88R4198 KJE-F

By:  Paxton S.B. No. 1261

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 (l) in the third, fourth, fifth, sixth, seventh, or eighth grade or on an end-of-course 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 during the subsequent summer or school year.

(a-1)  Subject to Subsection (a-7), each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a) that is a mathematics or reading assessment instrument or the English I, English II, or Algebra I end-of-course assessment instrument, the school district in which the student attends school shall [~~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 during the following school year under Subsection (a) [~~(a-1)~~] may require participation of the student before or after normal school hours.

(a-3)  In providing accelerated instruction under Subsection (a) [~~(a-1)~~], a district may not remove 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)  If a district receives funding under Section 29.0881 or 48.104, 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:

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

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

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

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

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

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

(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

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

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

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

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

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

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

(f)  Not [~~An accelerated learning committee described by Subsection (c) shall, not~~] later than the start of the subsequent school year, a school district shall develop an accelerated education [~~educational~~] plan for each [~~the~~] student to whom Subsection (b) applies that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. The plan:

(1)  must:

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

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

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

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

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

(C)  the student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and

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

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

(f-2)  During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the accelerated education plan developed under Subsection (f).  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.

(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 a parent to contest the content or implementation of an accelerated education [~~educational~~] plan developed under Subsection (f).

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

(i)  The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, 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)~~] must [~~meet to~~] determine the manner in which the student will participate in an accelerated instruction program under this section. For a student for whom the committee determines participation in the required tutoring model for supplemental instruction under Subsection (a-4) is not appropriate, the committee must review the student's individualized education plan and adjust the plan as appropriate to target the areas in which the student did not perform satisfactorily on the assessment instrument.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2)  Section 28.0217.

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

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

SECTION 8.  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.