

## Chapter 104. Accelerated Instruction

### §104.1001. Accelerated Instruction, Modified Teacher Assignment, and Accelerated Learning Committee.

- (a) Definition of supplemental accelerated instruction. For purposes of this chapter, "supplemental accelerated instruction" means instruction required under Texas Education Code (TEC), §28.0211(a-1) and, if applicable, (a-4).
- (b) Requirements for supplemental accelerated instruction.
  - (1) Each time a student fails to perform satisfactorily on an assessment instrument administered under TEC, §39.023(a), in Grades 3-8, the school district or open-enrollment charter school the student attends shall:
    - (A) provide to the student supplemental accelerated instruction in the applicable subject area during the subsequent summer or school year; or
    - (B) allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under TEC, §21.3521, for the subsequent school year in the applicable subject area.
  - (2) Each time a student fails to perform satisfactorily as determined by the commissioner under TEC, §39.0241(a), on an end-of-course assessment instrument, a school district or open-enrollment charter school shall:
    - (A) provide to the student supplemental accelerated instruction under TEC, §28.0217, in the subject assessed by the assessment instrument; or
    - (B) allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under TEC, §21.3521, for the subsequent school year in the applicable subject area.
  - (3) For a student served by special education who does not perform satisfactorily on an assessment instrument administered under TEC, §39.023(a), the student's admission, review, and dismissal (ARD) committee must determine the manner in which the student will engage in supplemental accelerated instruction. ARD committees must consider the individual needs of a student with a disability when determining the manner in which supplemental accelerated instruction is to be provided to the student. If supplemental accelerated instruction is to be provided to the student, the supplemental accelerated instruction must meet the requirements outlined in this subsection unless the ARD committee specifically determines that some or all of the requirements for supplemental accelerated instruction would deny the student access to a free appropriate public education (FAPE).
  - (4) The superintendent of each school district and chief administrative officer of each open-enrollment charter school shall establish procedures to ensure that each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate supplemental accelerated instruction as warranted on an individual student basis.
- (c) Participation in supplemental accelerated instruction. Supplemental accelerated instruction may require a student to participate before or after normal school hours and may include participation at times of the year outside normal school operations. Each school district and open-enrollment charter school shall be responsible for providing transportation to students required to attend supplemental accelerated instruction programs if the programs occur outside of regular school hours.
  - (1) In providing supplemental accelerated instruction, a school district or an open-enrollment charter school may not remove a student from recess or from the foundation or enrichment curriculum as defined in TEC, §28.002, except under circumstances for which a student enrolled in the same grade level who is not receiving supplemental accelerated instruction would be removed. The foundation curriculum includes English language arts, mathematics, science, and social studies. Courses in the enrichment curriculum include languages other than English; health, with emphasis

on physical health, proper nutrition, and exercise; mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision making; suicide prevention; physical education; fine arts; career and technical education; technology applications; religious literature; and personal financial literacy.

- (2) In the event that a school week is three or less instructional days, the school is exempt from meeting the requirement of meeting once per week for supplemental accelerated instruction.
- (d) Content and delivery of supplemental accelerated instruction. Supplemental accelerated instruction shall be based on, but not limited to, targeted instruction in the essential knowledge and skills for the applicable grade levels and subject areas and be provided by a person with training in the applicable instructional materials for the supplemental accelerated instruction and under the oversight of the school district or open-enrollment charter school. Supplemental accelerated instruction shall be provided as outlined in TEC, §28.0211(a-4)(2)-(5) and (8), 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.
- (e) Accelerated learning committee. A school district or an open-enrollment charter school shall establish an accelerated learning committee described by TEC, §28.0211(c), for each student who does not perform satisfactorily on a mathematics or reading assessment instrument under TEC, §39.023, in Grade 3, 5, or 8.
- (1) The accelerated learning 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. If a student is changing campuses, the committee must include the receiving principal or designee, the sending principal or designee, the receiving content teacher or designee, and the sending content teacher or designee.
  - (2) The school district or open-enrollment charter school shall notify the parent or guardian of the time and place for convening the accelerated learning committee and the purpose of the committee.
  - (3) The accelerated learning committee shall, not later than the start of the subsequent school year, develop an educational plan for the student that provides the necessary supplemental accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. The provisions of TEC, §28.0211(f-1)-(f-5), (h), and (j), must be satisfied, where applicable, in connection with the development and implementation of the educational plan.
- (f) Requirements for an ARD committee serving as an accelerated learning committee.
- (1) The ARD committee must serve as the accelerated learning committee for a student served by special education who does not perform satisfactorily on an assessment instrument described by subsection (e) of this section.
  - (2) The ARD committee must serve as the accelerated learning committee for students who meet the criteria for participation in alternative assessment instruments under TEC, §39.023(b), who do not perform satisfactorily on a mathematics or reading assessment instrument in Grade 3, 5, or 8. The ARD committee must determine the manner in which the student will participate in supplemental accelerated instruction; however, the requirements for supplemental accelerated instruction described by subsection (b) of this section do not apply.
  - (3) In serving as the accelerated learning committee for a student served by special education, the ARD committee must meet and develop a plan in accordance with TEC, §28.0211(f), to determine the manner in which the student will participate in supplemental accelerated instruction, and this meeting must include the required members of a properly constituted ARD committee as described in §89.1050 of this title (relating to The Admission, Review, and Dismissal Committee).
  - (4) When the ARD committee for a student served by special education serves as the accelerated learning committee, efforts must be taken to ensure parental participation as specified within the requirements of §89.1050(d) of this title and 34 Code of Federal Regulations §300.322.
  - (5) The ARD committee, serving as the accelerated learning committee, must document decisions regarding supplemental accelerated instruction in writing and a copy must be provided to the

student's parent or guardian in accordance with TEC, §28.0211(f-1). This documentation may either be included in ARD deliberations or as a supplemental attachment to the student's individualized education program.

- (6) A parent or guardian of a student served by special education may use a dispute resolution mechanism specified in §89.1150 of this title (relating to General Provisions) to resolve any dispute between the parent and a public education agency relating to the identification, evaluation, or educational placement of or the provision of a FAPE to a student with a disability. If a parent or guardian of a student served by special education does not agree with the decision of the ARD committee serving as the accelerated learning committee regarding supplemental accelerated instruction, the parent or guardian may follow the school district grievance policy provided for under TEC, §28.0211(f-3).
- (g) Request for teacher assignment. In accordance with TEC, §28.0211(a-5), the parent or guardian of a student who fails to perform satisfactorily on a mathematics or reading assessment in Grade 3, 5, or 8 may follow established school district or open-enrollment charter school processes to request that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year.

*Statutory Authority: The provisions of this §104.1001 issued under Texas Education Code, §28.0211 and §28.0217.*

*Source: The provisions of this §104.1001 adopted to be effective June 9, 2022, 47 TexReg 3255.*