SEC. 1. UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, Texas Leadership Public Schools shall provide to the student 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. Texas Leadership Public Schools shall be responsible for providing transportation to students required to attend accelerated instruction programs if these programs occur outside of regular school hours.

Accelerated instruction shall be based on, but not limited to, guidelines on research-based best practices and effective strategies as outlined in the Student Success Initiative ("SSI") manual, published annually by the Texas Education Agency ("TEA").

Texas Leadership Public Schools must accommodate the request of an out-of-district student to participate in any established, on-campus summer accelerated instruction program, provided the student is living away from his or her home district and the program matches the accelerated instruction prescribed by the student's Grade Placement Committee ("GPC"). *Education Code 28.0211(a-1); 19 TAC 101.2001(c), .2006(a)–(d)*.

SEC. 2. UNSATISFACTORY PERFORMANCE

a) On Grade Advancement Tests

Texas Leadership Public Schools 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)*.

b) Accelerated Instruction

Each time a student fails to perform satisfactorily on a grade advancement test, Texas Leadership Public Schools shall provide the student with accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. 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 not have a ratio of more than ten students for each teacher per class. The accelerated instruction must

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satisfy the standards found in 19 TAC 101.2006. *Education Code 28.0211(c); 19 TAC 101.2006(e)(1)*.

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. Texas Leadership Public Schools 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. Texas Leadership Public Schools shall administer to the student the assessment instrument for the grade level in which the student is placed at the time Texas Leadership Public Schools regularly administers the assessment instrument for that school year. *Education Code 28.0211(f)*.

c) Parental Notification of Performance and Accelerated Instruction

In addition to providing the accelerated instruction, Texas Leadership Public Schools 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 Texas Leadership Public Schools is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, Texas Leadership Public Schools 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)*.

d) Notice After Early Identification of At-Risk Students

Texas Leadership Public Schools 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. The Superintendent shall establish the instruments/procedures to be used to make this determination. This notice shall include accelerated instruction participation requirements as stipulated by 19 TAC 101.2006 and be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*.

e) Notice After First Testing Opportunity

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The Superintendent 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 Texas Leadership Public School's receipt of student assessment results. This notice shall include the student's assessment results, a description of Texas Leadership Public School'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)*.

f) Notice After Second Testing Opportunity

Within five working days of Texas Leadership Public School's receipt of student assessment results for the second administration of the assessment required for grade advancement, Texas Leadership Public Schools shall notify the 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)*.

g) 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 shall establish procedures for convening the GPC.

In accordance with 19 TAC 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.

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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. Texas Leadership Public Schools may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. Texas Leadership Public Schools 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, Texas Leadership Public Schools may use other methods to ensure parent participation, including individual or conference telephone calls. Texas Leadership Public Schools 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. Texas Leadership Public Schools 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, except that the GPC may not agree to promote a student under Education Code 28.0211(e) unless a parent, guardian, or designee has appealed. *Education Code 28.0211(c); 19 TAC 101.2007(a), (b)*.

h) Alternate Assessment

For the third testing opportunity, the Board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument, and select from a list provided annually by the Commissioner of Education ("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)*.

i) Parental Waiver

The 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*.

j) Notice After Third Testing Opportunity

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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, Texas Leadership Public Schools shall notify the Principal or Principal's designee 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. The Superintendent 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)*.

SEC. 3. 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 TAC 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 Texas Leadership Public Schools.

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

A student who is promoted to the next grade level must complete accelerated instruction required under Education Code 28.0211(a–1) 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)*.

SEC. 4. 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 Texas Leadership Public School's ability to appropriately place such a student. 19 TAC 101.2007(h).

SEC. 5. EMERGENT BILINGUAL STUDENTS

The language proficiency assessment committee (LPAC) shall determine appropriate assessment and accelerated instruction for an emergent bilingual student who is administered a grade advancement test in English or Spanish, except as provided by 19 TAC 101.1005. The GPC for an emergent bilingual student shall make its decisions in consultation with a member of the student's LPAC. Assessment decisions must be made on an individual basis and in accordance with procedures established by the TEA. *19 TAC 101.2003(e)*.

SEC. 6. SPECIAL EDUCATION STUDENTS

A student who is receiving special education services, including an emergent bilingual student, 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 emergent bilingual students who receive special education services shall be made by the ARD committee in conjunction with the LPAC.

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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 will 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 individualized education program. If the student is promoted, Texas Leadership Public Schools 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, Texas Leadership Public Schools must notify the parent or person standing in parental relation to a student enrolled in Texas Leadership Public School'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).*

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