

By: Bell of Kaufman

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), (i-1), and (i-2) 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), the school district in which the student attends
4 school shall provide to the student accelerated instruction in the
5 applicable subject area during the subsequent summer or school
6 year.

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

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

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

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

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

27 (1) instruction in the foundation curriculum and

1 enrichment curriculum adopted under Section 28.002 for the grade
2 level in which the student is enrolled; or

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

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

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

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

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

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

20 (B) for an average of no less than 30 hours per
21 student for all students receiving supplemental instruction; and

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

27 (4) be designed to assist the student in achieving

1 satisfactory performance in the applicable grade level and subject
2 area;

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

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

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

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

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

16 (a-8) A parent or guardian of a student to whom supplemental
17 instruction will be provided under Subsection (a-1)(2) and who
18 either was administered and failed to perform satisfactorily on an
19 assessment instrument described by Subsection (a) or was
20 administered a beginning-of-year assessment instrument aligned
21 with the essential knowledge and skills for the applicable subject
22 area may elect to reduce or remove a requirement for that
23 instruction under Subsection (a-4) by submitting a written request
24 to the school district. A school district may not encourage or
25 direct a parent or guardian to make an election under this
26 subsection that would allow the district to not provide
27 supplemental instruction to the student.

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

13 (a-10) A school district that is required to provide to a
14 student accelerated instruction under Subsection (a) or
15 supplemental instruction under Subsection (a-1)(2) is not required
16 to provide additional instruction under either subsection to the
17 student based on the student's failure to perform satisfactorily on
18 an assessment instrument administered as an optional assessment in
19 the same subject area in which the district is required to provide
20 the student the accelerated or supplemental instruction.

21 (b) For each student who does not perform satisfactorily on
22 an assessment instrument described by Subsection (a-1) for two or
23 more consecutive school years, the school district the student
24 attends shall develop an accelerated education plan as described by
25 Subsection (f).

26 (f) Not [~~An accelerated learning committee described by~~
27 ~~Subsection (c) shall, not~~] later than the start of the subsequent

1 school year, a school district shall develop an accelerated
2 education [~~educational~~] plan for each [~~the~~] student to whom
3 Subsection (b) applies that provides the necessary accelerated
4 instruction to enable the student to perform at the appropriate
5 grade level by the conclusion of the school year. The plan:

6 (1) must:

7 (A) identify the reason the student did not
8 perform satisfactorily on the applicable assessment instrument
9 described by Subsection (a-1); and

10 (B) notwithstanding Subsections (a-4)(3)(A) and
11 (B), require the student to be provided with no less than 30 hours,
12 or a greater number of hours if appropriate, of supplemental
13 instruction under Subsection (a-4) for each consecutive school year
14 in which the student does not perform satisfactorily on the
15 assessment instrument in the applicable subject area described by
16 Subsection (a-1); and

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

21 (A) notwithstanding Subsection (a-4)(6), the
22 student be provided supplemental instruction under Subsection
23 (a-4) individually or in a group of fewer than four students;

24 (B) the district expand the times in which
25 supplemental instruction under Subsection (a-4) is available to the
26 student;

27 (C) the student be assigned for the school year

1 to a specific teacher who is better able to provide accelerated
2 instruction; and

3 (D) the district provide any necessary
4 additional resources to the student.

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

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

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

20 (h) In each instance under this section in which a school
21 district is specifically required to provide notice or a written
22 copy to a parent or guardian of a student, the district shall make a
23 good faith effort to ensure that such notice or copy is provided
24 either in person or by regular mail and that the notice or copy is
25 clear and easy to understand and is written in English or the parent
26 or guardian's native language.

27 (i) The admission, review, and dismissal committee of a

1 student who participates in a district's special education program
2 under Subchapter A, Chapter 29, and who does not perform
3 satisfactorily on an assessment instrument specified under
4 Subsection (a) [~~and administered under Section 39.023(a) or (b)~~]
5 must [~~meet to~~] determine the manner in which the student will
6 participate in an accelerated instruction program under this
7 section. For a student for whom the committee determines
8 participation in the required tutoring model for supplemental
9 instruction under Subsection (a-4) is not appropriate, the
10 committee must review the student's individualized education plan
11 and adjust the plan as appropriate to target the areas in which the
12 student did not perform satisfactorily on the assessment
13 instrument.

14 (i-1) If a student who attends school in a homebound or
15 other off-campus instructional arrangement is unable to
16 participate in an accelerated instruction program required under
17 this section due to the student's medical condition, the student's
18 admission, review, and dismissal committee or committee
19 established under Section 504, Rehabilitation Act of 1973 (29
20 U.S.C. Section 794), as applicable, may determine that the student
21 may be provided the accelerated instruction when the student
22 attends school in an on-campus instructional setting. If the
23 student's medical condition prevents the student from attending
24 school in an on-campus instructional setting for the school year
25 during which the accelerated instruction is required to be provided
26 to the student, the school district is not required to provide the
27 accelerated instruction to the student for that school year.

1 (i-2) The admission, review, and dismissal committee of a
2 student who participates in a district's special education program
3 under Subchapter A, Chapter 29, and for whom an accelerated
4 education plan is required under Subsection (b) shall develop the
5 accelerated education plan for the student and must determine the
6 manner in which the student will participate in an accelerated
7 instruction program under this section. To the extent consistent
8 with federal law, the accelerated education plan may not be
9 considered to be part of the student's individualized education
10 program and is not subject to the requirements of Section 29.005 or
11 20 U.S.C. Section 1414(d) relating to the development of an
12 individualized education program. A parent or guardian of a
13 student for whom an accelerated education plan is developed under
14 this subsection may contest the content or implementation of the
15 plan only through the grievance procedure adopted under Subsection
16 (f-3).

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

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

1 ~~subsequent]~~ school year and [~~in each]~~ subject covered by the
2 accelerated education plan, [~~in which the student failed to perform~~
3 ~~satisfactorily on an assessment instrument specified under~~
4 ~~Subsection (a)]~~ to an appropriately certified teacher who meets all
5 state and federal qualifications to teach that subject and grade.

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

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

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

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

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

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

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

23 SECTION 5. The following provisions of the Education Code
24 are repealed:

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

26 and

27 (2) Section 28.0217.

1 SECTION 6. The changes in law made by this Act to Section
2 28.0211, Education Code, apply beginning with assessment
3 instruments administered during the 2023 spring semester.

4 SECTION 7. The repeal by this Act of Section 28.0217,
5 Education Code, applies beginning with the 2023-2024 school year.

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