

Sec. 1. CURRICULAR AND INSTRUCTIONAL SYSTEMS

To ensure that each student achieves at least satisfactory performance on each state assessment instrument administered under Texas Education Code 39.023, TPHS shall ensure that its curricular and instructional systems provide instruction to all students that:

1. Is consistently aligned with the essential knowledge and skills for the applicable subject area and grade level; and
2. Strategically and timely addresses deficiencies in the prerequisite essential knowledge and skills for the applicable subject area and grade level.

Tex. Educ. Code § 28.0211(a).

Sec. 2. UNSATISFACTORY PERFORMANCE ON STATE ASSESSMENTS

a) *Accelerated Instruction Program*

i. General requirements

Each time a student fails to perform satisfactorily on an assessment instrument administered under Texas Education Code § 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 Texas Education Code § 39.023(c), other than an assessment instrument developed or adopted based on alternative academic achievement standards, TPHS shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and, subject to Sec. 2-a-iii and Sec. 2-a-v below, either:

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under Texas Education Code 21.3521 for the subsequent school year in the applicable subject area; or
2. Provide the student with supplemental instruction, as described in Sec. 2-d below.

Tex. Educ. Code § 28.0211(a-1).

Accelerated instruction provided during the following school year may require participation of the student before or after normal school hours.

Tex. Educ. Code § 28.0211(a-2).

TPHS is not required to provide accelerated instruction to a student who, instead of being administered an assessment instrument specified in this Sec. 2-a-i, was administered a substitute

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assessment instrument in accordance with other law or Texas Education Agency rule authorizing the use of the substitute assessment instrument for purposes of satisfying the requirements concerning the applicable assessment instrument under Sec. 2-a-1.

Tex. Educ. Code § 28.0211(a-10).

TPHS also is not required to provide a student accelerated instruction or supplemental instruction 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 TPHS is required to provide the student the accelerated or supplemental instruction.

Tex. Educ. Code § 28.0211(a-13).

ii. Supplemental instruction

If TPHS receives funding under Texas Education Code 29.0081 or 48.104, the Coronavirus Response and Relief Supplemental Appropriations Act, 2021, or the American Rescue Plan of 2021, supplemental instruction provided by TPHS 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 during the subsequent summer or school year:
 - a. To each student for no less than:
 - i. 15 hours; or
 - ii. 30 hours for a student whose performance on the applicable assessment instrument was significantly below satisfactory, as defined by commissioner rule; and
 - b. Unless the instruction is provided to a student fully during summer, 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 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 TPHS; and
8. To the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

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Tex. Educ. Code § 28.0211(a-4).

iii. *Limitations on supplemental instruction*

TPHS may not be required to provide supplemental instruction to a student in more than two subject areas per school year. If TPHS would otherwise be required to provide supplemental instruction to a student in more than two subject areas for a school year, TPHS shall prioritize providing supplemental instruction to the student in mathematics and reading language arts, or Algebra I, or English I, as applicable for that school year.

Tex. Educ. Code § 28.0211(a-8).

iv. *Limitations on scheduling accelerated instruction programs*

In providing accelerated instruction under Sec. 2-a-1, TPHS 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 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.

Tex. Educ. Code § 28.0211(a-3).

v. *Students who are retained*

The requirements for accelerated instruction under Sec. 2-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.

Tex. Educ. Code § 28.0211(a-7).

vi. *Accelerated Education Plan*

a) *General requirements*

TPHS shall develop an accelerated education plan (“AEP”) for each student who does not perform satisfactorily on an assessment instrument specified under Sec. 2-a-1 for two or more consecutive school years in the same subject area.

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Not later than the start of the subsequent school year, TPHS shall develop an AEP for each student identified in this section that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade or course level by the conclusion of the school year. The AEP:

1. Must
 - a. Identify the reason the student did not perform satisfactorily on the applicable assessment instrument; and
 - b. Unless otherwise allowed under Texas Education Code § 28.0211(a-4)(3)(A), require the student to be provided with no less than 30 hours, or a greater number of hours if appropriate, of supplemental instruction for each consecutive school year in which the student does not perform satisfactorily on the assessment instrument in the applicable subject area; and
2. May require that, as appropriate to ensure the student performs satisfactorily on the assessment instrument in the applicable subject area at the next administration of the assessment instrument:
 - a. TPHS expand the times in which supplemental instruction under Sec. 2-a-ii-3 is available to the student;
 - b. The student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and
 - c. TPHS provide any necessary additional resources to the student.

Tex. Educ. Code § 28.0211(f).

An AEP must be documented in writing, and a copy must be provided to the student's parent or guardian.

Tex. Educ. Code § 28.0211(f-1).

Except as requested under Sec. 2-a-viii or provided by the waiver process under Sec. 2-a-vi-a, a student for whom an AEP must be developed must be assigned, in each school year and subject covered by the AEP, to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

Tex. Educ. Code § 28.0211(n).

The commissioner may waive the requirement regarding assignment of a student to an appropriately certified classroom teacher on the request of TPHS.

Tex. Educ. Code § 28.0211(n-1).

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b) Monitoring

TPHS shall monitor the student during the school year to ensure that the student is progressing in accordance with the AEP.

Tex. Educ. Code § 28.0211(f-2).

c) Complaint Process

The Superintendent or designee shall develop a process to allow a parent to contest the content or implementation of an AEP.

Tex. Educ. Code § 28.0211(f-3).

This process shall recognize the Board’s final authority to hear or decide parent and student grievances. The grievance process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini trial” at any level. The Superintendent or designee shall ensure that the parent appeal process is made available to students and parents through the Student and Parent Handbook.

The Board shall retain final authority to hear or decide parent and student grievances.

19 Tex. Admin. Code § 100.1113(a)(1)(A).

The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law.

Tex. Gov’t Code Ch. 551, Subch. D.

vii. Parental election to modify or opt-out

A parent or guardian of a student to whom supplemental instruction will be provided and who either was administered and failed to perform satisfactorily on an assessment instrument specified in Sec. 2-a-1 above or was administered a beginning-of-year assessment instruction aligned with the essential knowledge and skills for the applicable subject area, including a student to whom Sec. 2-a-vi-a applies, may elect to modify or remove a requirement for that instruction by submitting a written request to an administrator of the campus at which the student is enrolled. TPHS may not encourage or direct a parent or guardian to:

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1. Not provide supplemental instruction to the student; or
2. Provide supplemental instruction in a group larger than authorized under Sec. 2-a-ii, item 6.

Tex. Educ. Code § 28.0211(a-9).

viii. *Parent requests for classroom assignments*

The Superintendent or designee shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified in Sec. 2-a-i to make a request for 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.

Tex. Educ. Code § Education Code 28.0211(a-5).

This process shall be included in TPHS’s Student and Parent Handbook.

b) *First Through Third Grade Supplementary Supports*

The commissioner shall establish and administer a program designed to help improve student proficiency in reading by providing a grant in an amount provided under Texas Education Code § 48.317 through which the student's parent may purchase tutoring services from agency-approved providers to:

1. a student at or below the third-grade level who, beginning in the first grade, is required to be provided reading interventions under Texas Education Code § 28.0064; and
2. a student who is required to be provided accelerated instruction under Texas Education Code § 28.0211(a-1) based on the student's third grade performance.

Tex. Educ. Code § 28.02111(a).

TPHS shall provide to the parent of a student who is eligible for supplementary supports with notice of the student’s eligibility for a grant under this section, in a form and manner established by the Texas Education Agency.

Tex. Educ. Code § 28.02111(g).

c) *Agency-Approved Alternatives*

TPHS may utilize an automated, computerized, or other augmented method approved by the Texas Education Agency for providing supplemental instruction in lieu of some or all of the individual

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or group instruction required under Sec. 2-a-ii, as appropriate for the applicable grade level and subject area and a student’s academic deficiency. TPHS’s use of an automated, computerized, or other augmented method shall be in accordance with rules adopted by the commissioner.

Tex. Educ. Code § 28.0211(a-11).

d) Use of Service Providers

For the purpose of providing accelerated instruction or supplemental instruction under this policy, TPHS may use a service provider that is not on a list of service providers approved by the Texas Education Agency if TPHS can demonstrate to the commissioner that use of the service provider results in measurable improvement in student outcomes.

Tex. Educ. Code § 28.0211(a-12).

e) Notice of Unsatisfactory Performance

TPHS shall provide to the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified under Sec. 2-a-i notice that the student is not performing on grade level in the applicable subject area. Notwithstanding Sec. 4, the notice must be provided at a parent-teacher conference or, if TPHS is unable to provide the notice at a parent-teacher conference, by another means.

Tex. Educ. Code § 28.0211(a-14).

For each such student, TPHS shall make a good faith attempt to provide a parent-teacher conference with the student’s primary teacher at the start and end of the subsequent school year. At the conference, TPHS shall provide the student’s parent or guardian with:

1. Notice that the student is not performing on grade level in the applicable subject area; and
2. An explanation of the accelerated instruction to which the student is entitled and the AEP that must be developed for the student, and the manner in which the parent or guardian may participate in developing the plan.

Tex. Educ. Code § 28.0211(b-1).

f) Students in Homebound or Other Off-Campus Instructional Arrangements

If a student who attends school in a homebound or other off-campus instructional arrangement, including at a residential treatment campus or state hospital, is unable to participate in an accelerated instruction program due to the student’s condition, TPHS may determine that the

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student be provided the accelerated instruction when the student attends school in an on-campus instructional setting. If the student's 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, TPHS is not required to provide the accelerated instruction to the student for that school year.

Tex. Educ. Code § 28.0211(i-1).

g) *Transportation Services*

TPHS shall provide students required to attend accelerated programs under this policy with transportation to those programs if the programs occur outside of regular school hours, unless TPHS does not operate, or contract or agree with another entity to operate, a transportation system.

Tex. Educ. Code § 28.0211(j).

h) *Fifth or Eighth Grade Assessments*

This policy does not require the administration of a fifth or eighth grade assessment instrument in a subject under Texas Education Code 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

1. Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Section 39.023(a) that aligns with the curriculum for the course in which the student is enrolled; or
2. Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted or developed under Section 39.023(c) for the course.

Tex. Educ. Code § 28.0211(o).

A student described by this subsection may not be denied promotion due to failure to perform satisfactorily on an assessment instrument not required to be administered to the student in accordance with this subsection.

Tex. Educ. Code § 28.0211(p).

Sec. 3. SPECIAL EDUCATION STUDENTS

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The admission, review, and dismissal (“ARD”) committee of a student who participates in TPHS’s special education program and who does not perform satisfactorily on an assessment instrument specified in Sec. 2-a above shall, at the student’s next ARD meeting, review the student’s participation and progress in, as applicable, accelerated instruction, supplemental instruction, or an AEP developed at a parent teacher conference. The student’s parent may request, or TPHS may schedule, an additional ARD committee meeting if a committee member believes that the student’s individualized education program needs to be modified based on the requirements in Texas Education Code 28.0211. If TPHS refuses to convene a committee meeting requested by the student’s parent or guardian, TPHS shall provide written notice explaining the reason for its refusal to convene the meeting.

Tex. Educ. Code § 28.0211(i).

Sec. 4. PARENT NOTICE

In each instance under this policy in which TPHS is required to provide notice or a written copy to a parent or guardian, TPHS 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.

Tex. Educ. Code § 28.0211(h).

Sec. 5. RETENTION DECISIONS

This policy does not preclude TPHS from retaining at a grade level a student who performs satisfactorily on an assessment instrument specified under Sec. 2-a-i in accordance with state law or Board policy.

Tex. Educ. Code § 28.0211(g).