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H.B. No. 1416

A BILL TO BE ENTITLED

AN ACT

relating to accelerated instruction provided to public school 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,~~] ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Section 28.0211, Education Code, is amended by amending Subsections (a), (a-1), (a-2), (a-3), (a-4), (f), (f-1), (f-2), (f-3), (h), (i), (j), and (n) and adding Subsections (a-7), (a-8), (a-9), (a-10), (b), and (i-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) the fifth grade mathematics or reading assessment instrument under Section 39.023, or~~

~~(3) the eighth grade mathematics or reading assessment instrument under Section 39.023.~~

[~~(a-1)~~] Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) or

1 (1) in the third, fourth, fifth, sixth, seventh, or eighth grade or
2 on an end-of-course assessment instrument administered under
3 Section 39.023(c), other than an assessment instrument developed or
4 adopted based on alternative academic achievement standards, the
5 school district in which the student attends school shall provide
6 to the student accelerated instruction in the applicable subject
7 area during the subsequent summer or school year.

8 (a-1) Subject to Subsection (a-7), each time a student fails
9 to perform satisfactorily on an assessment instrument specified
10 under Subsection (a) that is a mathematics or reading assessment
11 instrument or the English I, English II, or Algebra I end-of-course
12 assessment instrument, the school district in which the student
13 attends school shall ~~and~~ either:

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

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

20 (a-2) Accelerated instruction provided during the following
21 school year under Subsection (a) [~~(a-1)~~] may require participation
22 of the student before or after normal school hours.

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

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

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

6 (a-4) If a district receives funding under Section 29.0881
7 or 48.104, the Coronavirus Response and Relief Supplemental
8 Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the
9 American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then
10 supplemental instruction provided by a school district under
11 Subsection (a-1)(2) must:

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

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

18 (3) be provided [~~for no less than 30 total hours~~]
19 during the subsequent summer or school year:

20 (A) to each student for no less than 15 hours; and

21 (B) [~~7~~] unless the instruction is provided to a
22 student fully during summer, [~~include instruction~~] no less than
23 once per week during the school year, except as otherwise provided
24 by commissioner rule to account for school holidays or shortened
25 school weeks;

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

1 area;

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

4 (6) be provided to a student individually or in a group
5 of no more than the following number of [three] students, unless the
6 parent or guardian of each student in the group authorizes a larger
7 group:

8 (A) for a student in a grade level below ninth
9 grade, five students; or

10 (B) for a student in ninth grade or above, ten
11 students;

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

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

17 (a-7) The requirements under Subsection (a-1) do not apply
18 to a student who is retained at a grade level for the school year in
19 which those requirements would otherwise apply.

20 (a-8) A parent or guardian of a student to whom supplemental
21 instruction will be provided under Subsection (a-1)(2) and who
22 either was administered and failed to perform satisfactorily on an
23 assessment instrument described by Subsection (a) or was
24 administered a beginning-of-year assessment instrument aligned
25 with the essential knowledge and skills for the applicable subject
26 area may elect to reduce or remove a requirement for that
27 instruction under Subsection (a-4) or for the student's accelerated

1 education plan under Subsection (f), if applicable, by submitting a
2 written request to an administrator at the campus at which the
3 student is enrolled. A school district may not encourage or direct
4 a parent or guardian to make an election under this subsection that
5 would allow the district to not provide supplemental instruction to
6 the student.

7 (a-9) The agency shall approve an automated, computerized,
8 or other augmented method for providing supplemental instruction
9 under Subsection (a-1)(2) that may be used in lieu of some or all of
10 the individual or group instruction required under Subsection
11 (a-4)(6), as appropriate for the applicable grade level and subject
12 area and a student's academic deficiency. The agency may approve a
13 method under this subsection only if evidence indicates that the
14 method is more effective than the individual or group instruction
15 required under Subsection (a-4)(6). The commissioner shall adopt
16 rules regarding when a method approved under this subsection may be
17 used and the requirements under Subsection (a-4) for which the
18 method may be substituted.

19 (a-10) A school district that is required to provide to a
20 student accelerated instruction under Subsection (a) or
21 supplemental instruction under Subsection (a-1)(2) is not required
22 to provide additional instruction under either provision to the
23 student based on the student's failure to perform satisfactorily on
24 an assessment instrument administered as an optional assessment in
25 the same subject area in which the district is required to provide
26 the student the accelerated or supplemental instruction.

27 (b) For each student who does not perform satisfactorily on

1 an assessment instrument described by Subsection (a-1) for two or
2 more consecutive school years in the same subject area, the school
3 district the student attends shall develop an accelerated education
4 plan as described by Subsection (f).

5 (f) Not [~~An accelerated learning committee described by~~
6 ~~Subsection (c) shall, not~~] later than the start of the subsequent
7 school year, a school district shall develop an accelerated
8 education [~~educational~~] plan for each [~~the~~] student to whom
9 Subsection (b) applies that provides the necessary accelerated
10 instruction to enable the student to perform at the appropriate
11 grade or course level by the conclusion of the school year. The
12 plan:

13 (1) must:

14 (A) identify the reason the student did not
15 perform satisfactorily on the applicable assessment instrument
16 described by Subsection (a-1); and

17 (B) notwithstanding Subsection (a-4)(3)(A),
18 require the student to be provided with no less than 30 hours, or a
19 greater number of hours if appropriate, of supplemental instruction
20 under Subsection (a-4) for each consecutive school year in which
21 the student does not perform satisfactorily on the assessment
22 instrument in the applicable subject area described by Subsection
23 (a-1); and

24 (2) may require that, as appropriate to ensure the
25 student performs satisfactorily on the assessment instrument in the
26 applicable subject area described by Subsection (a-1) at the next
27 administration of the assessment instrument:

1 (A) notwithstanding Subsection (a-4)(6), the
2 student be provided supplemental instruction under Subsection
3 (a-4) individually or in a group of fewer than the number of
4 students permitted under Subsection (a-4)(6);

5 (B) the district expand the times in which
6 supplemental instruction under Subsection (a-4) is available to the
7 student;

8 (C) the student be assigned for the school year
9 to a specific teacher who is better able to provide accelerated
10 instruction; and

11 (D) the district provide any necessary
12 additional resources to the student.

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

16 (f-2) During the school year, the student shall be monitored
17 to ensure that the student is progressing in accordance with the
18 accelerated education plan developed under Subsection (f). [~~The~~
19 ~~district shall administer to the student the assessment instrument~~
20 ~~for the grade level in which the student is placed at the time the~~
21 ~~district regularly administers the assessment instruments for that~~
22 ~~school year.~~]

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

1 (h) In each instance under this section in which a school
2 district is specifically required to provide notice or a written
3 copy to a parent or guardian of a student, the district shall make a
4 good faith effort to ensure that such notice or copy is provided
5 either in person or by regular mail and that the notice or copy is
6 clear and easy to understand and is written in English or the parent
7 or guardian's native language.

8 (i) The admission, review, and dismissal committee of a
9 student who participates in a district's special education program
10 under Subchapter A, Chapter 29, and who does not perform
11 satisfactorily on an assessment instrument specified under
12 Subsection (a) shall, at the student's next annual review meeting,
13 review the student's participation and progress in, as applicable,
14 accelerated instruction provided under Subsection (a),
15 supplemental instruction provided under Subsection (a-1)(2), or an
16 accelerated education plan developed under Subsection (f). The
17 student's parent may request, or the district may schedule, an
18 additional committee meeting if a committee member believes that
19 the student's individualized education program needs to be modified
20 based on the requirements under this section. If the district
21 refuses to convene a committee meeting requested by the student's
22 parent under this subsection, the district shall provide the parent
23 with written notice explaining the reason the district refuses to
24 convene the meeting [~~and administered under Section 39.023(a) or~~
25 ~~(b) must meet to determine the manner in which the student will~~
26 ~~participate in an accelerated instruction program under this~~
27 ~~section)].~~

1 (i-1) If a student who attends school in a homebound or
2 other off-campus instructional arrangement, including at a
3 residential treatment campus or state hospital, is unable to
4 participate in an accelerated instruction program required under
5 this section due to the student's condition, the school district
6 may determine that the student be provided the accelerated
7 instruction when the student attends school in an on-campus
8 instructional setting. If the student's condition prevents the
9 student from attending school in an on-campus instructional setting
10 for the school year during which the accelerated instruction is
11 required to be provided to the student, the district is not required
12 to provide the accelerated instruction to the student for that
13 school year.

14 (j) A school district or open-enrollment charter school
15 shall provide students required to attend accelerated programs
16 under this section with transportation to those programs if the
17 programs occur outside of regular school hours, unless the district
18 or school does not operate, or contract or agree with another entity
19 to operate, a transportation system.

20 (n) Except as requested under Subsection (a-5) or provided
21 by Subsection (n-1), a student for whom an accelerated education
22 plan must be developed [~~who fails to perform satisfactorily on an~~
23 ~~assessment instrument specified~~] under Subsection (b) [(a) and is
24 ~~promoted to the next grade level~~] must be assigned, in each [the
25 ~~subsequent~~] school year and [~~in each~~] subject covered by the
26 accelerated education plan, [in which the student failed to perform
27 satisfactorily on an assessment instrument specified under

1 ~~Subsection (a)]~~ to an appropriately certified teacher who meets all
2 state and federal qualifications to teach that subject and grade.

3 SECTION 3. Section 29.0881(e), Education Code, is amended
4 to read as follows:

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

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

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

11 (3) pay for accelerated instruction provided under
12 Section 28.0211 [~~or 28.0217~~].

13 SECTION 4. Section 39.025(b-1), Education Code, is amended
14 to read as follows:

15 (b-1) A school district shall provide each student who fails
16 to perform satisfactorily as determined by the commissioner under
17 Section 39.0241(a) on an end-of-course assessment instrument with
18 accelerated instruction under Section 28.0211 [~~28.0217~~] in the
19 subject assessed by the assessment instrument.

20 SECTION 5. The following provisions of the Education Code
21 are repealed:

22 (1) Sections 28.0211(c), (f-4), (f-5), (o), and (p);
23 and

24 (2) Section 28.0217.

25 SECTION 6. The changes in law made by this Act to Section
26 28.0211, Education Code, apply beginning with assessment
27 instruments administered during the 2023 spring semester.

1 SECTION 7. The repeal by this Act of Section [28.0217](#),
2 Education Code, applies beginning with the 2023-2024 school year.

3 SECTION 8. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section [39](#), Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2023.