

Amend CSSB 1108 by adding the following new SECTIONS to the bill, appropriately numbered, and by renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 28.0211, Education Code, is amended by amending Subsections (a)-(e) and (i) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (b) or (e), a student may not be promoted to:

(1) the fourth grade program to which the student would otherwise be assigned if the student does not:

(A) perform satisfactorily on the third grade reading assessment instrument under Section 39.023; or

(B) meet the alternative promotion criteria established under Subsection (a-1);

(2) the sixth grade program to which the student would otherwise be assigned if the student does not:

(A) perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(B) meet the alternative promotion criteria established under Subsection (a-1); or

(3) the ninth grade program to which the student would otherwise be assigned if the student does not:

(A) perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023; or

(B) meet the alternative promotion criteria established under Subsection (a-1).

(a-1) The alternative promotion criteria must include:

(1) the student's performance on the individual assessment instruments administered to the student under Section 39.023;

(2) the student's total score on each assessment instrument specified by Subsection (a)(1)(A), (2)(A), or (3)(A), using only the student's highest scores;

(3) the student's overall academic performance, as evaluated by the student's teacher or teachers based on evidence of

satisfactory performance, including the student's:

(A) grades;

(B) portfolios and work samples;

(C) performance on locally administered assessment instruments;

(D) performance on individual reading and mathematics diagnostic tests or inventories; and

(E) improvement in performance on subsequent administrations of an assessment instrument specified under Subsection (a); and

(4) any extenuating circumstances that adversely affected the student's performance on the specified assessment instruments or participation in accelerated instruction.

(b) A school district shall provide to a student who initially fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who fails to meet the alternative promotion criteria established under Subsection (a-1) at least two additional opportunities to take the assessment instrument. A school district may administer an alternate assessment instrument to a student who has failed an assessment instrument specified under Subsection (a) on the previous two opportunities or has not met the alternative promotion criteria established under Subsection (a-1). Notwithstanding any other provision of this section, a student may be promoted if the student performs at grade level on an alternate assessment instrument under this subsection that is appropriate for the student's grade level and approved by the commissioner.

(c) The first ~~[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 establish a grade placement committee 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 grade placement committee and the purpose of the committee. The grade placement committee shall determine

whether the student has met the alternative promotion criteria established under Subsection (a-1). If the grade placement committee determines, as provided by Subsection (e), that the student has not met the alternative promotion criteria established under Subsection (a-1), the committee shall prescribe for [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 a second time or to meet the alternative promotion criteria established under Subsection (a-1), the [a grade placement] committee shall [~~be established to~~] prescribe [~~the~~] accelerated instruction that the district shall provide to the student before the student is administered the assessment instrument the third time. [~~The 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 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.

(d) In addition to providing accelerated instruction to a student under Subsection (c), the district shall notify the student's parent or guardian of:

(1) the student's failure to perform satisfactorily on the assessment instrument or meet the alternative promotion criteria established under Subsection (a-1);

(2) the accelerated instruction program to which the student is assigned; and

(3) the possibility that the student might be retained at the same grade level for the next school year.

(e) A student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who fails to meet the alternative promotion criteria established under Subsection (a-1) or perform

satisfactorily on an alternate assessment instrument under Subsection (b) shall be retained at the same grade level for the next school year [~~in accordance with Subsection (a). The student's parent or guardian may appeal the student's retention by submitting a request to the grade placement committee established under Subsection (c). The school district shall give the parent or guardian written notice of the opportunity to appeal~~]. The grade placement committee may decide in favor of a student's retention [~~promotion~~] only if the grade placement committee established under Subsection (c) concludes, after reviewing all the facts and circumstances in accordance with Subsection (a-1) [~~using standards adopted by the board of trustees~~], that even if promoted and given accelerated instruction, the student is not likely to perform at grade level during the next school year. A student may not be retained [~~promoted~~] on the basis of the grade placement committee's decision unless that decision is unanimous. The review and final decision of the grade placement committee must be appropriately documented as complying with Subsection (a-1). The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion. The decision of the grade placement committee is final and may not be appealed.

(i) If the student is an individual with a disability, as defined by 29 U.S.C. Section 705(20), and its subsequent amendments, the committee established by the school district in compliance with Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and its subsequent amendments, shall determine whether the student has met the alternative promotion criteria established under Subsection (a-1). The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, 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) and who does not meet the alternative promotion criteria established under Subsection (a-1) 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 or retained under this section.

SECTION ____ . Section 28.0211, Education Code, as amended by this Act, applies beginning with the 2003-2004 school year.