

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".

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.

(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.

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.

(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 moneys" means the moneys 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) "Response to intervention framework" 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 response to intervention framework, 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.

(13) "School district" means a school district, other than a junior 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.

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.

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).

(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.

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 response to intervention framework or a comparable intervention system implemented by the local education provider.

(b) If a student has a significant reading deficiency, the student's READ plan shall include the intervention instruction that the local education provider provides through the response to intervention framework 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.

(5) Each READ plan shall 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;

(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.

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.

22-7-1208. Local education providers - procedures. (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.

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

(a) The minimum reading competency skill levels in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension for kindergarten and first, second, and third grades. The state board shall base the minimum skill levels for second and third grades primarily on scores attained on the assessments approved by the state board pursuant to paragraph (b) of this subsection (1). 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 paragraph (a) by March 31, 2013.

(b) The list of approved 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.

(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 who submit materials for inclusion on the list of approved assessments and the advisory lists of instructional programming and professional development programs;

(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 subparagraph (II) of this paragraph (a). Following action by the state board to approve reading assessments pursuant to paragraph (b) of subsection (1) 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.

(II) The department shall ensure that:

(A) Each of the recommended reading assessments is scientifically based; except that the department may recommend and the state board may, until July 1, 2016, include on the approved list of assessments any reading assessment approved by the state board prior to July 1, 2012, regardless of whether it is scientifically based;

(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 scientifically based or evidence-based instructional programming in reading that local education providers are encouraged to use. The advisory list shall include only programming that, at a minimum:

(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;

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

(V) 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 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.

(d) The department shall make the approved list of assessments available on the department website on or before April 1, 2013, and the advisory lists of instructional programming and professional development programs available on the department website on or before July 1, 2013. The department is not required to provide copies of any reading assessments, instructional programming, or professional development programs that are included on the lists. If the department does provide copies of any materials that it acquires by purchase of a license for use by local education providers, said 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 paragraph (a) of subsection (2) of this section and for creating the advisory lists of instructional programming and professional development programs described in paragraphs (b) and (c) of subsection (2) of this section. At a minimum, the procedure shall include:

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

(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) Periodically reviewing the list of approved assessments and the advisory lists to update the lists and add additional items, when appropriate; and

(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.

(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.

22-7-1210. Early literacy fund - created. (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 moneys in the fund are subject to annual appropriation by the general assembly to the department. The department shall annually expend the moneys 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 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 four million dollars for grants awarded through the early literacy grant program created in section 22-7-1211;

(III) The department may use up to one percent of the moneys annually appropriated from the fund to offset the costs of administering this part 12; and

(IV) The department shall allocate the remaining moneys annually credited to the fund to the local education providers as per-pupil intervention moneys calculated pursuant to subsection

(5) of this section.

(5) (a) (I) The department shall allocate the per-pupil intervention moneys to the local education providers as required in subparagraph (IV) of paragraph (b) of subsection (4) of this section by first dividing the amount of moneys 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 moneys are allocated. The department shall then allocate to each local education provider an amount equal to said 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 moneys are allocated.

(II) Repealed.

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

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

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

(III) To purchase tutoring services in reading for students with significant reading deficiencies;

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

(IV) To provide other targeted, scientifically based or evidence-based intervention services to students with significant reading deficiencies, which services are approved by the department.

(c) Each budget year, prior to receiving per-pupil intervention moneys, each local education provider shall submit to the department, for informational purposes, an explanation of the manner in which it will use the moneys in the coming budget year and the number of students for which the local education provider may receive per-pupil intervention moneys. If the local education provider intends to provide a service described in subparagraph (IV) of paragraph (b) of this subsection (5), the department shall review the service and provide the per-pupil intervention moneys for the service only if the service meets the requirements specified in said subparagraph (IV).

(d) In using the per-pupil intervention moneys allocated pursuant to this subsection (5), each local education provider shall ensure that some type of intervention, as described in paragraph (b) of this subsection (5), 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.

22-7-1211. Early literacy grant program - created - definition. (1) There is hereby created in the department the early literacy grant program to provide money to local education providers to implement literacy support and intervention instruction programs, including but not

limited to related professional development programs, to assist students in kindergarten and first, second, and third grades to achieve reading competency. The state board by rule shall establish the application timelines and the information to be included in each grant application. A local education provider may apply individually or as part of a group of local education providers. A rural school district that is a member of a board of cooperative services may seek assistance in writing the grant application from the board of cooperative services. A board of cooperative services may apply for a grant to provide instructional support in literacy for small rural school districts that are members of the board of cooperative services.

(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;

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

(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 moneys in the early literacy fund created in section 22-7-1210.

(4) For purposes of this section, "small 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, and that enrolls fewer than one thousand two hundred students in kindergarten through twelfth grade.

22-7-1212. Summer school literacy programs. (1) A local education provider may choose to use per-pupil intervention moneys to provide an evidence-based summer school literacy program to assist students who are enrolled in kindergarten or first, second, or third grade and who have significant reading deficiencies to achieve reading competency. A local education provider may allow students who are below grade level expectations in reading, but who do not have significant reading deficiencies, to participate in a summer school literacy program operated pursuant to this section if capacity remains after serving all of the students with significant reading deficiencies who choose to participate.

(2) A local education provider that intends to use per-pupil intervention moneys 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. 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.

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;

(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.

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

(a) The instructional programs, full-day kindergarten program, summer school literacy program, tutoring services, or other intervention services for which the local education provider used the grant or per-pupil intervention moneys;

(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) 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.