

AN ACT

relating to the assessment of public school students, the establishment of a strong foundations grant program, and providing accelerated instruction for students who fail to achieve satisfactory performance on certain assessment instruments.

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

SECTION 1. The heading to Section 28.0211, Education Code, is amended to read as follows:

Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Section 28.0211, Education Code, is amended by amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k), and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2), (f-3), (f-4), (f-5), and (n-1) to read as follows:

(a) A school district shall establish an accelerated learning committee described by Subsection (c) for each student who does not perform satisfactorily on:

(1) the third grade mathematics or reading assessment instrument under Section 39.023;

~~(2) [Except as provided by Subsection (b) or (c), a student may not be promoted to:~~

~~[(1) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on] the fifth grade mathematics or [and] reading assessment instrument [instruments] under Section 39.023; or~~

~~(3) [(2) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on] the eighth grade mathematics or [and] reading assessment instrument [instruments] under Section 39.023.~~

(a-1) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and either:

(1) allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under Section 21.3521 for the subsequent school year in the applicable subject area; or

(2) provide the student supplemental instruction under Subsection (a-4).

(a-2) Accelerated instruction provided during the following school year under Subsection (a-1) may require participation of the student before or after normal school hours [and may include participation at times of the year outside normal school operations].

(a-3) In providing accelerated instruction under Subsection (a-1), a district may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

(1) instruction in the foundation curriculum and enrichment curriculum adopted under Section 28.002 for the grade level in which the student is enrolled; or

(2) recess or other physical activity that is available to other students enrolled in the same grade level.

(a-4) If a district receives funding under Section 29.0881,

the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then supplemental instruction provided by a school district under Subsection (a-1)(2) must:

(1) include targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;

(2) be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;

(3) be provided for no less than 30 total hours during the subsequent summer or school year and, unless the instruction is provided fully during summer, include instruction no less than once per week during the school year;

(4) be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;

(5) include effective instructional materials designed for supplemental instruction;

(6) be provided to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group;

(7) be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of the school district; and

(8) to the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

(a-5) Each school district shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) to make a request for district consideration that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available.

~~[(a-2) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.]~~

(a-6). [(a-3)] The commissioner shall provide guidelines to school districts on research-based best practices and effective strategies that a district may use in developing an accelerated instruction program and shall provide resources to districts to assist in the provision of an accelerated instruction program.

~~(c) [Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument.] After a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), an accelerated learning [a second time, a grade placement] committee shall be established [to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time]. The accelerated learning [grade placement] committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the accelerated learning [grade placement] committee and the purpose of the committee. [An accelerated instruction group administered by a school district under this section may not have a~~

~~ratio of more than 10 students for each teacher.]~~

~~(f) An accelerated learning [A school district shall provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement] committee described by [established under] Subsection (c) shall, not later than the start of the subsequent school year, develop an[. The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The] educational plan for the student that provides the necessary accelerated instruction [must be designed] to enable the student to perform at the appropriate grade level by the conclusion of the school year.~~

~~(f-1) The educational plan under Subsection (f) must be documented in writing, and a copy must be provided to the student's parent or guardian.~~

~~(f-2) During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan developed under Subsection (f). The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.~~

~~(f-3) The board of trustees of each school district shall adopt a policy consistent with the grievance procedure adopted under Section 26.011 to allow a parent to contest the content or implementation of an educational plan developed under Subsection (f).~~

~~(f-4) If a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject, the superintendent of the district, or the superintendent's designee, shall meet with the student's accelerated learning committee to:~~

~~(1) identify the reason the student did not perform satisfactorily; and~~

~~(2) determine, in order to ensure the student performs satisfactorily on the assessment instrument at the next administration of the assessment instrument, whether:~~

~~(A) the educational plan developed for the student under Subsection (f) must be modified to provide the necessary accelerated instruction for that student; and~~

~~(B) any additional resources are required for that student.~~

~~(f-5) The superintendent's designee under Subsection (f-4):~~

~~(1) may be an employee of a regional education service center; and~~

~~(2) may not be a person who served on the student's accelerated learning committee.~~

~~(i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) must meet to [before the student is administered the assessment instrument for the second time. The committee shall] determine[÷~~

~~[(1)] the manner in which the student will participate in an accelerated instruction program under this section[; and~~

~~[(2) whether the student will be promoted in accordance with Subsection (i-1) or retained under this section].~~

~~(k) The commissioner may [shall] adopt rules as necessary to implement this section[, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.054].~~

(n) Except as provided by Subsection (n-1), a [A] student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted to the next grade level [by a grade placement committee under this section] must be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to an appropriately certified [a] teacher who meets all state and federal qualifications to teach that subject and grade.

(n-1) In a manner consistent with federal law and notwithstanding any other law, the commissioner may waive the requirement under Subsection (n) regarding the assignment of a student to an appropriately certified classroom teacher on the request of a school district.

SECTION 3. Section 28.0217, Education Code, is amended to read as follows:

Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL STUDENTS. (a) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(c), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area~~[, using funds appropriated for accelerated instruction under Section 28.0211]~~.

(b) Accelerated instruction provided under this section:

(1) may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations; and

(2) must comply with the requirements for accelerated instruction provided under Section 28.0211.

SECTION 4. Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.0881 to read as follows:

Sec. 29.0881. STRONG FOUNDATIONS GRANT PROGRAM. (a) The commissioner shall establish and administer a strong foundations grant program for campuses or a program at a campus serving students enrolled in prekindergarten through grade five to implement a rigorous school approach that combines high-quality instruction, materials, and support structures.

(b) The commissioner shall adopt components that school districts, open-enrollment charter schools, and campuses of the districts or schools must implement under the strong foundations grant program. The components must include:

(1) use of high-quality instructional materials, curricula, and curricular tools;

(2) use of aligned diagnostic and formative assessments;

(3) aligned professional supports;

(4) practices designed to ensure high-quality supports for students with disabilities;

(5) evidence-based practices to increase and maintain parental engagement; and

(6) measurement of fidelity of implementation of the program.

(c) Grants provided under the strong foundations grant program may be in the form of funds, in-kind resources, or both.

(d) The commissioner shall use funds appropriated, federal funds, and other funds available for the strong foundations grant program to assist school districts and open-enrollment charter schools in implementing the program.

(e) A school district or open-enrollment charter school that receives grant funds under this section may use the funds to:

(1) financially support or train or otherwise prepare educators and other staff;

(2) pay for agreements with other entities to provide prekindergarten services; or

(3) pay for accelerated instruction provided under

Section 28.0211 or 28.0217.

(f) The commissioner may accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the program. A private or nonprofit organization that contributes to the program may receive an award under Section 7.113.

SECTION 5. Section 39.025(b-1), Education Code, is amended to read as follows:

(b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) on an end-of-course assessment instrument with accelerated instruction under Section 28.0217 in the subject assessed by the assessment instrument.

SECTION 6. Section 39.301(c), Education Code, is amended to read as follows:

(c) Indicators for reporting purposes must include:

(1) the percentage of graduating students who meet the course requirements established by State Board of Education rule for:

- (A) the foundation high school program;
- (B) the distinguished level of achievement under the foundation high school program; and
- (C) each endorsement described by Section

28.025(c-1);

(2) the results of the SAT, ACT, and certified workforce training programs described by Chapter 311, Labor Code;

(3) for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument required under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(4) for each campus, the number of students, disaggregated by major student subpopulations, that take courses under the foundation high school program and take additional courses to earn an endorsement under Section 28.025(c-1), disaggregated by type of endorsement;

(5) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211 [~~28.0211(e)~~], the results of assessment instruments administered under that section, [~~the percentage of students promoted through the grade placement committee process under Section 28.0211,~~] the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the subsequent school year [~~following that promotion~~] on the assessment instruments required under Section 39.023;

(6) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(7) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) the percentage of students who satisfy the college readiness measure;

(9) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052;

(10) the percentage of students who are not educationally disadvantaged;

(11) the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

(12) the percentage of students who successfully complete the first year of instruction at an institution of higher

education without needing a developmental education course.

SECTION 7. Section 39A.051(b), Education Code, is amended to read as follows:

(b) For a campus described by Subsection (a), the commissioner, to the extent the commissioner determines necessary, may:

(1) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the school district, the district superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; ~~[or]~~

(2) establish a school community partnership team composed of members of the campus-level planning and decision-making committee established under Section 11.251 and additional community representatives as determined appropriate by the commissioner;

~~(3) if applicable under Section 39A.064, require the school district to comply with all requirements of the strong foundations grant program under Section 29.0881 for the campus; or~~

~~(4) any combination of the actions described by Subdivisions (1) through (3).~~

SECTION 8. Subchapter B, Chapter 39A, Education Code, is amended by adding Section 39A.064 to read as follows:

Sec. 39A.064. STRONG FOUNDATIONS INTERVENTION FOR CERTAIN CAMPUSES. (a) Notwithstanding Section 39A.0545(b) or any other law, the commissioner may require a school district or open-enrollment charter school to comply with all requirements of the strong foundations grant program under Section 29.0881 at a campus that:

(1) includes students at any grade level from prekindergarten through fifth grade;

(2) is assigned an overall performance rating of D or F; and

(3) is in the bottom five percent of campuses in the state based on student performance on the grade three reading assessment administered under Section 39.023(a) during the previous school year, as determined by the commissioner.

(b) If funds are appropriated for the purpose, the commissioner shall award a grant under Section 29.0881 to any campus required to implement the requirements of the program under this section.

(c) The commissioner shall adopt rules to determine whether a school district or open-enrollment charter school is complying adequately with the requirements under this section.

SECTION 9. Section 51.338(d), Education Code, is amended to read as follows:

(d) A student who has demonstrated the performance standard for college readiness as provided by Section 28.008 on the postsecondary readiness assessment instruments adopted under Section 39.0238 for Algebra II and English III, as that section existed before repeal by H.B. 4545, Acts of the 87th Legislature, Regular Session, 2021, is exempt from the requirements of this subchapter with respect to those content areas. The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

SECTION 10. The following provisions of the Education Code are repealed:

(1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m), and (m-1);

(2) Section 39.0231; and

(3) Section 39.0238.

SECTION 11. As soon as practicable after the effective date of this Act, the board of trustees of a school district shall adopt a policy as required by Section 28.0211(f-3), Education Code, as added by this Act.

SECTION 12. This Act applies beginning with the 2021-2022 school year.

SECTION 13. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 4545 was passed by the House on May 13, 2021, by the following vote: Yeas 82, Nays 63, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4545 on May 28, 2021, by the following vote: Yeas 104, Nays 41, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4545 was passed by the Senate, with amendments, on May 27, 2021, by the following vote: Yeas 24, Nays 7.

Secretary of the Senate

APPROVED: _____
Date

Governor