

### **Declaration of Warren Norred**

My name is Warren Norred, my date of birth is February 21, 1963, and my business address is 515 E. Border, Arlington, Texas, US. I declare under penalty of perjury that the following statements are true and correct.

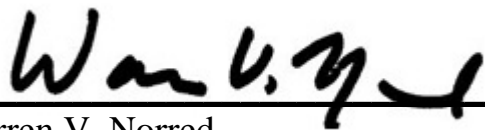
I downloaded several documents attached to this declaration from the website of NISD and the Texas Education Agency. These documents are true and correct copies as I received them from those sites, and include the following:

Exhibit C-1: HB4545 Text

Exhibit C-2: TEA - HB 4545 Implementation Overview

Exhibit C-3: TEA - History of Promotion Policies

Executed in Tarrant County, Texas, on August 19, 2024.

  
\_\_\_\_\_  
Warren V. Norred

H.B. No. 4545

AN ACT

relating to the assessment of public school students, the establishment of a strong foundations grant program, and providing accelerated instruction for 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 [~~SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Section 28.0211, Education Code, is amended by amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k), and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2), (f-3), (f-4), (f-5), and (n-1) 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) ~~[Except as provided by Subsection (b) or (c), a student may not be promoted to:~~

~~[(1) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on] the fifth grade mathematics or [and] reading assessment instrument [instruments] under Section 39.023; or~~

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

(a-1) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in 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 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].

(a-3) In providing accelerated instruction under Subsection (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, 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;

(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;

(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-5) Each school district shall establish a process allowing

for the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified under 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.

~~[(a-2) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.]~~

(a-6) [(a-3)] The commissioner shall provide guidelines to school districts on research-based best practices and effective strategies that a district may use in developing an accelerated instruction program and shall provide resources to districts to assist in the provision of an accelerated instruction program.

~~(c) [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 specified under Subsection (a), an accelerated learning ~~[a second time, a grade placement]~~ committee shall 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 accelerated learning ~~[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 accelerated learning ~~[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.]~~~~

(f) An accelerated learning ~~[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 described by ~~[established~~

~~under~~] Subsection (c) shall, not later than the start of the subsequent school year, develop an~~]. The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The~~] educational plan for the student that provides the necessary accelerated instruction ~~[must be designed]~~ to enable the student to perform at the appropriate grade level by the conclusion of the school year.

(f-1) The 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 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 educational plan developed under Subsection (f).

(f-4) If a student who fails to perform satisfactorily on an



assessment instrument specified under Subsection (a) fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject, the superintendent of the district, or the superintendent's designee, shall meet with the student's accelerated learning committee to:

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

(2) determine, in order to ensure the student performs satisfactorily on the assessment instrument at the next administration of the assessment instrument, whether:

(A) the educational plan developed for the student under Subsection (f) must be modified to provide the necessary accelerated instruction for that student; and

(B) any additional resources are required for that student.

(f-5) The superintendent's designee under Subsection (f-4):

(1) may be an employee of a regional education service center; and

(2) may not be a person who served on the student's accelerated learning committee.

(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 ~~[before the student is administered the assessment instrument for the second time. The committee shall]~~ determine~~[-~~

~~[-(1)]~~ the manner in which the student will participate in an accelerated instruction program under this section~~[-, and~~

~~[-(2) whether the student will be promoted in accordance with Subsection (i-1) or retained under this section]~~.

(k) The commissioner may ~~[shall]~~ adopt rules as necessary to implement this section~~[-, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.054]~~.

(n) Except as provided by Subsection (n-1), a [A] student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted to the next grade level [by a grade placement committee under this section] 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) to an appropriately certified [a] teacher who meets all state and federal

qualifications to teach that subject and grade.

(n-1) In a manner consistent with federal law and notwithstanding any other law, the commissioner may waive the requirement under Subsection (n) regarding the assignment of a student to an appropriately certified classroom teacher on the request of a school district.

SECTION 3. Section 28.0217, Education Code, is amended to read as follows:

Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL STUDENTS. (a) 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 [~~using funds appropriated for accelerated instruction under Section 28.0211~~].

(b) Accelerated instruction provided under this section:

(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; and

(2) must comply with the requirements for accelerated instruction provided under Section 28.0211.

SECTION 4. Subchapter C, Chapter 29, Education Code, is

amended by adding Section 29.0881 to read as follows:

Sec. 29.0881. STRONG FOUNDATIONS GRANT PROGRAM. (a) The commissioner shall establish and administer a strong foundations grant program for campuses or a program at a campus serving students enrolled in prekindergarten through grade five to implement a rigorous school approach that combines high-quality instruction, materials, and support structures.

(b) The commissioner shall adopt components that school districts, open-enrollment charter schools, and campuses of the districts or schools must implement under the strong foundations grant program. The components must include:

(1) use of high-quality instructional materials, curricula, and curricular tools;

(2) use of aligned diagnostic and formative assessments;

(3) aligned professional supports;

(4) practices designed to ensure high-quality supports for students with disabilities;

(5) evidence-based practices to increase and maintain parental engagement; and

(6) measurement of fidelity of implementation of the program.

(c) Grants provided under the strong foundations grant

program may be in the form of funds, in-kind resources, or both.

(d) The commissioner shall use funds appropriated, federal funds, and other funds available for the strong foundations grant program to assist school districts and open-enrollment charter schools in implementing the program.

(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.

(f) The commissioner may accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the program. A private or nonprofit organization that contributes to the program may receive an award under Section 7.113.

SECTION 5. 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 28.0217 in the subject assessed by the assessment instrument.

SECTION 6. Section 39.301(c), Education Code, is amended to read as follows:

(c) Indicators for reporting purposes must include:

(1) the percentage of graduating students who meet the course requirements established by State Board of Education rule for:

(A) the foundation high school program;

(B) the distinguished level of achievement under the foundation high school program; and

(C) each endorsement described by Section 28.025(c-1);

(2) the results of the SAT, ACT, and certified workforce training programs described by Chapter 311, Labor Code;

(3) for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument required under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(4) for each campus, the number of students,

disaggregated by major student subpopulations, that take courses under the foundation high school program and take additional courses to earn an endorsement under Section 28.025(c-1), disaggregated by type of endorsement;

(5) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211 [~~28.0211(e)~~], the results of assessment instruments administered under that section, [~~the percentage of students promoted through the grade placement committee process under Section 28.0211,~~] the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the subsequent school year [~~following that promotion~~] on the assessment instruments required under Section 39.023;

(6) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(7) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) the percentage of students who satisfy the college readiness measure;

(9) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052;

(10) the percentage of students who are not educationally disadvantaged;

(11) the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

(12) the percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

SECTION 7. Section 39A.051(b), Education Code, is amended to read as follows:

(b) For a campus described by Subsection (a), the commissioner, to the extent the commissioner determines necessary, may:

(1) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the school district, the district superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; ~~[or]~~

(2) establish a school community partnership team



composed of members of the campus-level planning and decision-making committee established under Section 11.251 and additional community representatives as determined appropriate by the commissioner;

(3) if applicable under Section 39A.064, require the school district to comply with all requirements of the strong foundations grant program under Section 29.0881 for the campus; or

(4) any combination of the actions described by Subdivisions (1) through (3).

SECTION 8. Subchapter B, Chapter 39A, Education Code, is amended by adding Section 39A.064 to read as follows:

Sec. 39A.064. STRONG FOUNDATIONS INTERVENTION FOR CERTAIN CAMPUSES. (a) Notwithstanding Section 39A.0545(b) or any other law, the commissioner may require a school district or open-enrollment charter school to comply with all requirements of the strong foundations grant program under Section 29.0881 at a campus that:

(1) includes students at any grade level from prekindergarten through fifth grade;

(2) is assigned an overall performance rating of D or F;  
and

(3) is in the bottom five percent of campuses in the

state based on student performance on the grade three reading assessment administered under Section 39.023(a) during the previous school year, as determined by the commissioner.

(b) If funds are appropriated for the purpose, the commissioner shall award a grant under Section 29.0881 to any campus required to implement the requirements of the program under this section.

(c) The commissioner shall adopt rules to determine whether a school district or open-enrollment charter school is complying adequately with the requirements under this section.

SECTION 9. Section 51.338(d), Education Code, is amended to read as follows:

(d) A student who has demonstrated the performance standard for college readiness as provided by Section 28.008 on the postsecondary readiness assessment instruments adopted under Section 39.0238 for Algebra II and English III, as that section existed before repeal by H.B. 4545, Acts of the 87th Legislature, Regular Session, 2021, is exempt from the requirements of this subchapter with respect to those content areas. The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

SECTION 10. The following provisions of the Education Code

are repealed:

- (1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m), and (m-1);
- (2) Section 39.0231; and
- (3) Section 39.0238.

SECTION 11. 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 added by this Act.

SECTION 12. This Act applies beginning with the 2021-2022 school year.

SECTION 13. 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, 2021.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 4545 was passed by the House on May 13, 2021, by the following vote: Yeas 82, Nays 63, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4545 on May 28, 2021, by the following vote: Yeas 104, Nays 41, 2 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 4545 was passed by the Senate, with amendments, on May 27, 2021, by the following vote: Yeas 24, Nays 7.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor



## To the Administrator Addressed

Commissioner Mike Morath

1701 North Congress Avenue • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • tea.texas.gov

<b>Date:</b>	<b>June 25, 2021</b>
<b>Subject:</b>	<b>House Bill 4545 Implementation Overview</b>
<b>Category:</b>	<b>87<sup>th</sup> Regular Session Implementation</b>
<b>Next Steps:</b>	<b>Webinar registration to learn more</b>

### Overview

House Bill 4545 recently passed in the 87<sup>th</sup> Regular Legislative Session. The new statute is effective, as of June 16, 2021, with accelerated instruction practices required during the 2021-2022 school year for all students, based on results from Spring 2021. The Texas Education Agency (TEA) will be providing support and guidance for local education agencies (LEAs) during the summer in a few venues:

- This [TAA](#) provides highlights from the statute and some detail on how to interpret the implementation timeline and requirements.
- Along with this TAA, the TEA is releasing a [Frequently Asked Questions \(FAQ\) document](#) that will be continually updated and will provide more detailed guidance.
- The TEA will be releasing a series of webinars over the summer to share more detailed guidance and provide an opportunity for Q&A.
- The TEA will release best practices resources over the summer to support implementation, including accelerated learning committee, local board policy, high-impact tutoring resources, and parent engagement guidance and tools.

HB 4545 establishes new requirements for accelerated instruction for students who do not pass the State of Texas Assessments of Academic Readiness (STAAR®). At a high level, the legislation includes:

- Elimination of grade retention and retesting requirements in grades 5 and 8
- For any student who does not pass the STAAR test in grade 3, 5, or 8 in math or reading, a new LEA requirement to establish an accelerated learning committee to develop an individual educational plan for the student and monitor progress
- For any student who does not pass the STAAR test in grades 3–8 or STAAR (EOC) end-of-course assessments, clarification of prior accelerated instruction requirements, specifying that it must include either:
  - Being assigned a classroom teacher who is a certified master, exemplary, or recognized teacher or
  - Receiving supplemental instruction (tutoring) before or after school, or embedded in the school day

Each of these components of the legislation is described in greater detail below.

### Implementation Timeline

HB 4545 is effective immediately starting June 16, 2021, and it applies beginning with the 2021-2022 school year. LEAs should evaluate [spring 2021 STAAR scores](#) to identify students who will require accelerated instruction that complies with these new requirements during the 2021-2022 school year.

*For school year 2021-2022:*

Accelerated instruction: For any student who did not pass STAAR grades 3-8 or EOC assessments, accelerated instruction must be delivered in the 2021-2022 school year (starting in fall 2021) or subsequent summer of 2022. Accelerated instruction entails either 1) assigning a classroom teacher who is a certified master, exemplary, or recognized teacher, or 2) delivering supplemental instruction (e.g., tutoring) before or after school, or embedded in the school day and meeting HB 4545 requirements.

Accelerated instruction delivered in summer 2021 will only satisfy the HB 4545 requirements if the criteria for supplemental instruction were met. (See the Supplemental Instruction Requirements section below.)

Accelerated Learning Committees: LEAs are required to establish accelerated learning committees (ALCs) for students who did not pass the STAAR test in grades 3, 5, or 8 math or reading beginning at the start of the 2021-2022 school year, in August. However, LEAs may find it beneficial to start establishing these committees and developing individual student plans in summer 2021 for two reasons:

- Completing this work in the summer will position LEAs to start implementing plans at the start of the school year.
- Under HB 4545, parents have the right to request a different teacher. Establishing the ALC in the summer would provide a window of opportunity to address in advance parent requests for different teachers and manage staffing and scheduling accordingly.

Board policy: LEAs are also required to establish a board policy to manage parent grievances by August 2021 ("as soon as practicable after the effective date" of HB 4545, per Section 11 of the act).

The TEA will release further guidance and resources for ALC and board policy implementation by August.

*For school year 2022-2023 and beyond:*

The above guidance for accelerated instruction continues to apply in subsequent school years.

Accelerated Learning Committees in Future School Years:

Starting summer 2022, LEAs must establish ALCs and develop individual student plans after scores are received, which may take place before the end of that school year or during the summer and prior to the start of the school year, based on the latest STAAR results.

### **Additional Statutory Highlights**

#### Retention and Retesting Requirements

- A student in grade 5 or 8 is no longer required to be retained at the same grade level based on STAAR.
- Grade placement committees have been eliminated, though school systems still have the flexibility to retain students if deemed appropriate locally.
- In grades 5 and 8, there is now only one mathematics and reading testing opportunity. Prior law incorporated two retesting opportunities for students, if the

students did not perform satisfactorily on the initial assessment.

- The optional STAAR EOC assessments for Algebra II and English III will no longer be offered.

#### Accelerated Learning Committees

- The accelerated learning committee must be comprised of:
  - The principal or the principal's designee
  - The student's parent or guardian, and
  - The teacher of the subject of an assessment on which the student failed to pass.
- No later than the start of the subsequent school year, an accelerated learning committee must develop an educational plan for a 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.
- The plan should detail the areas of accelerated instruction needed by the student, the plan for progress monitoring, assessment data, and the actions and tools that will be provided for the student.
- The plan must be documented in writing with a copy provided to the student's parent or guardian.
- If a student fails an assessment in the same subject in the subsequent school year, the superintendent or a designee must meet with the student's accelerated learning committee.

#### Supplemental Instruction Requirements

- Deliver targeted Texas Essential Knowledge and Skills (TEKS)-aligned instruction for the applicable grade level and subject areas.
- Be provided *in addition to* instruction normally provided to students in the grade level in which the student is enrolled.
- Be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area
- Not be scheduled such that a student is removed from any of the following:
  - Instruction in grade-level content for the foundation curriculum
  - Instruction in enrichment curriculum for the grade level in which the student is enrolled
  - Recess or physical activity that is available to other students enrolled in the same grade level.
- Be provided for no less than 30 hours total during the summer or subsequent school year. If provided during the subsequent school year, it should include instruction no less than once per week.
- If a student does not pass both math and reading STAAR tests, they will need to meet the 30 hour requirement for each of the two subject areas.
- Utilize effective instructional materials designed for supplemental instruction.
- Be delivered in a 1-on-1 or small group environment, with no more than 3 students in a small group.
- Be provided by an individual with training in aligned instructional materials and under the LEA's oversight. Ideally, the same individual provides tutoring continuously for the student's entire supplemental instruction period.

***\*This requirement will set up a significant need to rethink master schedules, develop high-impact tutoring programs, and set up data systems for tracking student process.***

#### HB 4545 Implementation Support Webinars

A series of webinars will be held to provide information regarding the components of HB 4545. You may register for the webinars by using the hyperlinked dates below.

- [July 1, 2021 at 10 – 11 am: HB 4545 Implementation Overview](#)
- [July 7, 2021 at 10-11am: HB 4545 Accelerated Instruction Requirements \(including Tutoring\)](#)
- [July 20, 2021 at 10 – 11 am: HB 4545 Accelerated Learning Committees & Parent Engagement](#)

In addition, LEAs seeking to implement tutoring and other learning acceleration strategies may benefit from joining an introductory webinar on Texas COVID Learning Acceleration Supports (TCLAS), which includes tutoring supports for LEAs:

- [June 30, 2021, at 11-12 noon: TCLAS Overview](#)

Questions regarding the implementation of HB 4545 should be submitted in writing to [accelerated.instruction@tea.texas.gov](mailto:accelerated.instruction@tea.texas.gov). Answers will also be added on a rolling basis to the FAQ document.

### **Additional Resources**

[National Board Certified Teacher Directory](#)  
[Teacher Incentive Allotment Website](#)  
[Strong Start Tutoring Resources](#)



## History of Promotion Policies in Texas Through 2022-23

Texas policy on student promotion and retention decisions has evolved over the past four decades. Legislation passed in 1984 prohibited social promotion, requiring instead that students be promoted only on the basis of academic achievement (Texas Education Code [TEC] §21.721, *Grade Requirement for Advancement or Course Credit*, 1986). The State Board of Education (SBOE) rules implementing the legislation, *Promotions and Alternatives to Social Promotion* (Title 19 of the Texas Administrative Code [TAC] §§75.191-75.195, 1985), outlined the grading procedures to be used by districts and guidelines for promotion. The rules included the provisions that no student could repeat the same grade more than once or repeat more than two grade levels during the elementary grades.

In 1987, legislation was enacted to expand TEC §21.557, *Compensatory and Remedial Instruction* (1988). The legislation provided a definition of students in Grades 7-12 considered to be at risk of dropping out of school and required districts to provide remedial and support programs for these students. The definition of "at-risk" students included students who had not advanced from one grade level to the next in two or more school years.

In 1991, the rule prohibiting retention of students below Grade 1 was amended to allow districts to assign six-year-old students who were not developmentally ready for the first grade to grades deemed appropriate by the schools (19 TAC §75.195(j), 1992 Supplement).

Also in 1991, legislation updated TEC §21.721 (1992) to eliminate the prohibition on advancement of students with grade averages below 70. Policies on advancement from one grade level to the next were to be adopted by school districts. Local policies on promotion had to incorporate a variety of factors, including a minimum yearly grade average of 70; course grades earned in each subject; performance on the Texas Assessment of Academic Skills (TAAS); extenuating circumstances; and the judgment of parents and teachers. Districts were required to consider alternatives to retention, including extended school day, extended school year, specialized tutorial support, peer tutoring, cross-age tutoring, student mentoring, and summer programs.

A retention reduction grant program was enacted in 1993 (TEC §21.562, 1994). A \$5 million appropriation allowed 54 Texas school districts to pilot extended instructional programs to eliminate retentions in first grade during the 1992-93 school year. The retention reduction grants allowed school districts and campuses to offer programs based on lengthening the school year as alternatives to retention. These programs provided additional instruction to students who needed extra assistance to master the

first-grade objectives in the Essential Elements—the state-mandated curriculum in place at that time. The pilots were extended to the second grade in 1994-95.

School districts not receiving retention reduction grants could apply to the commissioner of education for approval to provide extended year programs (TEC §21.563, *Optional Extended Year Program*, 1994). Optional extended year programs (OEYPs) of up to 45 days in length could be provided to students in Grades K-8 who would otherwise be retained. To fund the programs, school districts could reduce the number of instructional days in the regular school year by five.

In 1995, the Texas Education Code was reviewed and readopted. In the new code, the provisions on promotion, *Student Advancement*, reiterated that students be promoted only on the basis of academic achievement or demonstrated proficiency in the subject matter of the course or grade level (TEC §28.021, 1996). At the same time, the language regulating local promotion and retention policies was repealed. In April 1996, the SBOE rules regulating local policies, including restrictions on the number of times students could be retained in grade, were also repealed. The definition of students at risk of dropping out was carried forward (TEC §29.081, 1996).

The 1995 TEC revisions included a single set of provisions for extended year programs (TEC §29.082, 1996). Commissioner of education rules implementing the OEYP were adopted to be effective in May 1996 (19 TAC §105.1001, 1997). Districts were required to promote each student who attended at least 90 percent of the extended year program days, unless the student's parents requested that the student be retained. If the parents requested retention, the student's principal, teacher, and counselor were required to meet with the parents to provide information on the effects of retention on future academic performance, student self-esteem, and high school completion. The commissioner of education was directed to withhold 5 percent of the Foundation School Program compensatory education allotment to finance extended year programs. This increased the allocation for extended year programs for students in Grades K-8 who were identified as not likely to be promoted to approximately \$50 million per year. Districts could use portions of their compensatory education allotments or apply for state funds to implement extended year programs. Although districts had to apply for state OEYP funds, they were no longer required to apply for approval to operate OEYPs funded locally.

The promotion policies implemented in Texas public schools in 2002-03 built on the state curriculum and assessment programs that had been developed over many years. In 1984, Texas first adopted a state curriculum, known as the Essential Elements (19 TAC Chapter 75, Subchapters B-D, 1984). Over the years, the rigor of knowledge and skills required of students increased. A revised curriculum, the Texas Essential Knowledge and Skills (TEKS), was adopted by the SBOE and became effective on September 1, 1998 (19 TAC Chapters 110-128, 1998). By state law and SBOE rule, the TEKS in the foundation areas of English language arts and reading, mathematics, science, and social studies are required for use in instruction and statewide assessment. The TEKS have been widely distributed to schools and to the public. Professional development on TEKS implementation in the classroom has been available statewide.

The state testing program known as TAAS was introduced in 1990. When last administered in 2002, the TAAS measured mastery of the state curriculum in reading and mathematics at Grades 3-8 and 10; in

writing at Grades 4, 8, and 10; and in science and social studies at Grade 8. The Grade 10 tests served as an exit-level examination. As was the case under the previous testing program, the Texas Educational Assessment of Minimum Skills (TEAMS), satisfactory performance on the exit-level examination was a prerequisite to a high school diploma.

In 2002-03, a new, more rigorous state assessment system, the Texas Assessment of Knowledge and Skills (TAKS), was introduced. Like the TAAS, the TAKS was aligned with the state curriculum, measuring the extent to which a student learned and was able to apply the knowledge and skills defined in the TEKS at each grade level tested.

In response to statutory requirements, the TAKS was replaced by the more rigorous State of Texas Assessments of Academic Readiness (STAAR) beginning in 2011-12 (TEC Chapter 39, 2010). High school students who began Grade 9 in 2010-11 or earlier continued to take grade-specific TAKS assessments to comply with graduation standards already in place. STAAR is aligned with the TEKS and provides the foundation for the accountability system for Texas public education. In Grades 3-8, STAAR assesses the same grade-specific subjects that were assessed with the TAKS. In high school, however, grade-specific assessments have been replaced by STAAR end-of-course (EOC) assessments. Although 15 EOCs were originally required to graduate for students who started Grade 9 in 2011-12, the 83rd Texas Legislature reduced the requirement to five assessments in 2013: Algebra I, Biology, English I, English II, and U.S. History.

Senate Bill (SB) 149, passed by the 84th Texas Legislature in 2015, revised the state's assessment graduation requirements for students enrolled in Grade 11 or 12 (TEC §28.0258, 2016; 19 TAC §101.3022, 2024, amended to be effective August 9, 2022). The revised requirements were extended by the legislature in 2017 and 2019 and were made permanent by House Bill (HB) 1603 in 2021 (TEC §28.0258, 2022). Under the requirements, a student who fails an EOC assessment for no more than two of five required courses may receive a Texas high school diploma if the student is determined to be qualified to graduate by an individual graduation committee (IGC) (19 TAC §74.1025, 2024, amended to be effective February 10, 2020; 19 TAC §101.3022, 2024, amended to be effective August 9, 2022). A student receiving special education services is not subject to IGC requirements. The student's admission, review, and dismissal (ARD) committee determines whether the student is required to achieve satisfactory performance on an EOC assessment to graduate. If the ARD committee determines the student is not required to achieve satisfactory performance on an EOC assessment, the student is considered to be in compliance with assessment requirements under TEC §39.025 (2022). In 2021, in response to the COVID-19 pandemic, the Texas Legislature passed HB 999, which modified the graduation performance requirements for students in Grade 12 in the 2020-21 school year (TEC §28.0258, 2022). Under the modified requirements a student could graduate in 2020-21 via an IGC determination, regardless of the number of EOC assessments the student failed, and the IGC was not required to consider performance on EOC assessments when determining whether the student was qualified to graduate.

State testing procedures allow accommodations on STAAR for students who need them. Several accommodations are available to eligible students, including content and language supports, spelling assistance, supplemental aids, and extra time to complete assessments. ARD committees and placement committees for students served under Section 504 of the Rehabilitation Act of 1973, as

amended (Title 29 of the United States Code §794 [Section 504], 2024; Title 34 of the Code of Federal Regulations, Part 104, 2024), determine which accommodations can be used by students receiving special education services and Section 504 services, respectively. When a student does not receive special education or Section 504 services but meets the eligibility criteria for testing accommodations, the decision is made by the appropriate team of people at the campus level, such as the response to intervention (RtI) team or the student assistance team. Emergent bilingual students/English learners (EB students/ELs) may also receive accommodations on the statewide assessments, and EB students/ELs in Grades 3-5 may be provided Spanish-language versions of tests when available. Language proficiency assessment committees (LPACs) make assessment and accommodation decisions for EB students/ELs.

In 1995, Texas statute was amended to stipulate that "a student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level" (TEC §28.021, 1996). In 1999, specific provisions linking test performance, promotion, and instruction were added (TEC §28.0211, 1999). From 2002-03 to 2008-09, students in Grade 3 were required to pass the state reading test to advance to Grade 4. Student Success Initiative (SSI) requirements for Grade 3 were eliminated after the 2008-09 school year. Students in Grade 5 were required to pass the state reading and mathematics tests beginning in 2004-05. Students in Grade 8 were required to pass the reading and mathematics tests beginning in 2007-08. Through the 2010-11 school year, students in Grades 5 and 8 were given three opportunities to pass the TAKS. School districts were required to provide accelerated instruction in the subject areas failed after each test administration (TEC §28.0211, 2010).

If a student failed the test a second time, the district was required to establish a grade placement committee (GPC) to determine the accelerated instruction the student would receive before the third testing opportunity. A student who failed to perform satisfactorily on the third opportunity was required to be retained. A parent or guardian could appeal the retention decision to the GPC. The GPC could decide in favor of advancement if committee members unanimously concluded, based on standards adopted by the local school board, that the student was likely to perform on grade level if given additional accelerated instruction during the next school year.

In 2009, the 81st Texas Legislature stipulated that students in Grade 5 or Grade 8 who failed the state reading or mathematics assessment must complete accelerated instruction before they may be promoted to the next grade level (TEC §28.0211, 2010). Districts anticipated difficulty implementing the provision for students who failed the third administration of a Grade 5 or Grade 8 test, which occurred during the summer. To help districts and charter schools meet the requirement, the Texas Education Agency developed a waiver that allowed promotion of such students to the next grade level prior to the completion of accelerated instruction.

In 2011, the 82nd Texas Legislature directed that a student in Grade 5 or Grade 8 who is enrolled in a course above the student's grade level or for which the student will receive high school credit is not required to take a grade-level state assessment in the corresponding subject (TEC §28.0211, 2011).

Because performance standards for STAAR had not been established in time for student promotion decisions, promotion criteria for Grades 5 and 8 that were based on state assessment results were suspended in 2011-12. Instead, promotion criteria developed entirely at the district level were in effect.

Statutory promotion criteria, including requirements that students receive three opportunities to pass the reading and mathematics tests, GPCs be established, and accelerated instruction be provided, were made effective again in 2012-13 and remained in effect in 2013-14.

In 2014-15, the STAAR mathematics tests were updated to reflect the revised mathematics TEKS adopted by the State Board of Education in 2012. As a result of these changes, performance standards for 2015 STAAR mathematics tests in Grades 3-8 were not set until after the spring 2015 administration. In addition, SSI retest opportunities for STAAR mathematics tests in Grades 5 and 8 were not offered in May and June of 2015. Districts were instructed to use other relevant academic information in place of STAAR mathematics results when making promotion and retention decisions. SSI requirements for reading remained in effect in 2014-15.

In 2015-16, the administration of STAAR tests was affected by online testing issues and reporting issues with the state's testing vendor. As a result, the June administration of the Grades 5 and 8 STAAR reading and mathematics tests was not offered. Furthermore, SSI requirements for Grades 5 and 8 were suspended. Districts were instructed to use other relevant academic information in place of STAAR reading and mathematics results when making promotion and retention decisions.

In 2016-17, the administration of STAAR tests went as planned. Statutory promotion criteria, including SSI requirements that students in Grades 5 and 8 receive three opportunities to pass the reading and mathematics tests, GPCs be established, and accelerated instruction be provided, were made effective again.

For the 2017-18 school year, SSI requirements were not in place for all students for two reasons. First, after Hurricane Harvey, the commissioner of education gave all districts within the 47-county area identified in the presidential disaster declaration the option to opt out of the June administration of the Grades 5 and 8 mathematics and reading assessments. Second, students who experienced online testing issues during the spring administration of the assessments and who did not perform satisfactorily on the May 2018 assessment were not required to retest during the June administration. In both cases, the commissioner suspended the requirement that districts convene GPCs for affected students and directed districts to use local discretion and other relevant academic information in place of STAAR reading and mathematics results when making promotion and retention decisions.

In 2018-19, the administration of STAAR tests went as planned. Statutory promotion criteria, including SSI requirements that students in Grades 5 and 8 receive three opportunities to pass the reading and mathematics tests, GPCs be established, and accelerated instruction be provided, were made effective again.

In spring 2020, the governor of Texas used the statutory authority granted under Texas Government Code §418.016 (2024, amended to be effective September 1, 2013) to suspend annual academic assessment requirements for the 2019-20 school year because of COVID-19. All STAAR administrations scheduled for April, May, and June 2020 were canceled. Furthermore, SSI requirements for Grades 5 and 8 were suspended. Districts were instructed to use other relevant academic information in place of STAAR reading and mathematics results when making promotion and retention decisions.

In 2020-21, because of the continued effects of the COVID-19 pandemic, the commissioner of education issued a waiver related to SSI promotion requirements. STAAR reading and mathematics tests for Grades 5 and 8 were administered only once, and retest opportunities were not offered. Additionally, SSI promotion requirements for Grades 5 and 8 were suspended. Districts and charter schools were instructed to use STAAR test results along with other relevant academic information when making promotion and retention decisions and to provide accelerated instruction to students who did not perform satisfactorily on the tests. SSI requirements for Grades 5 and 8 were eliminated after the 2020-21 school year.

In 2021, the 87th Texas Legislature passed SB 1697, allowing a parent or guardian of a student in a public school district or charter school to elect for the student to repeat a grade between prekindergarten and Grade 8 or to retake a high school course (TEC §28.02124, 2022). Students in prekindergarten through Grade 3 may still be retained at the request of a parent or guardian, but per statute, this option expired at the end of the 2021-22 school year for students in Grades 4-12. In 2023, the 88th Texas Legislature passed HB 3803, once again allowing a parent or guardian of a student in Grades 4-12 to elect for the student to repeat a grade or retake a high school course (TEC §28.02124, 2024, amended to be effective June 13, 2023).

HB 4545, passed in 2021 by the 87th Texas Legislature, established new requirements for accelerated instruction for students who do not pass STAAR tests (TEC §28.0211, 2022; 19 TAC §104.1001, 2024, adopted to be effective June 9, 2022). Beginning in the 2021-22 school year, the new requirements (a) eliminate SSI retesting and grade retention requirements for students in Grades 5 and 8 who do not pass the tests; (b) require districts to establish accelerated learning committees for students in Grades 3, 5, and 8 who do not pass the STAAR reading or mathematics tests; and (c) clarify prior accelerated instruction requirements for students who do not pass STAAR tests in Grades 3-8 or STAAR EOC tests.

## References

- Rehabilitation Act of 1973. 29 U.S.C. §794 (2024), retrieved May 2, 2024, from <http://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim>; 34 C.F.R. Part 104 (2024), retrieved May 2, 2024, from <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-104>
- Texas Administrative Code, Title 19, Education. (1984). St. Paul, MN: West Publishing.
- Texas Administrative Code, Title 19, Education. (1985). St. Paul, MN: West Publishing.
- Texas Administrative Code, Title 19, Education. (1992, Supplement). St. Paul, MN: West Publishing.
- Texas Administrative Code, Title 19, Education. (1997). St. Paul, MN: West Group.
- Texas Administrative Code, Title 19, Education. (1998). St. Paul, MN: West Group.
- Texas Administrative Code, Title 19, Education. (2024). Retrieved May 2, 2024, from [http://texreg.sos.state.tx.us/public/tacctx\\$.startup](http://texreg.sos.state.tx.us/public/tacctx$.startup)
- Texas Education Code. (1986). *Texas school law bulletin*. St. Paul, MN: West Publishing.
- Texas Education Code. (1988). *Texas school law bulletin*. St. Paul, MN: West Publishing.
- Texas Education Code. (1992). *Texas school law bulletin*. St. Paul, MN: West Publishing.
- Texas Education Code. (1994). *Texas school law bulletin*. St. Paul, MN: West Publishing.
- Texas Education Code. (1996). *Texas school law bulletin*. St. Paul, MN: West Publishing.
- Texas Education Code. (1999). *Texas school law bulletin*. St. Paul, MN: West Group.
- Texas Education Code. (2010). *Texas school law bulletin*. St. Paul, MN: Thomson Reuters.
- Texas Education Code. (2011). *Texas school law bulletin*. St. Paul, MN: Thomson Reuters.
- Texas Education Code. (2016). *Texas school law bulletin*. Charlottesville, VA: Matthew Bender.
- Texas Education Code. (2022). *Texas school law bulletin*. Park City, UT: Blue360° Media.
- Texas Education Code. (2024). Retrieved May 2, 2024, from <https://statutes.capitol.texas.gov/StatutesByDate.aspx>
- Texas Government Code §418.016. (2024). Retrieved May 2, 2024, from <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.418.htm#418.016>





## **Texas Education Agency**

Mike Morath, Commissioner of Education

## **Office of Analytics, Assessment, and Reporting**

Iris Tian, Deputy Commissioner

## **Division of Research and Analysis**

Linda Roska, Executive Director

## **Accountability Research Unit**

Jennifer Broussard, Director

## **Project Staff**

John Du

Holly Ryon

Freya Gaertner

## **Editorial Staff**

Shannon Nagy

Christine Whalen

Richard Kallus

**Citation.** Texas Education Agency. (2024). *History of promotion policies in Texas through 2022-23*. Austin, TX: Author.

**Abstract.** This report presents a history of promotion and retention policies in Texas public schools.

The report is available in PDF format on the agency website at <https://tea.texas.gov/reports-and-data/school-performance/accountability-research/grade-level-retention>. Additional information about this report may be obtained by contacting the Texas Education Agency Division of Research and Analysis by phone at (512) 475-3523 or by e-mail at [Research@tea.texas.gov](mailto:Research@tea.texas.gov).



**Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701-1494**

**June 2024**