

Amend **CSHB 2** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION 2D.06. Section 28.0211, Education Code, is amended by amending Subsections (a) and (c)-(f) and adding Subsections (a-1), (b-1), and (d-1) to read as follows:

(a) Except as provided by Subsection (b-1), (d), ~~[(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 perform satisfactorily on the third grade reading assessment instrument under Section 39.023;

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

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

(a-1) A school district shall establish a grade placement committee to determine whether to promote or retain a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a). The grade placement committee shall be composed of the student's principal or the principal's designee, the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily, and a counselor at the student's school, or in the student's school district if the student's school does not have a counselor. The district shall notify the student's parent or guardian of:

(1) the student's failure to perform satisfactorily on the assessment instrument;

(2) the time and place for convening the grade placement committee and the purpose of the committee; and

(3) the possibility that the student might be retained

at the same grade level for the next school year.

(b-1) The grade placement committee may decide to promote a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction as provided by Subsection (f), the student is likely to perform at grade level. The standards adopted by the board of trustees may include:

(1) evidence of satisfactory student performance, including grades, portfolios, work samples, local assessments, and individual reading and mathematics diagnostic tests or inventories;

(2) grades in language arts, mathematics, science, and social studies for the grade level from which the student seeks promotion;

(3) performance on the individual assessment instruments administered to the student under Section 39.023;

(4) total scores on the assessment instrument or instruments specified by Subsection (a); and

(5) extenuating circumstances that have adversely affected the student's participation in the required assessments.

(c) If the grade placement committee decides not to promote a student under Subsection (b-1), the ~~[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 a second time, a]~~ grade placement committee shall ~~[be established to]~~ prescribe ~~[the]~~ accelerated instruction for ~~[the district shall provide to]~~ the student for the remainder of the school year and may prescribe accelerated instruction for the time school is recessed for the summer ~~[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. The accelerated instruction must include reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. The

~~[(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,~~

~~[(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].~~

(d) The grade placement committee may decide in favor of a student's promotion after a student has received accelerated instruction as provided by Subsection (c) if the committee concludes, using the same standards adopted by the board of trustees under Subsection (b-1), that if promoted and given accelerated instruction as provided by Subsection (f), the student is likely to perform at grade level.

(d-1) A student may not be retained on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination.

(e) A student who~~[- after at least three attempts,]~~ fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is not promoted by the grade placement committee under Subsection (b-1) or (d) 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 (a-1) to reconsider its decision under

Subsection (d) [(c)]. The school district shall give the parent or guardian written notice of the opportunity to appeal. Subsections (b-1) and (d) and this ~~[The grade placement committee may decide in favor of a student's promotion only if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction, the student is likely to perform at grade level. A student may not be promoted on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This]~~ subsection do ~~[does]~~ not create a property interest in promotion. ~~[The decision of the grade placement committee is final and may not be appealed.]~~

(f) 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 established under Subsection (a-1) ~~[(c)]~~. The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan. 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.

SECTION _____. Section 28.0211(b), Education Code, is repealed.