

Amend CSSB 1031 by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS accordingly:

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

(a) Except as provided by Subsection (c-3) [~~(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.

(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 provide the student with an opportunity to take the assessment instrument a second time. Before administering the assessment instrument to the student a second time, the district shall establish a grade placement committee to prescribe [~~to~~] the [~~student~~] accelerated instruction that must be provided by the district to the student in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument, and establish an educational plan for the student. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. 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.

(c-1) The grade placement committee established under Subsection (c) 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.

(c-2) In addition to providing accelerated instruction to a student and establishing an educational plan for 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;

(3) the educational plan developed for the student;

(4) the opportunity for the student to take the assessment instrument a second time; and

(5) the possibility that the student might be retained at the same grade level for the next school year if the student fails to perform satisfactorily after taking the assessment instrument a second time.

(c-3) If ~~After~~ a student fails to perform satisfactorily on an assessment instrument a second time, the ~~the~~ grade placement committee shall determine whether the student should be promoted. The grade placement committee may promote the student if the committee determines that the student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level. If the grade placement committee determines that the student should not be promoted, the grade placement committee shall provide the student with an opportunity to take the assessment instrument a third time. If the student's parent or guardian declines the opportunity for the student to take the assessment instrument a third time or if the student takes the assessment instrument a third time and fails to perform satisfactorily on the assessment instrument, the student may not be promoted to the next grade level unless the grade placement committee determines that

the student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level. A student may not be retained on the basis of the grade placement committee's decision under this subsection unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion ~~[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 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]~~.

(c-4) In determining whether a student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level under Subsection (c-3) the grade placement committee shall consider:

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

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

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

(4) the student's 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.

(f) A school district shall provide to a student who, after

two [~~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 the [~~an~~] educational plan developed for the student by the student's grade placement committee [~~established~~] under Subsection (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 educational plan developed for the student under Subsection (c). 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.

(p) If at any point during the school year a teacher determines that a student who is required to take an assessment instrument specified under Subsection (a) is not performing at grade level, the teacher shall notify the student's parent or guardian in writing and by telephone and request a conference with the parent or guardian. The teacher must request the conference not later than the 30th day before the first day on which the assessment instrument specified under Subsection (a) is administered to the student.

SECTION _____. Sections 28.0211(b), (d), and (e), Education Code, are repealed.