

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

**Student  
Advancement**

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. [See EI]

In determining promotion, a district shall consider:

1. The recommendation of the student's teacher;
2. The student's grade in each subject or course;
3. The student's score on an assessment instrument administered under Education Code 39.023(a), (b), or (l), to the extent applicable; and
4. Any other necessary academic information, as determined by the district.

*Education Code 28.021(a), (c)*

**Grade Advancement  
(Grades 5 and 8)**

In addition to Board policy relating to student advancement, students in grades 5 and 8 must demonstrate proficiency in reading and mathematics, as required by Education Code 28.021(a), in order to advance to the next grade.

A student demonstrates proficiency by meeting the passing standard on the appropriate assessment instrument specified by 19 Administrative Code 101.2003(a) [see Grade Advancement Testing, below] or on a state-approved alternate assessment authorized by 19 Administrative Code 101.2011 [see Alternate Assessment, below].

A student who does not demonstrate proficiency may advance to the next grade only if:

1. The student has completed the required accelerated instruction under 19 Administrative Code 101.2006 [see Accelerated Instruction, below];
2. The student's grade placement committee (GPC) determines by unanimous decision, in accordance with the standards for promotion established by the board, that the student is likely to perform at grade level at the end of the next year given additional accelerated instruction. In accordance with Education Code 28.021, to determine grade promotion, a district is required to consider:
  - a. The recommendation of the student's teacher;
  - b. The student's grades;
  - c. The student's assessment scores; and

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d. Any other necessary academic information; and

3. In accordance with Education Code 28.0211(n), the district will ensure that the student who is promoted by the GPC under 19 Administrative Code 101.2007 shall be assigned to a teacher who meets all state and federal qualifications to teach the subject and grade in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Education Code 28.0211(a).

*Education Code 28.0211(a); 19 TAC 101.2001(b)*

**Advancement  
Requirements**

By the start of the school year, a district shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(d)*

The superintendent shall also notify parents of the grade advancement requirements under Education Code 28.0211 at the beginning of the school year. A district shall implement grade advancement requirements in accordance with 19 Administrative Code Chapter 101, Subchapter BB and the TEA procedures outlined in the official Student Success Initiative (SSI) manual, published annually by TEA. *19 TAC 101.2001(a), .2009(a)*

**Retention**

A district is not precluded from retaining, in accordance with state law or board policy, a student who performs satisfactorily on a grade advancement test. *Education Code 28.0211(g)*

Students who have been retained in grade 8 in accordance with the grade advancement testing requirements may earn course credit for high school graduation during the next school year in subject areas other than the required courses in the subject area which caused the student to be retained. *19 TAC 101.2019(a)*

**Grade Advancement  
Testing**

A district shall test eligible students in accordance with the grade advancement requirements set forth below.

**Eligible Students**

An eligible student is subject to all grade advancement requirements, including automatic retention, if the student is enrolled in a district on any day between January 1 and the date of the first administration of the grade advancement assessments.

An eligible student who does not meet the criteria specified above but enrolls in a district at any time after the date of the first administration of the grade advancement assessments is not subject to the grade advancement requirements.

A district must provide the student the opportunity to test and access to accelerated instruction.

*19 TAC 101.2003(b)–(c)*

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Required  
Assessment

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 and reading assessment instruments; or
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 and reading assessment instruments.

*Education Code 28.0211(a); 19 TAC 101.2003*

*Exception*

Education Code 28.0211 does not require the administration of a fifth or eighth grade assessment instrument in a subject under 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 Education Code 39.023(a) [see EKB] 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 [see EKB] for the course.

Notwithstanding any other provision of Education Code 28.0211, the student may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student, nor may a student in grade 5 or grade 8 be denied promotion to the next grade on the basis of failure to perform satisfactorily on a reading or mathematics assessment instrument intended for use above the student's grade level.

*Education Code 28.0211(o)–(p); 19 TAC 101.2001(d)*

Test Schedule

TEA shall provide three opportunities per year for the tests required for grade advancement. A superintendent shall establish procedures to ensure that:

1. Each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate accelerated instruction as warranted on an individual basis; and
2. Each eligible student who is absent or does not receive a test score for all three test opportunities and is consequently retained shall receive other appropriate means of evaluation,

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including an alternate assessment, so that the GPC has sufficient evidence for its review upon appeal by a parent or guardian.

*19 TAC 101.2005(b)–(c)*

A district must accommodate the request of an out-of-district student to participate in the third administration of a test required for grade advancement if the district is testing one or more local students on the applicable test and if the out-of-district student has registered to take the test by a date determined by TEA. *19 TAC 101.2005(d)*

Notice of Grade  
Advancement  
Testing  
Requirements

A superintendent shall be responsible for:

1. Notifying each student and the student's parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in a district, of the testing requirements for grade advancement;
2. Notifying each student in grades 1–8 who is new to the district and the student's parent or guardian in writing of the testing requirements for grade advancement; and
3. Notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

*19 TAC 101.3012(b)*

**Unsatisfactory  
Performance on  
Grade Advancement  
Tests**

A district shall provide to a student who initially fails to perform satisfactorily on a grade advancement test at least two additional opportunities to take the assessment instrument. *Education Code 28.0211(b)*

Accelerated  
Instruction

Each time a student fails to perform satisfactorily on a grade advancement test, a district shall provide the student with accelerated instruction in the applicable subject area. Accelerated instruction 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. Accelerated instruction shall be based on, but not limited to, guidelines on research-based best practices and effective strategies as outlined in the SSI manual, which districts may use for developing accelerated instruction.

*Before the Next  
School Year*

A student who fails to perform satisfactorily on a grade advancement test shall be provided accelerated instruction before the next administration of the applicable assessment. An accelerated instruction group for students who have failed an assessment may

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not have a ratio of more than ten students for each teacher per class.

*Education Code 28.0211(c); 19 TAC 101.2006(e)(1)*

*During the Next  
School Year*

If a student fails to perform satisfactorily on a grade advancement test after three attempts, the accelerated instruction shall be provided during the next school year according to an educational plan developed for the student by the student's GPC. A district shall provide the instruction regardless of whether the student has been promoted or retained. The educational plan shall be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure the student is progressing in accordance with the plan. A 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 instrument for that school year. *Education Code 28.0211(f)*

*Transportation*

A district shall provide students required to attend the accelerated programs described above with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j); 19 TAC 101.2006(b)*

Notice to Parents of  
Performance and  
Accelerated  
Instruction

In addition to providing the accelerated instruction, a district shall notify the student's parent or guardian of:

1. The student's failure to perform satisfactorily on the assessment instrument;
2. The accelerated instruction program to which the student is assigned; and
3. The possibility that the student might be retained at the same grade level for the next school year.

Whenever a district is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, the district shall make a good-faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to understand, and is written in English or in the parent or guardian's native language.

*Education Code 28.0211(d), (h)*

After Early  
Identification of At-  
Risk Students  
*Notice*

A district shall provide early notice to parents or guardians of students identified in a preceding grade to be at risk of failure on the first administration of the assessment required for grade advancement the next year. A superintendent shall establish the instruments/procedures to be used to make this determination. This no-

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tice shall include accelerated instruction participation requirements as stipulated by 19 Administrative Code 101.2006 and be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*

After First Testing  
Opportunity

*Notice*

A district shall establish procedures to notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement assessment. This notification should be made within five working days of a district's receipt of student assessment results from this administration. This notice shall include the student's assessment results, a description of the district's grade advancement policy, the required accelerated instruction to which the student has been assigned, and the possibility that the student might be retained at the same grade level for the next school year. In addition, the notice shall encourage parents or guardians to meet immediately with the student's teacher to outline mutual responsibilities to support the student during accelerated instruction. *19 TAC 101.2009(c)*

After Second  
Testing Opportunity

*Notice*

Within five working days of a district's receipt of student assessment results for the second administration of the assessment required for grade advancement, the district shall notify the campus principal of student assessment results for each student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the assessment results. This notice shall include a description of the purpose and responsibilities of a GPC and the time and place for the first meeting of the GPC. *19 TAC 101.2007(c)*

*Grade Placement  
Committee*

After a student fails to perform satisfactorily on an assessment instrument a second time, a GPC shall be established to prescribe the accelerated instruction the student is to receive before the assessment instrument is administered the third time. The superintendent of each district shall establish procedures for convening the GPC.

In accordance with 19 Administrative Code 101.2006(d), decisions by the GPC shall be made on an individual student basis, address required participation of the student in accelerated instruction, and ensure the most effective instruction to support the student's academic achievement on grade level.

The GPC shall be composed of the principal or the principal's designee, the student's parent or guardian, and the student's teacher of the subject of the grade advancement assessment on which the student failed to perform satisfactorily. If this teacher is unavailable, the principal shall designate to serve on the committee a teacher certified in the subject of the assessment on which the student

failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

If more than one parent or guardian has the authority to make educational decisions regarding the student, a good faith effort must be made to notify both parents, but participation of any one parent or guardian is sufficient. Either parent or only one guardian may initiate an appeal. If both parents or guardians serve on the GPC but do not agree, either may agree to promote the student if the remaining members of the GPC also agree to the promotion. A district may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. A district may accept a parent's or guardian's written and signed waiver of participation in the GPC and designation of the remaining members of the GPC as the decision-making entity for all purposes.

If a parent or guardian or designee is unable to attend a meeting, a district may use other methods to ensure parent participation, including individual or conference telephone calls. A district may designate another person to act on behalf of the student in place of a parent, guardian, or designee if no such person can be located. A surrogate parent named to act on behalf of a student with a disability shall be considered a parent for this purpose. The district shall make a good faith effort to notify a parent or guardian to attend the GPC. If the parent or guardian is unavailable, the remaining members of the GPC must convene as required by law and take all necessary actions required.

*Education Code 28.0211(c); 19 TAC 101.2007(a)–(b)*

*Alternate  
Assessment*

For the third testing opportunity, a board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument. If a board adopts such a policy, the district shall select from a list provided annually by the Commissioner only one test for each applicable grade and subject. The alternate assessment must be given during the period established by the Commissioner in the assessment calendar to coincide with the date of the third administration of the statewide assessment.  
*19 TAC 101.2011(a)–(b)*

*Parental Waiver*

A superintendent shall establish a waiver process by which a parent or guardian may request that a student not participate in the third test opportunity due to potential harm to the student. The waiver must provide documentation of potential harm, student need, and other appropriate information. If a parental waiver is granted, the student must still participate in all required accelerated instruction and is subject to retention based on the failure on the second test administration. *19 TAC 101.2015*

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After Third Testing  
Opportunity

*Notice*

The GPC must convene again if a student fails to demonstrate proficiency on the third administration of an assessment required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student assessment results for this administration, a district shall notify the campus principal of the assessment results for each eligible student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the time and place for the GPC to hold a meeting. This notice shall inform the parent or guardian of the opportunity to appeal the automatic retention of the student. A district shall establish a procedure to ensure a good faith effort is made toward securing the parent's or guardian's receipt of the retention notification. *19 TAC 101.2007(e)*

*Retention and  
Appeal*

A student who fails to perform satisfactorily after at least three attempts on one of the grade advancement tests shall be retained at the same grade level for the next school year. The parent or guardian may appeal the retention by submitting a request to the GPC within five working days of receipt of the retention notification. *Education Code 28.0211(e); 19 TAC 101.2007(e)*

The GPC may not agree to promote a student unless a parent, guardian, or designee has appealed. *19 TAC 101.2007(b)(2)*

If an appeal is initiated by the parent or guardian, the GPC may decide in favor of promotion only if the GPC concludes, upon review of all facts and circumstances, and in accordance with standards adopted by the board, that the student is likely to perform on grade level given additional accelerated instruction during the next school year. A student may be promoted only if the decision of the GPC is unanimous and the student has completed all required accelerated instruction.

The review and decision of the GPC must be appropriately documented as meeting the standards adopted by the board and made in conformance with procedures specified in the SSI manual and as required by 19 Administrative Code 101.2001(b). These standards must include consideration of the following:

1. The recommendation of the student's teacher;
2. The student's grades;
3. The student's assessment scores; and
4. Any other necessary academic information as determined by the district.

*19 TAC 101.2007(f)*



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The placement decision by the GPC shall be made before the start of the next school year, or if applicable, upon re-enrollment of the student after this date. *19 TAC 101.2007(g)*

The committee's decision regarding placement is final and may not be appealed. *Education Code 28.0211(e)*

*Accelerated  
Instruction*

A student who fails to perform satisfactorily on a grade advancement test after three attempts and who is promoted to the next grade level must complete all required accelerated instruction before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted. *Education Code 28.0211(a-2); 19 TAC 101.2006(e)(2)*

In each subject in which the student failed to perform satisfactorily on the grade advancement test, a student who is promoted by the GPC must be assigned to a teacher who meets all state and federal qualifications to teach that subject and grade. *Education Code 28.0211(n)*

**Transfer Students**

A student who has been promoted upon completion of a school year in a school other than a Texas public school may be enrolled in that grade without regard to whether the student has successfully completed a grade advancement test. This does not limit a district's ability to appropriately place such a student. *19 TAC 101.2007(h)*

**English Language  
Learners (ELLs)**

The language proficiency assessment committee (LPAC) shall determine appropriate assessment and accelerated instruction for an English language learner (ELL) who is administered a grade advancement test in English or Spanish, except as provided by 19 Administrative Code 101.1005. The GPC for an ELL shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)* [See EKBA]

**Students Receiving  
Special Education  
Services**

A student who is receiving special education services, including an ELL, who is enrolled in grade 5 or 8, and who is receiving instruction in the essential knowledge and skills in reading or mathematics is eligible for grade advancement testing as outlined in the official SSI manual. The student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and accelerated instruction for the student. Decisions regarding assessments for ELLs who receive special education services shall be made by the ARD committee in conjunction with the LPAC.

The ARD committee of a student who does not perform satisfactorily on an assessment instrument in grade 5 or 8 must meet before the student is administered the assessment

instrument for the second time. The committee shall determine the manner in which the student will participate in an accelerated instruction program and whether the student will be promoted in accordance with provisions below or retained.

At a meeting of the ARD committee, the committee may promote the student to the next grade level if the committee concludes that the student has made sufficient progress in the measurable academic goals contained in the student's IEP. A school district that promotes a student is not required to provide an additional opportunity for the student to perform satisfactorily on the assessment instrument.

Not later than September 1 of each school year, a district must notify the parent or person standing in parental relation to a student enrolled in the district's special education program, of the options of the ARD committee if the student does not perform satisfactorily on an assessment instrument.

*Education Code 28.0211(i), (i-1), (i-2); 19 TAC 101.2003(d), (f)*

**Students with  
Dyslexia**

In measuring the academic achievement or proficiency of a student who has dyslexia, the student's potential for achievement or proficiency in the area must be considered. *Education Code 28.021(b); 19 TAC 101.2003(g)* [See policies at EHB, EKB, and FB]

**Age-Appropriate  
Assignment**

A board may establish a policy that provides for the placement of retained students in an age-appropriate learning environment. In accordance with local grade configurations for elementary, middle, and high school campuses, a board may specify the age by which a retained student should be placed on the next level campus even though not yet promoted to the grade of that campus. *19 TAC 101.2019(b)*

**Optional Extended-  
Year Program**

A student who does not meet district standards or policies for promotion on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level shall be eligible for services under the optional extended-year program. *19 TAC 105.1001(c)*

A student who attends at least 90 percent of the extended-year program days and who satisfies the requirements for promotion (academic achievement or demonstrated proficiency of the subject matter of the course or grade level) shall be promoted to the next grade level at the beginning of the next school year. However, if the student's parent presents a written request to the school principal asking that the student not be promoted, the principal shall hold a formal meeting with the parent, the teacher, and the school counselor, as soon as practicable after receiving such a request. During

the meeting, the principal, teacher, or school counselor shall explain the possible effects of not promoting a student. If the parent withdraws the request after the meeting, the student shall be promoted, and the district shall continue to use innovative practices to ensure that the student is successful in school in succeeding school years.

If a district provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

*Education Code 29.082(e)–(f) [See EHBC]*