicate to the student's parent in a language the parent understands, if possible, the level of English

language proficiency at which the student must take at least one of the reading assessments in English, as provided in subsection (1)(a.7)(II) of this section. If the student has a significant reading deficiency, the local education provider may communicate the information specified in this subsection (1)(a.7) to the student's parent with the information required in subsection (2) of this section.

(II) In determining whether a student must take the reading assessments in a language other than English as required in subsection (1)(a.7)(I) of this section, each local education provider shall review the student's score on the most recent annual assessment administered pursuant to the local education provider's English language proficiency program, as required in article 24 of this title 22. If the student scores within the range that the local education provider determines demonstrates partial proficiency in English or higher, the local education provider shall ensure that the student annually takes at least one of the reading assessments required in this subsection (1) in English.

(b) If a teacher finds, based on a student's scores on the approved reading assessments, that the student may have a significant reading deficiency, the teacher shall administer to the student one or more diagnostic assessments within sixty days after the previous assessment to determine the student's specific reading skill deficiencies. Each local education provider shall select from the list of approved assessments adopted by rule of the state board pursuant to section 22-7-1209 (1) those assessments it uses to determine a student's specific reading skill deficiencies. A local education provider may choose to use other diagnostic reading assessments in addition to but not in lieu of the approved assessments.

(c) Beginning with the 2012-13 school year, each local education provider shall annually report to the department the state-assigned student identifier for each student who is identified pursuant to this subsection (1) as having a significant reading deficiency.

(d) If, based on a student's scores on the approved reading assessments in a specific school year, a teacher finds that a student demonstrates reading competency appropriate for his or her grade level, the local education provider is not required to administer the approved interim reading assessments to the student for the remainder of the specific school year.

(2) (a) Beginning no later than the 2013-14 school year, upon finding that a student has a significant reading deficiency, the local education provider shall ensure that the student receives a READ plan, as described in section 22-7-1206. The teacher and any other skilled school professionals the local education provider may choose to select shall, if possible, meet with the student's parent to communicate and discuss the information specified in paragraph (b) of this subsection (2) and jointly create the student's READ plan. Upon completion of the meeting or as soon as possible thereafter, the teacher or other personnel of the local education provider shall give the parent a written explanation of the information specified in paragraph (b) of this subsection (2) and a copy of the student's READ plan. To the extent practicable, the teacher and other personnel shall communicate with the parent, orally and in writing, in a language the parent understands.

(b) The teacher and the other personnel shall communicate and discuss with the parent the following information:

(I) The state's goal is for all children in Colorado to graduate from high school having attained skill levels that adequately prepare them for postsecondary studies or for the workforce, and research demonstrates that achieving reading competency by third grade is a critical milestone in achieving this goal;

(II) The nature of the student's significant reading deficiency, including a clear explanation of what the significant reading deficiency is and the basis upon which the teacher identified the significant reading deficiency;

(III) If the student enters fourth grade without achieving reading competency, he or she is significantly more likely to fall behind in all subject areas beginning in fourth grade and continuing in later grades. If the student's reading skill deficiencies are not remediated, it is likely that the student will not have the skills necessary to complete the course work required to graduate from high school.

(IV) Reading skills are critical to success in school. Under state law, the student qualifies for and the local education provider is required to provide targeted, scientifically based or evidence-based interventions to remediate the student's specific, diagnosed reading skill deficiencies, which interventions are designed to enable the student to achieve reading competency and attain the skills necessary to achieve the state's academic achievement goals;

(V) The student's READ plan will include targeted, scientifically based or evidence-based intervention instruction to address and remediate the student's specific, diagnosed reading skill deficiencies;

(VI) The parent plays a central role in supporting the student's efforts to achieve reading competency, the parent is strongly encouraged to work with the student's teacher in implementing the READ plan, and, to supplement the intervention instruction the student receives in school, the READ plan will include strategies the parent is encouraged to use at home to support the student's reading success; and

(VII) There are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, if the student continues to have a significant reading deficiency at the end of the school year, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level.

(c) In addition to the information specified in paragraph (b) of this subsection (2), the teacher and the other personnel of the local education provider are encouraged to communicate and discuss information concerning resources that are available through the local education provider or through other entities within the community that may support the student in achieving reading competency.

(3) (a) If, after making documented attempts, the teacher is unable to meet with the student's parent to create the READ plan, the teacher and any other skilled school professionals the local education provider may choose to select shall create the student's READ plan and ensure that the student's parent receives the following information in a language the parent understands, if practicable:

(I) A written copy of the READ plan with a clear, written explanation of the scientifically based or evidence-based reading instructional programming and other reading-related services the student will receive under the plan and the strategies that the parent is encouraged to apply in assisting the student in achieving reading competency; and

(II) A written explanation of the information specified in paragraph (b) of subsection (2) of this section.

(b) At a parent's request, the teacher and any other skilled school professionals the local education provider may choose to select shall meet with the parent to provide a verbal explanation of the elements of the READ plan.

(4) The local education provider shall ensure that the parent of each student who has a READ plan receives ongoing, regular updates from the student's teacher, which may occur through existing methods of communication, concerning the results of the intervention instruction described in the plan and the student's progress in achieving reading competency. The student's teacher is encouraged to communicate with the parent concerning the parent's progress in implementing the home reading strategies identified in the student's READ plan. To the extent practicable, the teacher shall communicate with the parent in a language the parent understands.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 650, § 2, effective July 1. **L. 2015:** (1)(a.5) and (1)(d) added and (1)(b) amended, (HB 15-1323), ch. 204, p. 714, § 4, effective May 20. **L. 2017:** (1)(a.7) added, (HB 17-1160), ch. 389, p. 2010, § 2, effective June 6.

22-7-1206. Reading to ensure academic development plan - contents - implementation. (1) (a) A teacher, and other skilled school professionals that the local education provider may choose to select, shall create a READ plan for each student who has a significant reading deficiency. The teacher and any other personnel shall create the plan in collaboration with the student's parent, if possible, and as soon as possible after the student's significant reading deficiency is identified. The student, the student's teacher, and the student's parent shall continue implementing the student's READ plan until the student demonstrates reading competency. The student's teacher shall review the student's READ plan at least annually and update or revise the READ plan as appropriate to facilitate the student's progress in demonstrating reading competency.

(b) Each local education provider shall ensure that a student's current READ plan, any earlier versions of the READ plan, and any supporting documentation for the plan and the body of evidence that demonstrates a student's progress in implementing the plan are included in the student's permanent academic record and are transferred if the student subsequently enrolls in another school.

(2) (a) If a student's reading skills are below grade-level expectations, as adopted by the state board, but the student does not have a significant reading deficiency, the local education provider shall ensure that the student receives appropriate interventions through the multi-tiered systems of supports or a comparable intervention system implemented by the local education provider. At a minimum, the local education provider shall ensure that the student receives educational services in a daily literacy block for the length of time identified as effective in research relating to best practices in teaching reading.

(b) If a student has a significant reading deficiency, the student's READ plan must include the intervention instruction that the local education provider provides through the multi-tiered systems of supports or a comparable intervention system implemented by the local education provider.

(3) Notwithstanding any provision of this part 12 to the contrary, if a student is identified as having a disability that impacts the student's progress in developing reading skills, the local education provider shall, as appropriate, integrate into the student's individualized education

program created pursuant to section 22-20-108 intervention instruction and strategies to address the student's reading issues in lieu of a READ plan.

(4) If a student enrolled in kindergarten is identified as having a significant reading deficiency, the local education provider shall create the student's READ plan as a component of the student's individualized readiness plan created pursuant to section 22-7-1014. The local education provider may include components of the student's individualized readiness plan that apply to teaching literacy as part of the student's READ plan after the student completes kindergarten, so long as the local education provider administers an approved reading assessment to the student in grades one through three as required in section 22-7-1205 (1) and the student's READ plan meets the requirements specified in subsection (5) of this section.

(5) Each READ plan must include, at a minimum:

(a) The student's specific, diagnosed reading skill deficiencies that need to be remediated in order for the student to attain reading competency;

(b) The goals and benchmarks for the student's growth in attaining reading competency;

(c) The type of additional instructional services and interventions the student will receive in reading. At a minimum, the local education provider shall ensure that the student receives educational services in a daily literacy block for the length of time identified as effective in research relating to best practices in teaching reading.

(d) The scientifically based or evidence-based reading instructional programming the teacher will use to provide to the student daily reading approaches, strategies, interventions, and instruction, which programs at a minimum shall address the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension. The local education provider may choose to select the programs from among those included on the advisory list prepared by the department pursuant to section 22-7-1209;

(e) The manner in which the local education provider will monitor and evaluate the student's progress;

(f) The strategies the student's parent is encouraged to use in assisting the student to achieve reading competency that are designed to supplement the programming described in paragraph (d) of this subsection (5); and

(g) Any additional services the teacher deems available and appropriate to accelerate the student's reading skill development.

(6) Each local education provider shall ensure that a teacher continues to revise and implement a student's READ plan until the student attains reading competency, regardless of the student's grade level and regardless of whether the student was enrolled with the local education provider when the READ plan was originally created or the student transferred enrollment to the local education provider after the READ plan was created.

(7) (a) If a student is identified as having a significant reading deficiency for a second or subsequent consecutive school year, the local education provider shall ensure that, in the second or subsequent consecutive school year:

(I) The student's teacher revises the student's READ plan to include additional, more rigorous strategies and intervention instruction to assist the student in attaining reading competency, including increased daily time in school for reading instruction;

(II) The principal of the school in which the student is enrolled ensures that the student receives reading instruction in conjunction with and supported through the other subjects in which the student receives instruction during the school day; and

(III) If practicable, the student receives reading instruction from a teacher who is identified as effective or highly effective in his or her most recent performance evaluation and has expertise in teaching reading.

(b) In addition, with the approval of the student's parent, the local education provider may provide to the student mental health support from the school psychologist, school social worker, or school counselor.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 652, § 2, effective July 1. **L. 2019:** (2), (4), IP(5), and (5)(c) amended, (SB 19-199), ch. 154, pp. 1824, 1825, §§ 4,5, effective May 10.

22-7-1207. Advancement - decision - parental involvement. (1) Beginning no later than the 2013-14 school year, if, within forty-five days before the end of any school year prior to a student's fourth-grade year, a teacher finds that a student has a significant reading deficiency, personnel of the local education provider shall provide to the student's parent the written notice described in subsection (2) of this section; except that the provisions of this section shall not apply if:

(a) The student is a student with a disability who is eligible to take the alternative statewide assessment, or the student is identified as having a disability that substantially impacts the student's progress in developing reading skills, resulting in the student's significant reading deficiency;

(b) The student is an English language learner, as defined in section 22-24-103, and the student's significant reading deficiency is due primarily to the student's language skills; or

(c) The student is completing the second school year at the same grade level.

(2) The written notice that the personnel provides to a parent pursuant to subsection (1) of this section at a minimum shall state that:

(a) There are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level;

(b) Personnel of the student's school will work with the parent to schedule a date, time, and place for the meeting; and

(c) If the parent does not attend the meeting, the teacher and personnel of the local education provider will decide whether the student will advance to the next grade level in the next school year.

(3) After sending the written notice, personnel of the student's school shall contact the parent to schedule the meeting to decide whether the student will advance to the next grade level. If, after making documented attempts to schedule the meeting with the parent, personnel of the student's school are unable to schedule the meeting, or if the parent does not attend the scheduled meeting, the teacher and personnel selected by the local education provider shall decide, based on the student's body of evidence, whether the student will advance to the next grade level for the next school year.

(4) (a) At the meeting required by this section, the teacher and any other personnel selected by the local education provider shall, at a minimum, communicate to and discuss with the parent the following information:

(I) That there are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level;

(II) The importance of achieving reading competency by the end of third grade, because students who achieve reading competency by the end of third grade are more likely to graduate from high school and attain a postsecondary credential;

(III) The student's body of evidence and the likelihood that the student, despite having a significant reading deficiency, will be able to maintain adequate academic progress at the next grade level;

(IV) The increased level of intervention instruction the student will receive in the next school year regardless of whether the student advances to the next grade level; and

(V) The potential effects on the student if he or she does not advance to the next grade level.

(b) After discussing the issues specified in paragraph (a) of this subsection (4), the parent, the teacher, and the other personnel shall decide whether the student will advance to the next grade level in the next school year. If the parent, teacher, and other personnel are not in agreement, the parent shall decide whether the student will advance to the next grade level unless otherwise specified in the policy adopted by the local education provider.

(5) As soon as possible after the decision is made pursuant to subsection (3) of this section or at the conclusion of the meeting described in subsection (4) of this section, the personnel of the local education provider shall provide to the parent a written statement that the student will or will not advance to the next grade level in the next school year and the basis for the decision. The personnel shall also provide a copy of the statement to the school district superintendent, if the student is enrolled in a public school of a school district that is not a charter school, or to the school principal, if the student is enrolled in a district charter school, an institute charter school, or a public school operated by a board of cooperative services. The local education provider shall include the statement in the student's permanent academic record and shall remove the statement from the student's permanent academic record when the student achieves reading competency.

(6) Notwithstanding any provision of paragraph (b) of subsection (4) of this section to the contrary, beginning with the 2016-17 school year, if a student is completing third grade and the student's teacher and other personnel decide pursuant to subsection (3) of this section or the student's parent decides pursuant to subsection (4) of this section that the student will advance to fourth grade even though the student has a significant reading deficiency, the decision to advance the student is subject to approval of the school district superintendent or the superintendent's designee, if the student is enrolled in a public school of a school district that is not a charter school, or subject to approval of the school principal, if the student is enrolled in a district charter school, an institute charter school, or a public school operated by a board of cooperative services. If the superintendent, or his or her designee, or the principal, whichever is applicable, does not approve the decision to advance the student, the student shall not advance to fourth grade in the next school year. As soon as possible, the local education provider shall provide a written statement to the parent concerning the decision of the superintendent or designee or the principal and the basis for the decision. The local education provider shall include the statement in the

student's permanent academic record and shall remove the statement from the student's permanent academic record when the student achieves reading competency.

(7) Each local education provider shall ensure that, to the extent practicable, all of the oral and written communications to a parent that are required in this section are delivered in a language the parent understands.

(8) The provisions of this section specify the circumstances under which a local education provider, in collaboration with a student's teacher and parent, is required to decide whether a student who has a significant reading deficiency should advance to the next grade level. The provisions of this part 12 do not limit the ability of a local education provider to decide, in accordance with policies and procedures of the local education provider, that a student at any grade level should not advance to the next grade level for any reason deemed sufficient by the local education provider.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 654, § 2, effective July 1.
L. 2014: (1)(b) amended, (HB 14-1298), ch. 244, p. 935, § 17, effective May 21.

22-7-1208. Local education providers - procedures - plans - training. (1) Each local education provider shall adopt the procedures necessary to comply with the requirements specified in this part 12. In adopting procedures, a local education provider shall comply with and may exceed the requirements of this part 12. Procedures may include, but need not be limited to, procedures for:

(a) Creating a READ plan and the contents of a READ plan;
(b) Effectively communicating with parents concerning the creation, contents, and implementation of READ plans; and
(c) Determining whether a student who has a significant reading deficiency will advance to the next grade level.

(2) A local education provider is not required to start a READ plan or convert an individual literacy plan to a READ plan for a student who is enrolled in fourth grade or higher as of the 2013-14 school year.

(3) Each local education provider is encouraged to report to the department the strategies and intervention instruction that the local education provider finds effective in assisting students to attain reading competency and to provide copies of effective materials to the department to assist the department in sharing with local education providers best practices in assisting students to attain reading competency.

(4) Local education providers are encouraged to provide parents opportunities to participate in parent reading workshops throughout the school year to assist parents in developing their own reading skills and in developing the skills necessary to assist their children in reading.

(5) (a) Beginning with the plans adopted for the 2020-21 school year, the plan that a local education provider must adopt based on its accreditation category pursuant to section 22-11-208 or as required pursuant to section 22-11-210, whichever is applicable, must include the following information concerning implementation of this part 12 as it applies to each of the schools operated by the local education provider:

(I) The core and supplemental reading curriculum used at each grade level, including kindergarten for each school that includes a kindergarten educational program. The core and

supplemental reading curriculum must be designed around teaching the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension.

(II) The targeted, evidence-based or scientifically based core and supplemental reading instructional programs and intervention reading instruction, services, and other supports, including those available through the multi-tiered systems of supports or a comparable intervention system implemented by the local education provider, that each school provides to students who are identified as having a significant reading deficiency or as reading below grade level;

(III) The assessments that each school uses at each grade level to meet the requirements specified in section 22-7-1205 (1); and

(IV) If the local education provider receives and uses per-pupil intervention money or money received through the early literacy grant program for professional development, the local education provider's plan for providing the professional development, which development must be targeted, evidence based or scientifically based, and aligned with the instruction, services, and other supports provided to students who are identified as having a significant reading deficiency or as reading below grade level.

(b) If a local education provider is authorized pursuant to section 22-11-303 (4) or 22-11-403 (5) to adopt and submit a plan every two years, the local education provider shall submit to the department the information described in subsection (5)(a) of this section annually.

(6) (a) By the beginning of the 2021-22 school year and continuing for each school year thereafter, each local education provider that receives per-pupil intervention money or a grant through the early literacy grant program in any budget year starting with the 2019-20 budget year shall ensure that each teacher employed to teach kindergarten or any of grades one through three successfully completes or has successfully completed evidence-based training in teaching reading. To comply with this subsection (6)(a), a local education provider must submit evidence, as described in subsection (6)(b) of this section, that each teacher employed to teach kindergarten or any of grades one through three has successfully completed evidence-based training in teaching reading that is:

(I) Included as a course in an approved program of preparation, as defined in section 22-60.5-103 (8), or an alternative teacher program, as defined in section 22-60.5-103 (5);

(II) Included as a course in a post-graduate degree program in teaching reading or literacy;

(III) Provided by the department or included on the advisory list of professional development programs provided by the department pursuant to section 22-7-1209 (2)(c); or

(IV) Provided by a local education provider or is appropriate for license renewal pursuant to section 22-60.5-110 (3).

(b) A teacher is deemed to have successfully completed evidence-based training in teaching reading if the local education provider submits to the department evidence that the teacher passed an end-of-course assessment of learning at the completion of the evidence-based training.

(c) At the request of a local education provider, the department shall provide, at no cost to the local education provider, evidence-based training in teaching reading to one or more of the teachers employed by the local education provider to teach kindergarten or any of grades one through three.

(d) Notwithstanding the provisions of subsection (6)(a) of this section, a local education provider that is not in compliance with the requirements of this subsection (6) as of the beginning of the 2021-22 school year or for a subsequent school year may request a one-year extension from the department based on a demonstration of good cause for inability to comply.

(e) A local education provider is strongly encouraged to make evidence-based training in teaching reading available to parents and members of the community in order to effectively partner with them in teaching early-grade reading.

(f) The state board may adopt rules as necessary to specify the time frames and procedures for complying with the requirements specified in subsection (6)(a) of this section and for applying for an extension pursuant to subsection (6)(d) of this section and the form in which a local education provider must submit evidence of the completion of an end-of-course assessment of learning as required in subsection (6)(b) of this section.

(7) Each local education provider is strongly encouraged to partner with adjacent public libraries to enhance the instructional programming and services in literacy provided by the local education provider and to provide access for students and their parents to reading materials for out-of-school literacy development.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 657, § 2, effective July 1.
L. 2019: (5) to (7) added, (SB 19-199), ch. 154, p. 1825, § 6, effective May 10.

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, as necessary to implement the provisions of this part 12, which rules 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 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 and general knowledge. The state board shall adopt the rules described in this 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.

(c) Rules for approving one or more independent third-party evaluators to review reading assessments for inclusion on the approved list of assessments and to review instructional

programming and professional development programs for inclusion on the advisory lists created by the department pursuant to subsections (2) and (3) of this section;

(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.

(d.5) The time frames and procedures for submitting information concerning the use of per-pupil intervention money;

(e) The time frames and procedures for reporting information concerning students' reading skills as described in section 22-7-1213; and

(f) Rules for implementing the early literacy grant program pursuant to section 22-7-1211.

(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 subsection (2)(a)(II) of this section. Following action by the state board to approve reading assessments pursuant to 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 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) Each of the recommended reading assessments is valid and reliable and proven to effectively and accurately measure students' reading skills in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(C) Each of the recommended reading diagnostics is proven to accurately identify students' specific reading skill deficiencies;

(D) At least one of the recommended reading assessments for kindergarten and first, second, and third grades is normed for the performance of students who speak Spanish as their native language, which assessment is available in both English and Spanish; and

(E) The list of recommended reading assessments and reading diagnostics includes at least one assessment and one diagnostic that a student can complete using pencil and paper rather than using a computer.

(b) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of evidence-based or scientifically based instructional programming in reading and supporting technologies, including software, for assessing and monitoring student progress that local education providers are encouraged to use, which programming and technology, including software, are aligned with the recommended reading assessments, including the assessment required in subsection (2)(a)(II)(D) of this section. The advisory list may include only programming and technology, including software, that, at a minimum:

- (I) Have been proven to accelerate student progress in attaining reading competency;
- (II) With regard to instructional programming, provides explicit and systematic skill development in the areas of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension;
- (II.5) With regard to instructional programming, 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) With regard to instructional programming, includes evidence-based or scientifically based and reliable assessments;
- (IV) Provide initial and ongoing analysis of the student's progress in attaining reading competency; and
- (V) With regard to instructional programming, includes texts on core academic content to assist the student in maintaining or meeting grade-appropriate proficiency levels in academic subjects in addition to reading.

(c) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of rigorous professional development programs that are related to addressing significant reading deficiencies and to applying intervention instruction and strategies, in addition to programs related to teaching general literacy, that local education providers are encouraged to use. The department shall include on the advisory list professional development programs that are available online. The department shall ensure that each professional development program included on the advisory list is:

- (I) Focused on or aligns with the science of reading, including teaching in the areas of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension; and
- (II) Includes rigorous evaluations of learning throughout and at the end of the course that a person taking the course must pass to successfully complete the course.

(d) The department shall make the approved list of assessments and the advisory lists of instructional programming and professional development programs, and subsequent updated lists, available on the department website. 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, the materials may be used only in accordance with the license.

(e) Each local education provider shall select from the list of approved reading assessments those reading assessments that it will administer to students in kindergarten and first, second, and third grades. Each local education provider is encouraged to use the instructional programming in reading and professional development programs included on the

advisory lists. The department and each local education provider, in using the assessments, instructional programming in reading, and professional development programs that are included on the lists shall comply with the federal copyright laws, 17 U.S.C. sec. 101 et seq.

(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 subsection (2)(a) of this section and for creating the advisory lists of instructional programming and professional development programs described in subsections (2)(b) and (2)(c) of this section. At a minimum, the procedure must include:

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

(b) Evaluating the assessments, instructional programming, and professional development programs that the department identifies or receives, which evaluation is based on the criteria specified in subsection (2) of this section and any additional criteria the state board may adopt by rule. The department may contract with an independent, third-party evaluator approved by the state board to evaluate the materials. The department shall recommend to the state board the reading assessments that meet the requirements specified in paragraph (a) of subsection (2) of this section.

(c) 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. 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.

(d) Publishing on the department's website the initial and updated approved list of reading assessments and advisory lists of instructional programming and professional development programs.

(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.

(4) The department shall specify the information that local education providers shall submit pursuant to section 22-7-1213 and shall analyze the information as necessary to make the determinations specified in section 22-7-1213. If another rule or statute requires local education providers to submit any portion of the specified information, the department shall not require local education providers to resubmit the information, but shall apply the information received pursuant to the other rule or statute in preparing the analysis required in section 22-7-1213.

(5) The department shall make available to local education providers any information and materials it receives pursuant to section 22-7-1208 (3) concerning strategies and intervention instruction that local education providers find effective in assisting students to achieve reading competency, including copies of any effective materials that the department receives.

(6) The department, upon request, may provide technical assistance to a local education provider in implementing the provisions of this part 12; except that, if a local education provider is accredited with turnaround plan pursuant to section 22-11-208 or required to adopt a

turnaround plan pursuant to section 22-11-210, the department shall provide technical assistance to the local education provider in implementing the provisions of this part 12.

(7) Beginning in the 2019-20 budget year, the department shall contract with an entity to develop and implement a public information campaign to emphasize the importance of learning to read by third grade and to highlight the local education providers that are achieving high percentages of third-grade students who demonstrate reading competency. The public information campaign must be disseminated statewide and must emphasize the important roles that educators and parents have in teaching children to read and in providing a school and home environment that promotes reading. The department is encouraged to work with the public and private library agencies throughout the state in developing and implementing the public information campaign.

(8) (a) By October 1, 2019, the department shall issue a request for proposals to contract with an entity to act as an independent evaluator to provide independent evaluations of the use of per-pupil intervention money and money received through the early literacy grant program by local education providers and to conduct a multi-year evaluation to determine whether the student outcomes achieved by local education providers in implementing this part 12 meet the goals of this part 12 as described in section 22-7-1202 (2) and (3)(a).

(b) The commissioner of education shall direct the process for reviewing the proposals received and for selecting the entity in accordance with the procurement laws applicable to the department. In selecting the entity, the commissioner shall ensure that:

(I) The selected entity demonstrates the ability and capacity to successfully complete the evaluation as described in subsection (8)(c) of this section within the specified time frame;

(II) The selected entity has expertise in reviewing and understanding the components of high-quality, effective reading curricula, education programs, instruction, strategies, and interventions;

(III) The selected entity has expertise in reviewing the implementation of English language development programs, especially with regard to teaching reading; and

(IV) The selected entity has expertise in understanding measurements of student learning and academic growth.

(c) The multi-year evaluation of the implementation of this part 12 must include:

(I) Review of the approved reading assessments and the items included on the advisory lists of instructional programming in reading and supporting technologies and of professional development programs to ensure that they meet the requirements specified in subsection (2) of this section and a review of the processes by which the department identifies assessments, instructional programming in reading, and professional development programs for inclusion on the lists;

(II) Evaluation of the effectiveness of the processes, procedures, methods, and strategies that local education providers use to implement the requirements of this part 12, including an inventory to establish a baseline indication of the teaching methods, strategies, and materials used by local education providers to teach reading in kindergarten and grades one through three;

(III) Measurement of the results attained that indicate the degree to which the goals of this part 12 have been met, including, at a minimum:

(A) The number of students annually identified as having significant reading deficiencies, including those initially identified and those who were identified in a previous school year;

(B) The amount of academic growth to standard in reading annually attained by students who are identified as having significant reading deficiencies and whether students identified as having significant reading deficiencies demonstrate sufficient, as determined by the department, growth to standard in reading over multiple years;

(C) Whether students identified as having significant reading deficiencies demonstrate grade-level reading competency by completion of third grade or by completion of a later grade;

(D) The number of students annually identified as reading below grade level; and

(E) The amount of academic growth to standard in reading annually attained by students who are reading below grade level and whether students identified as reading below grade level demonstrate sufficient, as determined by the department, growth to standard in reading over multiple years;

(IV) Identification of the effective processes, procedures, methods, and strategies used by local education providers that the independent evaluator identifies as achieving significant academic growth to standard in reading for students identified as having significant reading deficiencies and as reading below grade level;

(V) Establishment of a baseline indication of the level and quality of pre-service and in-service training in teaching reading received by each educator who is employed in a public school to teach kindergarten or one of grades one through three;

(VI) Evaluation of the degree to which local education providers effectively work with parents and members of the community to create partnerships for providing and encouraging reading instruction for students enrolled in kindergarten and grades one through three; and

(VII) Recommendations for legislative or regulatory changes regarding this part 12 or changes in implementation of the requirements of this part 12 to decrease the number of students identified as having significant reading deficiencies and increase to the greatest possible extent the number and overall percentage of students reading at grade level at the completion of kindergarten and grades one through three.

(d) In completing the multi-year evaluation, the independent evaluator shall take into account student mobility within, and the student demographics of, each local education provider, including at the school-building level. The independent evaluator shall work directly with the department, local education providers, and parents and community members in completing the evaluation.

(e) The independent evaluator contracted pursuant to this subsection (8) shall complete the evaluation of the implementation of this part 12 as described in subsection (8)(c) of this section by July 1, 2021. The department shall include a report of the evaluation in the hearing before the joint education committee held pursuant to section 2-7-203 in November or December 2021. The independent evaluator shall continue evaluations of the growth in reading achieved by local education providers' use of per-pupil intervention money and money received through the early literacy grant program.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 658, § 2, effective July 1. **L. 2015:** (2)(a)(II)(C) and (2)(a)(II)(D) amended and (2)(a)(II)(E) added, (HB 15-1323), ch. 204, p. 714, § 5, effective May 20. **L. 2018:** IP(1), (1)(a), (1)(b), (1)(d), (2)(a)(I), (2)(a)(II)(A), IP(2)(b), (2)(b)(III), (2)(d), IP(3), (3)(a), and (3)(c) amended and (2)(b)(II.5) and (3.5) added, (HB 18-1393), ch. 275, p. 1738, § 1, effective May 29. **L. 2019:** (1)(d.5), (7), and (8) added and

(2)(a)(I), (2)(b), (2)(c), IP(3), and (6) amended, (SB 19-199), ch. 154, p. 1827, § 7, effective May 10.

22-7-1210. Early literacy fund - created - repeal. (1) The early literacy fund is hereby created in the state treasury and is referred to in this section as the "fund". The fund shall consist of:

(a) Any moneys remaining in the read-to-achieve cash fund as of June 30, 2012;

(b) and (c) Repealed.

(d) (I) For the 2013-14 budget year, an amount equal to sixteen million dollars from the state education fund, and for the 2014-15 budget year, and each budget year thereafter, an amount equal to thirty-four million dollars from the state education fund. On July 1, 2013, and on July 1 each year thereafter, the state treasurer shall transfer the appropriate amount from the state education fund to the early literacy fund.

(II) The general assembly hereby finds and declares that, for the purposes of section 17 of article IX of the state constitution, providing students enrolled in kindergarten, first, second, or third grade with the instructional programming, intervention instruction, and support necessary to ensure that students, by the completion of third grade, can demonstrate a level of competency in reading skills that is necessary to support them in achieving the academic standards and expectations applicable to the fourth-grade curriculum is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(e) Any other moneys that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer may invest any moneys in the fund not expended for the purposes specified in subsection (4) of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any amount remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or to any other fund.

(3) Repealed.

(4) The money in the fund is subject to annual appropriation by the general assembly to the department. The department shall annually expend the money in the fund as follows:

(a) Repealed.

(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 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 money annually credited to the fund, as provided in the annual general appropriations bill, to the local education providers as per-pupil

intervention money calculated pursuant to subsection (5) of this section, as it existed prior to May 10, 2019.

(c) (I) In addition to the allocations described in subsection (4)(b) of this section, for the 2019-20 budget year, the department shall expend:

(A) Up to five hundred thousand dollars to implement the public information campaign to promote reading described in section 22-7-1209 (7);

(B) Up to seven hundred fifty thousand dollars to contract with, and pay the direct administrative costs incurred in contracting with and overseeing, a qualified entity as an independent evaluator to evaluate the implementation of this part 12 as described in section 22-7-1209 (8); and

(C) Up to two million seven hundred fifty thousand dollars to provide evidence-based training in teaching reading for teachers employed by local education providers to teach kindergarten and grades one through three. If the actual demand for training exceeds the anticipated demand and the amount allocated pursuant to this subsection (4)(c)(I)(C) is insufficient to pay the costs incurred in providing this training, the department may submit to the general assembly during the 2019-20 budget year a request for a supplemental appropriation in the amount required to fully fund the costs.

(II) Notwithstanding the provisions of subsections (4)(b)(II) and (4)(b)(IV) of this section, for the 2019-20 budget year, of the amount that remains after the allocations described in subsections (4)(b)(I), (4)(b)(III), and (4)(c)(I) of this section, as provided in the annual general appropriations bill, the department shall allocate two million five hundred thousand dollars for grants awarded through the early literacy grant program created in section 22-7-1211, which is in addition to the amount described in subsection (4)(b)(II) of this section, and allocate the remaining amount to local education providers as per-pupil intervention money as provided in section 22-7-1210.5.

(III) Subsection (4)(b) of this section and this subsection (4)(c) are repealed, effective July 1, 2020.

(d) (I) Beginning in the 2020-21 budget year and for budget years thereafter, the department shall annually expend the money credited to the early literacy fund for the following purposes:

(A) To implement the public information campaign to promote reading described in section 22-7-1209 (7);

(B) To contract with and pay the direct costs incurred in overseeing an independent evaluator as provided in section 22-7-1209 (8);

(C) To implement the early literacy grant program created in section 22-7-1211;

(D) To allocate per-pupil intervention money to local education providers as provided in section 22-7-1210.5; and

(E) To pay the costs incurred in providing to local education providers technical assistance in implementing this part 12 and training in teaching reading for teachers employed to teach kindergarten and grades one through three; monitoring the use of money received as per-pupil intervention money or grants through the early literacy grant program; and fulfilling the administrative requirements specified in this part 12.

(II) The general assembly shall annually appropriate in the general appropriations bill the amount that the department may expend for the purposes specified in subsection (4)(d)(I) of this section.

(5) and (6) Repealed.

Source: **L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 661, § 2, effective July 1. **L. 2013:** (1)(c) repealed, (1)(d) amended, and (1)(e) added, (SB 13-260), ch. 236, p. 1141, § 7, effective May 17. **L. 2014:** (1)(d)(I) amended, (HB 14-1292), ch. 243, p. 916, § 20, effective May 21; (1)(d)(I) amended, (HB 14-1298), ch. 244, p. 937, § 25, effective May 21; (5)(b)(III) amended and (5)(b)(III.5) added, (HB 14-1204), ch. 292, p. 1195, § 4, effective May 31. **L. 2016:** (1)(b) and (3) repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1; IP(5)(b) and (5)(b)(III.5) amended, (HB 16-1440), ch. 316, p. 1278, § 6, effective August 10. **L. 2018:** IP(4), (4)(b), (5)(b), and (5)(c) amended and (6) added, (HB 18-1393), ch. 275, p. 1741, § 2, effective May 29. **L. 2019:** (4)(b)(IV) amended, (4)(c) and (4)(d) added, and (5) and (6) repealed, (SB 19-199), ch. 154, p. 1831, § 8, effective May 10; (5)(b)(I) repealed, (HB 19-1262), ch. 245, p. 2401, § 11, effective May 21.

Editor's note: (1) Subsection (4)(a)(II) provided for the repeal of subsection (4)(a), effective July 1, 2013. (See L. 2012, p. 661.)

(2) Subsection (5)(a)(II)(B) provided for the repeal of subsection (5)(a)(II), effective July 1, 2014. (See L. 2012, p. 661.)

(3) Amendments to subsection (5) by SB 19-199 and HB 19-1262 were harmonized.

Cross references: For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

22-7-1210.5. Per-pupil intervention money - uses - distribution - monitoring. (1) To distribute the money appropriated pursuant to section 22-7-1210 (4) for per-pupil intervention money, the department shall annually calculate the per-pupil amount by dividing the amount of money available by the total number of students enrolled in kindergarten and first, second, and third grades in public schools in the state who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the money is distributed. Subject to the requirements of this section, a local education provider may receive per-pupil intervention money in an amount equal to the calculated per-pupil amount multiplied by the number of students enrolled in kindergarten and first, second, and third grades in public schools operated by the local education provider who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the money is distributed.

(2) Before the beginning of each budget year, to receive a distribution of per-pupil intervention money, a local education provider must submit to the department by the date specified by state board rule:

(a) The number of students enrolled in kindergarten and first, second, and third grades in public schools operated by the local education provider who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the money is distributed; and

(b) A budget, including a narrative explanation, for the use of the per-pupil intervention money in accordance with the uses described in subsection (4) of this section.

(3) (a) At the beginning of each budget year, the department shall distribute to a local education provider that meets the requirements specified in subsection (3)(b) of this section the amount of per-pupil intervention money calculated for the local education provider pursuant to subsection (1) of this section for the applicable budget year.

(b) To receive per-pupil intervention money in a budget year, a local education provider must meet the following requirements:

(I) The local education provider must submit the information described in subsection (2) of this section and in section 22-7-1213 (2);

(II) For the 2021-22 budget year and budget years thereafter, the local education provider must submit evidence that it is in compliance with the teacher training requirements specified in section 22-7-1208 (6);

(III) The department must approve the local education provider's proposed use of the per-pupil intervention money as being in compliance with the requirements in subsection (4) of this section;

(IV) For the preceding budget year, the local education provider must have used the money for one or more of the purposes specified in subsection (4) of this section; except that the provisions of this subsection (3)(b)(IV) do not apply if the local education provider did not receive a distribution of per-pupil intervention money in the preceding budget year; and

(V) If the local education provider is expecting to use the per-pupil intervention money for targeted intervention services as described in subsection (4)(d) of this section, the department reviewed and approved the services. The department shall not approve services that have not been implemented and proven to be successful with a student population and under circumstances that are comparable to those of the local education provider or that are not supported by valid research that suggests the services will be effective with the student population served by, and under the circumstances of, the local education provider.

(c) Throughout the budget year, the department shall monitor and, if deemed necessary by the department, audit each local education provider's use of the per-pupil intervention money it receives. The department may conduct site visits to the extent deemed necessary to adequately monitor a local education provider's use of per-pupil intervention money. Each local education provider shall provide, upon request by the department, information necessary for the department to comply with this subsection (3)(c).

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

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

(b) To purchase core reading instructional programs that are included on the advisory list of instructional programming in reading and supporting technologies developed by the department pursuant to section 22-7-1209 (2)(b);

(c) To purchase tutoring services that focus on increasing students' foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension for students who are receiving instructional services pursuant to READ plans;

(d) To provide other targeted, evidence-based or scientifically based intervention services to students who are receiving instructional services, which may include services provided by a reading interventionist, pursuant to READ plans, which services are approved by the department;

(e) To provide technology, including software, which is included on the advisory list of instructional programming in reading and supporting technologies pursuant to section 22-7-1209 (2)(b), to assist in assessing and monitoring student progress toward reading competency, which may include providing professional development in the effective use of the technology or software;

(f) To purchase from a board of cooperative services the services of a reading specialist or reading interventionist who is trained in the science of reading and in teaching the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension to provide educator professional development in teaching reading and other support in implementing the requirements of this part 12; or

(g) To provide professional development programming to support educators in teaching reading. Professional development programming authorized in this subsection (4)(g) may include hiring a reading coach who is trained in teaching the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension to provide job-embedded, ongoing professional development to support kindergarten-through-third-grade teacher competence in teaching phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension. A local education provider that has not fully complied with section 22-7-1208 (6) is strongly encouraged to use per-pupil intervention money to ensure that all teachers employed by the local education provider to teach kindergarten or any of grades one through three successfully complete evidence-based training in teaching reading before using the money for other authorized purposes.

(5) In using the per-pupil intervention money distributed pursuant to this section, each local education provider shall ensure that some type of intervention, as described in subsection (4) of this section, is available to each student who is identified as having a significant reading deficiency and who is enrolled in kindergarten or first, second, or third grade in a school operated by the local education provider.

(6) (a) 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 who are identified as having a significant reading deficiency or receive instructional services pursuant to READ plans and does not replace other money that would otherwise be used for this purpose.

(b) A local education provider may retain up to fifteen percent of the amount of per-pupil intervention money it receives in a budget year for use in accordance with this section in the next budget year. If a local education provider retains more than the amount authorized in this subsection (6)(b), the department shall reduce the amount of per-pupil intervention money that the local education provider is eligible to receive in the next budget year by the excess retention amount.

Source: L. 2019: Entire section added, (SB 19-199), ch. 154, p. 1834, § 9, effective May 10.

22-7-1211. Early literacy grant program - created - definitions. (1) (a) There is 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 may award a grant to an applying local education provider that is a school district on a district-wide basis or to individual schools of the school district. A local education provider may apply individually or as part of a group of local education providers. The state board by rule shall establish the application timelines and the information to be included in each grant application. The state board shall not, as a condition of applying for or receiving a grant, restrict an applicant's ability to use any of the assessments included on the approved list of assessments adopted pursuant to section 22-7-1209 (1)(b).

(b) 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 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.

(2) The department shall review each grant application received and recommend to the state board whether to award the grant and the duration and amount of each grant. In making recommendations, the department shall consider the following factors:

(a) The percentage of kindergarten and first-, second-, and third-grade students enrolled by the applying local education provider or group of local education providers who have significant reading deficiencies and the percentage of kindergarten and first-, second-, and third-grade students who do not have significant reading deficiencies but who are not meeting the grade-level expectations in reading adopted by the state board;

(b) The instructional program that the applying local education provider or group of local education providers plans to implement using the grant money and whether it is an evidence-based program that is proven to be successful in other public schools in Colorado or in other states;

(b.3) Whether the local education provider or group of local education providers employs reading coaches or plans to use all or a portion of the grant money to employ reading coaches;

(b.5) The degree to which the instructional program incorporates the effective use of technology, including software, to assist in assessing and monitoring student progress toward reading competency;

(c) The cost of the instructional program that the applying local education provider or group of local education providers plans to implement using the grant moneys;

(c.5) In the case of a board of cooperative services that applies for a grant to provide instructional support in literacy, the number of small rural school districts, the number of kindergarten and first-, second-, and third-grade students enrolled in the small rural school districts, and the resources available to the small rural school districts that will receive instructional support as a result of the grant;

(d) Any additional factors the state board may require by rule.

(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 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), 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 that have resulted in significant student academic growth toward reading competency, as determined by an independent evaluator as provided in section 22-7-1209 (8), 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 that are resulting in significant student academic growth toward reading competency, as determined by an independent evaluator as provided in section 22-7-1209 (8); 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.

(3.5) (a) Upon completion of the term of a grant, if an independent evaluator, as provided in section 22-7-1209 (8), determines that the instructional program funded by the grant money has resulted in significant student academic growth toward reading competency, and if the local education provider requests an extension of the grant, the state board shall extend the grant for a period recommended by the department. The state board shall increase the amount of the grant if necessary to enable the local education provider to expand or enhance implementation of the instructional program.

(b) Upon completion of the term of a grant, if an independent evaluator, as provided in section 22-7-1209 (8), determines that the instructional program funded by the grant money has not resulted in significant academic student growth toward reading competency, the state board shall not extend or renew the grant.

(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 that enrolls fewer than one thousand two hundred students in kindergarten through twelfth grade.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 664, § 2, effective July 1. **L. 2014:** (1) and (2)(c) amended and (2)(c.5) added, (HB 14-1204), ch. 292, p. 1196, § 5, effective May 31. **L. 2016:** (1) and (2)(c.5) amended and (4) added, (HB 16-1440), ch. 316, p. 1277, § 5, effective August 10. **L. 2018:** (1), (3), and (4) amended, (HB 18-1393), ch. 275, p. 1742, § 3, effective May 29. **L. 2019:** (1), (2)(a), (2)(b), IP(3), (3)(a), and (3)(b) amended and (2)(b.3), (2)(b.5), and (3.5) added, (SB 19-199), ch. 154, p. 1837, § 10, effective May 10.

22-7-1212. Summer school literacy programs. (1) A local education provider may choose to use per-pupil intervention 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 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.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 665, § 2, effective July 1.
L. 2018: Entire section amended, (HB 18-1393), ch. 275, p. 1743, § 4, effective May 29.

22-7-1213. Reporting requirements. (1) Each local education provider shall annually report to the department information necessary to determine:

(a) The prevalence of significant reading deficiencies among students in kindergarten and first through third grades;

(a.3) The amount of academic growth to standard in reading annually achieved by students who are enrolled in kindergarten and first through third grades and who are identified as having significant reading deficiencies;

(a.5) The amount of academic growth to standard in reading annually achieved by students who are enrolled in kindergarten and first through third grades and who are identified as reading below grade level;

(a.7) Whether the amount of academic growth to standard annually achieved by each student described in subsections (1)(a.3) and (1)(a.5) of this section demonstrates sufficient, as determined by the department, growth to standard in reading over multiple years;

(b) Whether students who have significant reading deficiencies and who advance to the next grade level attain reading competency and, if so, at what grade level;

(c) Whether students who have significant reading deficiencies and who do not advance to the next grade level attain reading competency within the school year during which they do not advance;

(d) Whether students who have significant reading deficiencies and who do not advance to the next grade level attain reading competency at a lower grade level than students who do advance; and

(e) Whether students who have significant reading deficiencies continue to advance to the next grade level despite having a continuing significant reading deficiency and the degree to which local education providers are recommending that said students do not advance.

(1.5) Each local education provider shall submit to the department and to the independent evaluator contracted pursuant to section 22-7-1209 (8) any information required by the department or the independent evaluator to complete the evaluation described in section 22-7-1209 (8). The local education provider, in providing information, and the department and the independent evaluator in receiving and using the information, shall comply with state and federal laws to protect the privacy of student information. The local education provider, the department, and the independent evaluator shall collaborate to minimize the impact on instructional time that may result from collecting and providing the information.

(2) Each local education provider that receives an early literacy grant pursuant to section 22-7-1211 or per-pupil intervention money shall, at the conclusion of each budget year in which it receives the grant or per-pupil intervention money, submit to the department information describing:

(a) In detail, the specific expenditures for which the local education provider used the grant or per-pupil intervention money;

(a.5) If the local education provider purchased instructional programming in reading using grant or per-pupil intervention money, the scores attained by students enrolled in kindergarten through third grade on the interim reading assessments administered pursuant to section 22-7-1205;

(b) The number and grade levels of students who participated in each of the types of programs or services provided; and

(c) The progress made by participating students in achieving reading competency.

(3) (a) The department shall annually analyze the information received pursuant to subsection (1) of this section and make the determinations described in subsection (1) of this section.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the department shall annually submit to the state board, the governor, the president of the senate, the speaker of the house of representatives, and the education committees of the house of representatives and the senate, or any successor committees, and shall post on the department website a report that summarizes:

(I) The information received pursuant to subsection (1) of this section and the determinations made by the department based on the information;

(II) The implementation of the early literacy grant program in the preceding budget year, including the number of grants, the local education providers that received grants, and the amount of each grant; and

(III) The information received by the department pursuant to subsection (2) of this section.

(c) The department may provide the report described in paragraph (b) of this subsection (3) to committees of the general assembly in conjunction with the report required in section 2-7-203, C.R.S.

(4) The information provided in the report described in this section is intended to assist the department, the state board, the governor, the general assembly, and the public in monitoring the implementation of and identifying the results achieved in implementing this part 12.

Source: L. 2012: Entire part added, (HB 12-1238), ch. 180, p. 666, § 2, effective July 1. **L. 2017:** IP(3)(b) amended, (HB 17-1267), ch. 242, p. 995, § 6, effective August 9. **L. 2019:** (1)(a.3), (1)(a.5), (1)(a.7), and (1.5) added and (2) amended, (SB 19-199), ch. 154, p. 1839, § 11, effective May 10; IP(2) and (2)(a) amended, (HB 19-1262), ch. 245, p. 2400, § 10, effective May 21.

Editor's note: Amendments to subsection (2) by SB 19-199 and HB 19-1262 were harmonized.

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.

Source: L. 2018: Entire section added, (HB 18-1393), ch. 275, p. 1744, § 5, effective May 29.