

By: Dutton

H.B. No. 2721

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to accelerated and supplemental instruction provided to  
3 public school students who fail to achieve satisfactory performance  
4 on certain assessment instruments and access to criminal history  
5 record information for certain tutors providing that instruction.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 7.010(c), Education Code, is amended to  
8 read as follows:

9 (c) The electronic student records system must permit an  
10 authorized state or district official or an authorized  
11 representative of an institution of higher education to  
12 electronically transfer to and from an educational institution in  
13 which the student is enrolled and retrieve student transcripts,  
14 including information concerning a student's:

- 15 (1) course or grade completion;
- 16 (2) teachers of record;
- 17 (3) assessment instrument results;
- 18 (4) receipt of special education services, including  
19 placement in a special education program and the individualized  
20 education program developed; and
- 21 (5) personal graduation plan as described by Section  
22 [~~28.0212~~ or] 28.02121[~~, as applicable~~].

23 SECTION 2. Section 12.104(b), Education Code, as amended by  
24 Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.

1 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular  
2 Session, 2021, is reenacted and amended to read as follows:

3 (b) An open-enrollment charter school is subject to:

4 (1) a provision of this title establishing a criminal  
5 offense;

6 (2) the provisions in Chapter 554, Government Code;  
7 and

8 (3) a prohibition, restriction, or requirement, as  
9 applicable, imposed by this title or a rule adopted under this  
10 title, relating to:

11 (A) the Public Education Information Management  
12 System (PEIMS) to the extent necessary to monitor compliance with  
13 this subchapter as determined by the commissioner;

14 (B) criminal history records under Subchapter C,  
15 Chapter 22;

16 (C) reading instruments and accelerated reading  
17 instruction programs under Section 28.006;

18 (D) accelerated instruction under Section  
19 28.0211;

20 (E) high school graduation requirements under  
21 Section 28.025;

22 (F) special education programs under Subchapter  
23 A, Chapter 29;

24 (G) bilingual education under Subchapter B,  
25 Chapter 29;

26 (H) prekindergarten programs under Subchapter E  
27 or E-1, Chapter 29, except class size limits for prekindergarten

1 classes imposed under Section 25.112, which do not apply;

2 (I) extracurricular activities under Section

3 33.081;

4 (J) discipline management practices or behavior

5 management techniques under Section 37.0021;

6 (K) health and safety under Chapter 38;

7 (L) the provisions of Subchapter A, Chapter 39;

8 (M) public school accountability and special

9 investigations under Subchapters A, B, C, D, F, G, and J, Chapter

10 39, and Chapter 39A;

11 (N) the requirement under Section 21.006 to

12 report an educator's misconduct;

13 (O) [~~intensive programs of instruction under~~

14 ~~Section 28.0213,~~

15 [~~(P)~~] the right of a school employee to report a

16 crime, as provided by Section 37.148;

17 (P) [~~(Q)~~] bullying prevention policies and

18 procedures under Section 37.0832;

19 (Q) [~~(R)~~] the right of a school under Section

20 37.0052 to place a student who has engaged in certain bullying

21 behavior in a disciplinary alternative education program or to

22 expel the student;

23 (R) [~~(S)~~] the right under Section 37.0151 to

24 report to local law enforcement certain conduct constituting

25 assault or harassment;

26 (S) [~~(T)~~] a parent's right to information

27 regarding the provision of assistance for learning difficulties to

1 the parent's child as provided by Sections 26.004(b)(11) and  
2 26.0081(c) and (d);

3 (T) [~~(U)~~] establishment of residency under  
4 Section 25.001;

5 (U) [~~(V)~~] school safety requirements under  
6 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114,  
7 37.1141, 37.115, 37.207, and 37.2071;

8 (V) [~~(W)~~] the early childhood literacy and  
9 mathematics proficiency plans under Section 11.185;

10 (W) [~~(X)~~] the college, career, and military  
11 readiness plans under Section 11.186; and

12 (X) parental options to retain a student under  
13 Section 28.02124.

14 SECTION 3. Section 12.111(b), Education Code, is amended to  
15 read as follows:

16 (b) A charter holder of an open-enrollment charter school  
17 shall consider including in the school's charter a requirement that  
18 the school develop and administer personal graduation plans under  
19 Section [~~Sections 28.0212 and~~] 28.02121.

20 SECTION 4. Section 22.0825(b), Education Code, is amended  
21 to read as follows:

22 (b) The agency shall subscribe to the criminal history  
23 clearinghouse as provided by Section 411.0845, Government Code, and  
24 may obtain from any law enforcement or criminal justice agency all  
25 criminal history record information and all records contained in  
26 any closed criminal investigation file that relate to:

27 (1) a specific applicant for employment or current or

1 former employee of a school district, district of innovation,  
2 open-enrollment charter school, other charter entity, regional  
3 education service center, or shared services arrangement; or

4 (2) an individual who provides accelerated or  
5 supplemental instruction services under Section 28.0211 as a tutor  
6 on behalf of a service provider.

7 SECTION 5. The heading to Section 22.0833, Education Code,  
8 is amended to read as follows:

9 Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION  
10 REVIEW OF NONCERTIFIED EMPLOYEES AND CERTAIN SERVICE PROVIDERS.

11 SECTION 6. Section 22.0833(a), Education Code, is amended  
12 to read as follows:

13 (a) This section applies to a person who is not an applicant  
14 for or holder of a certificate under Subchapter B, Chapter 21, and  
15 who on or after January 1, 2008:

16 (1) [~~7~~] is offered employment by:

17 (A) [~~(1)~~] a school district or open-enrollment  
18 charter school; or

19 (B) [~~(2)~~] a shared services arrangement, if the  
20 employee's or applicant's duties are or will be performed on school  
21 property or at another location where students are regularly  
22 present; or

23 (2) provides accelerated or supplemental instruction  
24 services under Section 28.0211 as a tutor on behalf of a service  
25 provider with whom a school district, open-enrollment charter  
26 school, or shared services arrangement contracts.

27 SECTION 7. Section 22.0834(a-1), Education Code, is amended

1 to read as follows:

2 (a-1) This section does not apply to a contracting entity,  
3 subcontracting entity, or other person subject to Section  
4 22.0833(a)(2) or 22.08341.

5 SECTION 8. Section 22.085, Education Code, is amended by  
6 amending Subsection (c) and adding Subsection (c-1) to read as  
7 follows:

8 (c) A school district, open-enrollment charter school, or  
9 shared services arrangement may not allow a person [~~who is an~~  
10 ~~employee of or applicant for employment by an entity that contracts~~  
11 ~~with the district, school, or shared services arrangement~~] to serve  
12 at the district or school or for the shared services arrangement if:

13 (1) the person is:

14 (A) an employee of or applicant for employment by  
15 an entity that contracts with the district, school, or shared  
16 services arrangement; or

17 (B) an individual who provides accelerated or  
18 supplemental instruction services under Section 28.0211 as a tutor  
19 on behalf of a service provider with whom the district, school, or  
20 shared services arrangement contracts; and

21 (2) the district, school, or shared services  
22 arrangement obtains information described by Subsection (a)  
23 through a criminal history record information review concerning the  
24 person [~~employee or applicant~~].

25 (c-1) A school district, open-enrollment charter school, or  
26 shared services arrangement must ensure that an entity that the  
27 district, school, or shared services arrangement contracts with for

1 services has obtained all criminal history record information as  
2 required by Section 22.0834 or 22.08341.

3 SECTION 9. Section 22.092(d), Education Code, is amended to  
4 read as follows:

5 (d) The agency shall provide equivalent access to the  
6 registry maintained under this section to:

7 (1) private schools;

8 (2) public schools; ~~and~~

9 (3) service providers approved by the agency under  
10 Section 28.0211(m) for the purpose of vetting individuals to  
11 provide accelerated or supplemental instruction services as tutors  
12 under that section; and

13 (4) nonprofit teacher organizations approved by the  
14 commissioner for the purpose of participating in the tutoring  
15 program established under Section 33.913.

16 SECTION 10. The heading to Section 22.093, Education Code,  
17 is amended to read as follows:

18 Sec. 22.093. REQUIREMENT TO REPORT EMPLOYEE OR CERTAIN  
19 SERVICE PROVIDER MISCONDUCT.

20 SECTION 11. Sections 22.093(b), (c), (d), (e), (f), (g),  
21 (j), and (k), Education Code, are amended to read as follows:

22 (b) This section applies to a person who:

23 (1) is employed by a school district, district of  
24 innovation, open-enrollment charter school, other charter entity,  
25 regional education service center, or shared services arrangement  
26 and ~~who~~ does not hold a certification or permit issued under  
27 Subchapter B, Chapter 21; or

1           (2) provides accelerated or supplemental instruction  
2 services under Section 28.0211 as a tutor on behalf of a service  
3 provider with whom a school district, open-enrollment charter  
4 school, or shared services arrangement contracts.

5           (c) In addition to the reporting requirement under Section  
6 261.101, Family Code, the superintendent or director of a school  
7 district, district of innovation, open-enrollment charter school,  
8 other charter entity, regional education service center, or shared  
9 services arrangement shall notify the commissioner if:

10           (1) a person's [~~an employee's~~] employment or  
11 contracted services at the school district, district of innovation,  
12 charter school, other charter entity, service center, or shared  
13 services arrangement were [~~was~~] terminated and there is evidence  
14 that the person [~~employee~~]:

15                   (A) abused or otherwise committed an unlawful act  
16 with a student or minor; or

17                   (B) was involved in a romantic relationship with  
18 or solicited or engaged in sexual contact with a student or minor;  
19 or

20           (2) the person [~~employee~~] resigned or discontinued  
21 contracted services and there is evidence that the person  
22 [~~employee~~] engaged in misconduct described by Subdivision (1).

23           (d) A superintendent or director of a school district,  
24 district of innovation, open-enrollment charter school, other  
25 charter entity, regional education service center, or shared  
26 services arrangement shall complete an investigation of a person  
27 [~~an employee~~] that involves evidence that the person [~~employee~~] may

1 have engaged in misconduct described by Subsection (c)(1)(A) or  
2 (B), despite the person's [~~employee's~~] resignation from employment  
3 or discontinuance of contracted services before completion of the  
4 investigation.

5 (e) The principal of a school district, district of  
6 innovation, open-enrollment charter school, or other charter  
7 entity campus must notify the superintendent or director of the  
8 school district, district of innovation, charter school, or other  
9 charter entity not later than the seventh business day after the  
10 date of a person's [~~an employee's~~] termination of employment, [~~or~~]  
11 resignation, or discontinuance of contracted services following an  
12 alleged incident of misconduct described by Subsection (c)(1)(A) or  
13 (B).

14 (f) The superintendent or director must notify the  
15 commissioner by filing a report with the commissioner not later  
16 than the seventh business day after the date the superintendent or  
17 director receives a report from a principal under Subsection (e) or  
18 knew about a person's [~~an employee's~~] termination of employment,  
19 [~~or~~] resignation, or discontinuance of contracted services  
20 following an alleged incident of misconduct described by Subsection  
21 (c)(1)(A) or (B). The report must be:

- 22 (1) in writing; and  
23 (2) in a form prescribed by the commissioner.

24 (g) The superintendent or director shall notify the board of  
25 trustees or governing body of the school district, district of  
26 innovation, open-enrollment charter school, other charter entity,  
27 regional education service center, or shared services arrangement

1 and the person [~~employee~~] of the filing of the report required by  
2 Subsection (f).

3 (j) The name of a student or minor who is the victim of abuse  
4 or unlawful conduct by a person [~~an employee~~] must be included in a  
5 report filed under this section, but the name of the student or  
6 minor is not public information under Chapter 552, Government Code.

7 (k) A superintendent or director required to file a report  
8 under Subsection (f) commits an offense if the superintendent or  
9 director fails to file the report by the date required by that  
10 subsection with intent to conceal a person's [~~an employee's~~]  
11 criminal record or alleged incident of misconduct. A principal  
12 required to notify a superintendent or director about a person's  
13 [~~an employee's~~] alleged incident of misconduct under Subsection (e)  
14 commits an offense if the principal fails to provide the notice by  
15 the date required by that subsection with intent to conceal a  
16 person's [~~an employee's~~] alleged incident of misconduct. An  
17 offense under this subsection is a state jail felony.

18 SECTION 12. The heading to Section 28.0211, Education Code,  
19 is amended to read as follows:

20 Sec. 28.0211. [~~ACCELERATED LEARNING COMMITTEE,~~]  
21 ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

22 SECTION 13. Section 28.0211, Education Code, is amended by  
23 amending Subsections (a), (a-1), (a-2), (a-3), (a-4), (f), (f-1),  
24 (f-2), (f-3), (h), (i), (j), (k), and (n) and adding Subsections  
25 (a-7), (a-8), (a-9), (a-10), (b), (i-1), (i-2), (m), and (q) to read  
26 as follows:

27 (a) [~~A school district shall establish an accelerated~~

1 ~~learning committee described by Subsection (c) for each student who~~  
2 ~~does not perform satisfactorily on:~~

3 ~~[(1) the third grade mathematics or reading assessment~~  
4 ~~instrument under Section 39.023,~~

5 ~~[(2) the fifth grade mathematics or reading assessment~~  
6 ~~instrument under Section 39.023, or~~

7 ~~[(3) the eighth grade mathematics or reading~~  
8 ~~assessment instrument under Section 39.023.~~

9 ~~[(a-1)]~~ Each time a student fails to perform satisfactorily  
10 on an assessment instrument administered under Section 39.023(a) or  
11 (1) in the third, fourth, fifth, sixth, seventh, or eighth grade or  
12 on an end-of-course assessment instrument administered under  
13 Section 39.023(c), the school district in which the student attends  
14 school shall provide to the student accelerated instruction in the  
15 applicable subject area during the subsequent summer or school  
16 year.

17 (a-1) Subject to Subsection (a-7), each time a student fails  
18 to perform satisfactorily on an assessment instrument specified  
19 under Subsection (a) that is a mathematics or reading assessment  
20 instrument or the English I, English II, or Algebra I end-of-course  
21 assessment instrument, the school district in which the student  
22 attends school shall ~~and~~ either:

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

27 (2) provide the student supplemental instruction

1 under Subsection (a-4).

2 (a-2) Accelerated instruction provided during the following  
3 school year under Subsection (a) [~~(a-1)~~] may require participation  
4 of the student before or after normal school hours.

5 (a-3) In providing accelerated instruction under Subsection  
6 (a) [~~(a-1)~~], a district may not remove a student, except under  
7 circumstances for which a student enrolled in the same grade level  
8 who is not receiving accelerated instruction would be removed,  
9 from:

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

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

15 (a-4) If a district receives funding under Section 29.0881  
16 or 48.104, the Coronavirus Response and Relief Supplemental  
17 Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the  
18 American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then  
19 supplemental instruction provided by a school district under  
20 Subsection (a-1)(2) must:

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

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

27 (3) be provided [~~for no less than 30 total hours~~]

1 during the subsequent summer or school year:

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

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

5 (C) [7] unless the instruction is provided to a  
6 student fully during summer, [include instruction] no less than  
7 once per week during the school year, except as otherwise provided  
8 by commissioner rule to account for school holidays or shortened  
9 school weeks;

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

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

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

18 (7) be provided by a person with training in the  
19 applicable instructional materials for the supplemental  
20 instruction and under the oversight of the school district; and

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

23 (a-7) A school district is not required to provide  
24 supplemental instruction under Subsection (a-1)(2) to a student who  
25 is retained at a grade level for the school year in which that  
26 provision would otherwise apply.

27 (a-8) A parent or guardian of a student to whom supplemental

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

12 (a-9) The agency shall approve an automated or computerized  
13 method for providing supplemental instruction under Subsection  
14 (a-1)(2) that may be used in lieu of some or all of the individual or  
15 group instruction required under Subsection (a-4)(6), as  
16 appropriate for the applicable grade level and subject area and a  
17 student's academic deficiency. The agency may approve a method  
18 under this subsection only if evidence indicates that the method is  
19 as effective as or more effective than the individual or group  
20 instruction required under Subsection (a-4)(6) and the method  
21 provides individualized and immediate tutoring support to students  
22 as necessary. The commissioner shall adopt rules regarding when a  
23 method approved under this subsection may be used and the  
24 requirements under Subsection (a-4) for which the method may be  
25 substituted.

26 (a-10) A school district that is required to provide to a  
27 student accelerated instruction under Subsection (a) or

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

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

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

20 (1) must:

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

24 (B) notwithstanding Subsections (a-4)(3)(A) and  
25 (B), require the student to be provided with no less than 30 hours,  
26 or a greater number of hours if appropriate, of supplemental  
27 instruction under Subsection (a-4) for each consecutive school year

1 in which the student does not perform satisfactorily on the  
2 assessment instrument in the applicable subject area described by  
3 Subsection (a-1); and

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

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

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

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

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

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

22 (f-2) During the school year, the student shall be monitored  
23 to ensure that the student is progressing in accordance with the  
24 accelerated education plan developed under Subsection (f). The  
25 district shall administer to the student the assessment instrument  
26 for the grade level in which the student is placed at the time the  
27 district regularly administers the assessment instruments for that

1 school year.

2 (f-3) The board of trustees of each school district shall  
3 adopt a policy consistent with the grievance procedure adopted  
4 under Section 26.011 to allow a parent to contest the content or  
5 implementation of an accelerated education [~~educational~~] plan  
6 developed under Subsection (f).

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

14 (i) The admission, review, and dismissal committee of a  
15 student who participates in a district's special education program  
16 under Subchapter A, Chapter 29, and who does not perform  
17 satisfactorily on an assessment instrument specified under  
18 Subsection (a) [~~and administered under Section 39.023(a) or (b)~~]  
19 must [~~meet to~~] determine the manner in which the student will  
20 participate in an accelerated instruction program under this  
21 section. For a student for whom the committee determines  
22 participation in the required model for supplemental instruction  
23 under Subsection (a-4) is not appropriate, the committee must  
24 review the student's individualized education plan and adjust the  
25 plan as appropriate to target the areas in which the student did not  
26 perform satisfactorily on the assessment instrument.

27 (i-1) If a student who attends school in a homebound or

1 other off-campus instructional arrangement is unable to  
2 participate in an accelerated instruction program required under  
3 this section due to the nature of the student's circumstance, the  
4 student's admission, review, and dismissal committee or committee  
5 established under Section 504, Rehabilitation Act of 1973 (29  
6 U.S.C. Section 794), as applicable, may determine that the student  
7 may be provided the accelerated instruction when the student  
8 attends school in an on-campus instructional setting. If the  
9 student's circumstance prevents the student from attending school  
10 in an on-campus instructional setting for the school year during  
11 which the accelerated instruction is required to be provided to the  
12 student, the school district is not required to provide the  
13 accelerated instruction to the student for that school year.

14 (i-2) The admission, review, and dismissal committee of a  
15 student who participates in a district's special education program  
16 under Subchapter A, Chapter 29, and for whom an accelerated  
17 education plan is required under Subsection (b) shall develop the  
18 accelerated education plan for the student and must determine the  
19 manner in which the student will participate in an accelerated  
20 instruction program under this section. To the extent consistent  
21 with federal law, the accelerated education plan may not be  
22 considered to be part of the student's individualized education  
23 program and is not subject to the requirements of Section 29.005 or  
24 20 U.S.C. Section 1414(d) relating to the development of an  
25 individualized education program. A parent or guardian of a  
26 student for whom an accelerated education plan is developed under  
27 this subsection may contest the content or implementation of the

1 plan only through the grievance procedure adopted under Subsection  
2 (f-3).

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

9 (k) The commissioner may adopt rules as necessary to  
10 implement this section, including rules for required reporting  
11 necessary to support student transfers.

12 (m) The agency shall establish and maintain a list of  
13 service providers approved by the agency to provide accelerated or  
14 supplemental instruction services under this section. Section  
15 44.031(a) does not apply to a contract entered into by a school  
16 district with an approved service provider for accelerated or  
17 supplemental instruction services under this section.

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

1       (g) The commissioner may waive the requirements under this  
2 section for a school year for a school district in which at least 60  
3 percent of the district's students to whom accelerated instruction  
4 was required to be provided under Subsection (a) during the school  
5 year immediately before the preceding school year performed  
6 satisfactorily in the preceding school year on the assessment  
7 instrument described by Subsection (a) in each subject area in  
8 which the district was required to provide accelerated instruction.  
9 Not later than the beginning of each school year, the commissioner  
10 shall publish a list of school districts that qualify for a waiver  
11 under this subsection.

12       SECTION 14. Section 29.0881(e), Education Code, is amended  
13 to read as follows:

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

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

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

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

22       SECTION 15. Section 39.025(b-1), Education Code, is amended  
23 to read as follows:

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

1 subject assessed by the assessment instrument.

2 SECTION 16. Section 39.235(b), Education Code, is amended  
3 to read as follows:

4 (b) Before awarding a grant under this section, the  
5 commissioner may require a campus or school district to:

6 (1) obtain local matching funds; or

7 (2) meet other conditions, including developing a  
8 personal graduation plan under Section [~~28.0212~~ or] 28.02121[~~, as~~  
9 ~~applicable,~~] for each student enrolled at the campus or in a  
10 district [~~middle, junior high, or~~] high school.

11 SECTION 17. Section 411.0901(a), Government Code, is  
12 amended to read as follows:

13 (a) The Texas Education Agency is entitled to obtain  
14 criminal history record information maintained by the department  
15 about a person who:

16 (1) is employed or is an applicant for employment by a  
17 school district or open-enrollment charter school;

18 (2) is employed or is an applicant for employment by a  
19 shared services arrangement, if the employee's or applicant's  
20 duties are or will be performed on school property or at another  
21 location where students are regularly present; [~~or~~]

22 (3) is employed or is an applicant for employment by an  
23 entity that contracts with a school district, open-enrollment  
24 charter school, or shared services arrangement if:

25 (A) the employee or applicant has or will have  
26 continuing duties relating to the contracted services; and

27 (B) the employee or applicant has or will have

1 direct contact with students; or

2 (4) provides accelerated or supplemental instruction  
3 services under Section 28.0211 as a tutor on behalf of a service  
4 provider.

5 SECTION 18. Section 411.097(a), Government Code, is amended  
6 to read as follows:

7 (a) A school district, charter school, private school,  
8 regional education service center, commercial transportation  
9 company, or education shared services arrangement, or an entity  
10 that contracts to provide services to a school district, charter  
11 school, or shared services arrangement, is entitled to obtain from  
12 the department criminal history record information maintained by  
13 the department that the district, school, service center, shared  
14 services arrangement, or entity is required or authorized to obtain  
15 under Subchapter C, Chapter 22, Education Code, that relates to a  
16 person who [~~is~~]:

17 (1) is an applicant for employment by the district,  
18 school, service center, or shared services arrangement;

19 (2) is an employee of or an applicant for employment  
20 with a public or commercial transportation company that contracts  
21 with the district, school, service center, or shared services  
22 arrangement to provide transportation services if the employee  
23 drives or the applicant will drive a bus in which students are  
24 transported or is employed or is seeking employment as a bus monitor  
25 or bus aide on a bus in which students are transported; [~~or~~]

26 (3) is an employee of or applicant for employment by  
27 an entity that contracts to provide services to a school district,

1 charter school, or shared services arrangement as provided by  
2 Section 22.0834 or 22.08341, Education Code; or

3 (4) provides accelerated or supplemental instruction  
4 services under Section 28.0211 as a tutor on behalf of a service  
5 provider with whom the district, school, service center, or shared  
6 services arrangement contracts.

7 SECTION 19. The following provisions of the Education Code  
8 are repealed:

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

11 (2) Sections 28.0212, 28.0213, and 28.0217.

12 SECTION 20. The changes in law made by this Act to Section  
13 28.0211, Education Code, apply beginning with assessment  
14 instruments administered during the 2023 spring semester.

15 SECTION 21. The repeal by this Act of Sections 28.0212,  
16 28.0213, and 28.0217, Education Code, applies beginning with the  
17 2023-2024 school year.

18 SECTION 22. To the extent of any conflict, this Act prevails  
19 over another Act of the 88th Legislature, Regular Session, 2023,  
20 relating to nonsubstantive additions to and corrections in enacted  
21 codes.

22 SECTION 23. This Act takes effect immediately if it  
23 receives a vote of two-thirds of all the members elected to each  
24 house, as provided by Section 39, Article III, Texas Constitution.  
25 If this Act does not receive the vote necessary for immediate  
26 effect, this Act takes effect September 1, 2023.