88R5643 JES-F

By:  Allen H.B. No. 2570

A BILL TO BE ENTITLED

AN ACT

relating to the provision of accelerated and supplemental instruction 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.  Section 28.0211, Education Code, is amended by amending Subsections (a), (a-1), (a-2), (a-3), (a-4), (a-5), (c), (f), (f-3), and (n) and adding Subsections (b) and (q) to read as follows:

(a)  Using funds appropriated for the purposes of accelerated instruction, each time a student fails to [~~A school district shall establish an accelerated learning committee described by Subsection (c) for each student who does not~~] perform satisfactorily on an assessment instrument administered [~~:~~

[~~(1)  the third grade mathematics or reading assessment instrument~~] under Section 39.023(a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area [~~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)  In addition to accelerated instruction provided under Subsection (a) and subject to Subsection (b), each [~~Each~~] time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in mathematics or reading in grades three through eight [~~the third, fourth, fifth, sixth, seventh, or eighth grade~~], the school district in which the student attends school shall [~~provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and either~~]:

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

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

(a-2)  Accelerated instruction provided under Subsection (a) [~~during the following school year under Subsection (a-1)~~] may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations, including the summer following the school year in which the student failed to perform satisfactorily on an assessment instrument.

(a-3)  In providing accelerated instruction to a student in grades three through eight [~~under Subsection (a-1)~~], a district may not remove the [~~a~~] student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

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

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

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

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

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

(3)  [~~be provided for no less than 30 total hours during the subsequent summer or school year and, unless the instruction is provided fully during summer, include instruction no less than once per week during the school year;~~

[~~(4)~~]  be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;

(4) [~~(5)~~]  include effective instructional materials designed for supplemental instruction;

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

(5) [~~(7)~~]  be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of the school district; and

(6) [~~(8)~~]  to the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

(a-5)  Each school district shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on the third, fifth, or eighth grade mathematics or reading [~~an~~] assessment instrument administered [~~specified~~] under Section 39.023(a) [~~Subsection (a)~~] to make a request for district consideration that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available.

(b)  During each state fiscal biennium, a school district is only required to implement Subsection (a-1) if the legislature appropriates sufficient money for the district to provide an educator to tutor each student reasonably expected to require supplemental instruction under Subsection (a-1). A school district may use money appropriated for the purposes of supplemental instruction to implement Subsection (a-1) in any manner that meets the requirements of that subsection.

(c)  After a student fails to perform satisfactorily on the third, fifth, or eighth grade mathematics or reading assessment instrument administered under Section 39.023(a) and fails in the subsequent school year to perform satisfactorily in the same subject, the school district shall establish [~~on an assessment instrument specified under Subsection (a),~~] an accelerated learning committee [~~shall be established~~].  The accelerated learning 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 accelerated learning committee and the purpose of the committee.

(f)  If an [~~An~~] accelerated learning committee is required [~~described~~] by Subsection (c), the committee shall, not later than the start of the [~~subsequent~~] school year[~~,~~] following the second year in which the student does not perform satisfactorily on an assessment instrument described by Subsection (c):

(1)  identify the reason the student did not perform satisfactorily;

(2)  develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year; and

(3)  determine if additional resources are required for that student to ensure that the student performs satisfactorily on the next administration of the assessment instrument.

(f-3)  The board of trustees of each school district shall adopt a policy [~~consistent with the grievance procedure adopted under Section 26.011~~] to allow the [~~a~~] parent of a student to determine that [~~contest the content or implementation of~~] an educational plan developed under Subsection (f) may not be implemented for the student.

(n)  Except as provided by Subsection (n-1), a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a-5) [~~(a)~~] and is promoted to the next grade level must be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a-5) [~~(a)~~] to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

(q)  A school district's determination of the appropriateness of accelerated or supplemental instruction for a student under this section is final and does not create a cause of action.

SECTION 2.  Section 28.0217(a), Education Code, is amended to read as follows:

(a)  Using money appropriated for the purposes of accelerated instruction, each [~~Each~~] time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(c), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area.

SECTION 3.  Sections 28.0211(f-4), (f-5), (o), and (p), Education Code, are repealed.

SECTION 4.  As soon as practicable after the effective date of this Act, the board of trustees of a school district shall adopt a policy as required by Section 28.0211(f-3), Education Code, as amended by this Act.

SECTION 5.  This Act applies beginning with the 2023-2024 school year.

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