

Former lobbyist details how privatizers are trying to end public education

Perspective by [Valerie Strauss](#)

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A few years ago I [ran a piece](#) by Joanne Barkan about the long history of the movement to privatize public education. It began:

When champions of market-based reform in the United States look at public education, they see two separate activities — government funding education and government running schools. The first is okay with them; the second is not. Reformers want to replace their *bête noire* — what they call the “monopoly of government-run schools” — with freedom of choice in a competitive market dominated by privately run schools that get government subsidies.

Today, that privatization movement is alive and pushing ahead, with Republican legislators in 16 states actively pushing bills to create or expand school vouchers and/or charter schools that are part of that movement.

This post — a continuation of sorts of the Barkan article — is a discussion with a man named Charles Siler, who was once a lobbyist for school privatizers but who came to oppose the very thing he was working toward. Siler worked for two privatization organizations, including the Goldwater Institute in Arizona, where his job was to persuade legislators to pass laws that privatize public services, especially K-12 schooling.

In March, Siler had a [conversation](#) with education historian and activist Diane Ravitch as well as with podcaster Jennifer Berkshire, in which he provided insight into the playbook used by “school choice” proponents, the belief system that drives them and their long-term objective. He makes it very clear: Their ultimate goal is to dismantle K-12 public schools.

Carol Burris, a former prizewinning principal and executive director of the nonprofit advocacy group the Network for Public Education, did a Q&A with Siler on the same issues. Here’s the interview Burris did with Siler:

BURRIS: Charles, can you tell me about yourself — specifically, for whom did you work as a lobbyist for privatizing public services, and why did you leave that work?

SILER: I am Charles Siler, former Army public affairs and graduate of George Mason University with an economics degree. I lobbied and did public relations for the Goldwater Institute in Phoenix, Arizona, and the Foundation for Government Accountability in Naples, Florida. Both organizations are part of the State Policy Network, a collection of libertarian/conservative policy organizations around the country. While there, I promoted medical freedom legislation, programs to increase limitations on public assistance programs and school privatization programs.

I eventually left as I realized I wasn't a great fit for that work. The outcomes weren't aligning with my values. I grew up truly believing the best way we could help the most people was to get the government out of their lives. But if you take a look at the actual impacts of libertarian policies when they're implemented, it becomes apparent, they aren't helping people, and in fact, they make people worse off. I couldn't continue to do the work I had done. Now I work to educate people about the problematic programs I had helped promote and how we can build something better.

BURRIS: Let's get straight to the point. It is becoming more obvious that all of the voucher and charter expansion legislation we see this year is part of a larger mission being pushed by libertarian Republicans. First, am I right? And second, what is the ultimate goal?

SILER: There's virtually no other initiative in the education space that's a bigger priority for the right today than creating and expanding unaccountable, unrestricted, universal voucher programs. The easiest way to recognize this reality is to look at the incredible number of school voucher bills being pushed across state legislatures just this year.

They aren't doing it because their constituents are demanding these programs. Voters continually reject voucher programs, and in any state where a public response is permitted, the wave of public opposition to these programs dwarfs the AstroTurfed support for them. They also fervently refuse to include any kind of measures to mitigate fraud, waste, abuse and lack of accountability in these voucher programs despite having evidence from established programs. But simply setting up voucher programs isn't their ultimate goal; it's just the current next step towards their ultimate goal.

Their ideal is a world with as minimal public infrastructure and investment as possible. They want the weakest and leanest government possible in order to protect the interests of a few wealthy individuals and families who want to protect their extraction of wealth from the rest of us. They see private wealth accumulation as a virtue signal because a person can only become wealthy by creating something of exceptional value for the public. In their world view, the more money someone has, the more moral life they've lived, and any attempt to take that money through taxation or other means is a moral issue.

That's why they work so diligently to undermine public infrastructure, whether that's public schools, public transportation, military spending, and even the carceral system.

They also work to undermine collective action in the form of unions, voting blocs, protests and more. To them, it's equally immoral for a union to demand higher wages of a business owner as it is for voters to impose a higher minimum wage on business owners. The same people pushing for school privatization are the same ones pushing for voter suppression, and that's why. They fear the power of people.

BURRIS: In many states, we see a multiplicity of voucher programs — all functioning differently and all with different names. Why?

SILER: The hodgepodge of voucher and privatization programs is a result of their unpopularity. Since they are pushing an unpopular agenda across the country, each state presents different opportunities and challenges for school privatizers.

The programs have to have different names to create a sort of moving target. When advocating for voucher programs, I never used the term “voucher” because we knew it was already tainted and politically unpopular. That's why we called them Education Savings Accounts, or Personal Learning Scholarship Accounts, and so on. We knew that the public didn't support our efforts, but there's also a sincere belief that the public doesn't truly understand what is best for them, so we have to trick them into buying what we're selling. So much of our outreach was obfuscation. I spent many phone calls with reporters trying to explain to them why our program wasn't a voucher program and shouldn't be labeled as such.

At the end of the day, the multiplicity you see is a direct result of the unpopularity of vouchers, but make no mistake, they all have the same purpose: To undo public education — not only the institution but also the public funding of schools.

BURRIS: We are now seeing charter expansion legislation paired with voucher legislation. How do charter schools fit into the agenda?

SILER: Charter schools are part of the incremental march towards full privatization. Sometimes charter schools are part of the hook for large donors. A number of wealthy privatization financiers have become part of the movement by funding large grants and other programs for charter schools.

Also, charter schools can be set up in a number of different ways depending on the local political climate, all while starting the shift of public funds into private investments. Charter schools also help garner the support of White voters as charters often find creative ways to discriminate against students of color, increasing segregation. Charters create a number of loopholes in the public education space, from financial and academic accountability to legal protections for marginalized students, which begin to normalize those problems for the general public. In many ways, charter schools are the gateway to total public school dismantling.

BURRIS: What were some of the tricks of the trade, so to speak. Were there certain individuals you searched out to carry the message?

SILER: We would seek out people with sympathetic stories, families or individuals with sincere struggles. The goal was to find people with whom the general public could empathize.

When Florida's voucher program faced a lawsuit by the teachers union there in 2014, I flew to meet with a handful of families who had children with disabilities to create a video series promoting the value of the voucher program. I met with a single mom whose daughter had Down syndrome and needed highly individualized care and therapy. I met with a home-school mom who taught her five kids, but one had severe autism, and she struggled to meet his needs on her own. I met with other families hoping to enroll their kids in special schools that focused on their kids' specific needs. These people were part of the campaign's public face around the legal defense of the voucher program.

Also, if we could ever find minority families willing to speak up about their struggles and desires for school privatization, we'd work to put their faces in as many places as possible. It's one reason privatization advocates focused so heavily on promoting vouchers within the Navajo community recently in a bid to leverage their tribal identity to expand their state's voucher program. In many ways, there's an emphasis on playing identity politics to subvert actual equity efforts, especially when it comes to privatization.

BURRIS: Why is it that many voucher programs start small — with children with disabilities or with military families?

SILER: It goes back to the unpopularity of these voucher and privatization programs, not just with the public but also with many lawmakers. If possible, privatization advocates would completely dismantle public schools tomorrow, but they don't have the political leverage to achieve that right now, so they have to engage in incrementalism. Just this year, we've seen pushes to pass expansive, universal voucher programs in some states, showing that privatizers will abandon elements of incrementalism when they think they have an opportunity.

So, when they can't pull that off, they choose a population they think will be politically unassailable, like children with disabilities or kids in foster care. The idea is that by presenting a small program focused on a small group of vulnerable students, it will be difficult for pro-public education advocates to be directly critical of the programs. It's a "human shield" strategy so they can get any aspect of the program started as it's almost always politically easier to expand something than it is to establish something new. And that's why these voucher programs never stay focused on their original population. They are continually expanding eligibility to more and more students, sometimes at the expense of the initial group of kids the program was established for.

BURRIS: Who are the major funders of the so-called school choice movement, and why are they hostile to public education?

SILER: I can't speak about specific funders or donors who haven't been identified already in a public way, but some are pretty obvious. Former secretary of education Betsy DeVos has made dismantling public schools part of her life's work, and through the DeVos Family Foundation, she funds privatization efforts across the country. Her work as a financier likely has done and will do more damage to public schools than her entire tenure with the Trump administration.

The heirs of the Walmart fortune, the Walton family, also funds privatization across the country — especially charter schools. The Koch Foundation is probably the most publicly villainized supporters of dismantling public schools, and in many ways, there wouldn't be such a vast network of pro-privatization advocates had it not been for the tireless support of Charles and David Koch. There's also the Bradley Foundation, which contributes to numerous conservative groups and is also a financial driver of school privatization.

But it's not just billionaires. It's also local businesses funding privatization efforts, either through donations made by their owners or investments into state and local chambers of commerce. It's individuals, small donors, too. But they really aren't sufficient to make the entire machine, the industry of school privatization, function. It truly takes the massive investment of the exceptionally wealthy to drive the privatization agenda.

Their hostility to public education is best described as being the nexus of three parts. First, they want to minimize any government spending whatsoever, and public education is one of the largest line items in any state budget. Getting rid of public education spending would massively reduce the tax burden on wealthy individuals at the state level.

Public schools are also incredibly popular, and they don't want the general public to view public institutions as effective or popular. It's why they've driven a false narrative about "failing schools" for decades now, and it's also why they continually attack Social Security, Medicare, public pensions, public transportation and more because they know it's impossible to get people to share their vision for limited government when people have so many positive experiences with government programs. And lastly, it's about diminishing collective power. Taking down public schools also means taking down teachers unions, PTOs, local school boards and all the other ways those of us who aren't exceptionally wealthy come together to push for collective investment in our communities.

Public schools and the communities around them represent the kind of togetherness privatization advocates despise.

BURRIS: I know that one of the principles that school choice advocates believe in is “backpack funding,” or “the money follows the child.” If that were to happen, what would prevent the money in the backpack to become less and less, with parents required to finance the rest? Is that the plan? Is that ever discussed?

SILER: The idea of “backpack funding” is absurd on its face since public investments are in institutions to educate a community rather than any individual. We don’t have money for each student, because we have money for schools. And privatizers rarely tell you what all you leave behind when a family decides to take their “backpack,” like federal protections against discrimination, protections for disability services, mandatory reporters and much more.

To your question, though, we can already see that privatizers have no interest in increasing the funds in the “backpack.” In Arizona, where voters passed a new tax to increase public education funding, which would, in turn, increase the value of vouchers in the state, that tax is being actively undermined by privatization advocates. They are actively working to continue their divestment of our public education system, even at the expense of funds to voucher families, because these programs are not designed to help anyone. They are simply designed to exacerbate the destruction of public funding for education.

If the privatizers could create their ideal education model, which they are building towards every day, individual families would determine how important their children’s educations are to them by funding that education on their own. They would create a model similar to what we have for higher education, where individuals can take out loans to cover the cost of their K-12 education. The premise being that if education for an individual is truly a worthwhile investment, then the individual receiving the education should bear those costs. School privatizers want to empty the public “backpack” entirely and leave individual families to figure out funding for their education expenses.

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BURRIS: For several years now, I have feared that the school choice movement is not about providing families with choices, but part of a bigger vision that seeks to make the education of America’s children a service to be paid for by parents, with a poorly funded public option for those who cannot pay. Now former insider Charles Siler confirmed that fear.

This discussion is relevant not only at the state level but also at the federal level. The fiscal year 2022 federal budget, which is in development, is likely to include funds for the Charter Schools Program (CSP), a program whose purpose is to expand charter schools, which are privately operated but publicly funded. The CSP is about charter school expansion — which plays right into the right-wing/Libertarian agenda that former lobbyist Siler was hired to expand.

There may be well-meaning elected officials in Washington and state capitals who think charters and vouchers are about helping disadvantaged students. And no doubt some families have enjoyed choice. But every bill that passes and every program funded furthers the agenda of the radical libertarian right and Betsy DeVos. They know what their endgame is, and they are rapidly making progress.

House Bill 4545

Overview



What is HB 4545?

House Bill 4545 recently passed in the 87th Regular Legislative Session. HB 4545 establishes new requirements for supplemental accelerated instruction for students who do not pass the State of Texas Assessments of Academic Readiness (STAAR®). The new statute is effective, as of June 16, 2021, with supplemental accelerated instruction practices required during the 2021-2022 school year for all students, based on STAAR results from Spring 2021.



What is included in HB 4545?

HB 4545 requires Texas school districts to implement at a minimum supplemental accelerated instruction, an accelerated learning committee, and modified teacher assignments based on the following requirements:

- 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 end-of-course (EOC) assessments, clarification of prior supplemental 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.**



What is my district required to do this school year?

School Districts should evaluate the spring 2021 STAAR scores to identify students who will require supplemental accelerated instruction that complies with the new requirements of HB 4545 during the 2021-2022 school year. At a high level, this includes:

House Bill 4545

Overview

School Year 2021-2022

Provide supplemental accelerated instruction beginning in the Fall of 2021 for any student who did not perform satisfactorily on the STAAR grades 3-8 or STAAR EOC assessments. Supplemental accelerated instruction entails:

- **assigning a classroom teacher who is a certified master, exemplary, or recognized teacher or**
- **delivering supplemental instruction (e.g., tutoring) before or after school, or embedded in the school day and meeting HB 4545 requirements.**

Establish Accelerated Learning Committees before the start of the school year: For students who did not perform satisfactorily on the STAAR assessment in grades 3,5, or 8 math and/or reading.

Establish Board policy: Establish a process allowing parents/guardians of a student who did not perform satisfactorily on the grades 3,5, or 8 math and/or reading assessment to make a request for the student to be assigned to a particular classroom teacher.



What is my district required to do in the future?

School Year 2022-2023 and beyond

Continue to provide supplemental accelerated instruction in the subsequent summer and school year: For any student who did not perform satisfactorily on STAAR grades 3-8 or EOC assessments. The details above continue to apply in subsequent school years and should be guidance districts follow for the 2022-2023 school year and beyond.

Establish Accelerated Learning Committees and develop individual plans prior to the subsequent school year: After student STAAR 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.



Where can I find additional information on HB 4545?

Questions regarding the implementation of HB 4545 should be submitted in writing to accelerated.instruction@tea.texas.gov. Answers will also be added on a rolling basis to the [FAQ document](#). School districts can also find [additional accelerated learning resources](#) on the Texas Education Agency website and via mini webinars.

House Bill 4545 Frequently Asked Questions

April 21, 2022

General House Bill (HB) 4545 Questions:

1. **Given the significant additional requirements for districts and the short timeline for implementation, how will TEA be enforcing compliance with these new requirements, especially during this first year of implementation?**

We recognize HB 4545 includes many new requirements for districts to implement. Therefore, TEA is focusing on providing as much guidance and support as possible to districts in order to meet the requirements and intent of this new statute. While TEA recognizes that it may take time for local educational agencies (LEAs) to make the types of master scheduling and staffing changes to meet these requirements, we do not plan to strictly enforce compliance in the first year, as long as districts are making reasonable efforts to meet the requirements and there is no evidence of willful non-compliance with the statutory requirements.

School districts should plan and prepare for full implementation of the necessary requirements in the 2022-23 school year. Starting in the 2022-23 school year, compliance with and adherence to HB 4545 statutory requirements will be enforced.

2. **What documentation is required to prove compliance, and what process is used to enforce compliance?**

New
4/21/2022

Documentation that would serve as evidence of compliance includes student schedules that include dates and duration of the tutoring, the tutor assignment, the tutor-to-student ratio, subject area, and minutes completed. Other documentation that may be needed are any parent/guardian waivers that indicate a group greater than 3:1 was approved by the parent/guardian.

The process to ensure HB 4545 compliance with the local educational agency (LEA) would start at the local level with a stakeholder accessing the LEA's grievance process, and, if a resolution is not achieved, the complainant could file a complaint with TEA. A complaint filed with TEA raising this allegation will likely be referred to the Compliance Review Unit, which will work with the identified LEA to come into compliance to the extent it is not. Should the LEA remain out of compliance, TEA may investigate and issue sanctions against the LEA for ongoing non-compliance with HB 4545 requirements.

3. What is the implementation timeline for HB 4545?

HB 4545 is effective immediately starting June 16, 2021, and it applies to accelerated instruction required for or delivered during the 2021–22 school year. LEAs should evaluate spring 2021 STAAR scores to identify students requiring accelerated instruction in the 2021–22 school year. LEAs must, as soon as practicable (i.e., over the summer), adopt policies for contesting the content or implementation of educational plans developed by Accelerated Learning Committees (ALCs).

For school year 2021–22:

Accelerated instruction: For any student who did not pass STAAR grades 3–8 or EOC assessments, accelerated instruction must be delivered in the 2021–22 school year (starting in fall 2021). Accelerated instruction entails either 1) assigning a classroom teacher who is a certified master, exemplary, or recognized teacher, or 2) delivering supplemental instruction (i.e., 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 accelerated instruction were met (see answer to question #8 below).

Accelerated Learning Committees: LEAs are required to establish ALCs for students who did not pass STAAR grade 3, 5, or 8 math and/or reading tests beginning at the start of the 2021–22 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 prepared LEAs to begin the implementation process 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.

For school year 2022–23 and beyond:

Accelerated instruction: The above guidance for accelerated instruction continues to apply in the subsequent summer and school year.

Accelerated Learning Committees: Starting summer 2022, LEAs must establish ALCs and develop individual student plans during the summer and prior to the start of the school year, based on the latest STAAR results.

4. How should we categorize students who did not take STAAR in spring 2021? Should they automatically be categorized as a student requiring accelerated instruction?

Prior law required LEAs to provide accelerated instruction to any student who does not perform satisfactorily (i.e., achieves *Approaches Grade Level* or above) on a STAAR assessment. These requirements are included in the following sections of the Texas Education Code (TEC): §§28.0211, 28.0213, 28.0217, 29.081, and 39.025. This part of the law was not changed. 19 Texas Administrative Code (TAC) §101.2005(c) indicates that students who are absent or otherwise do not have valid assessments did not perform satisfactorily and, as a result, are required to receive accelerated instruction.

However, Commissioner and Gubernatorial waivers offered during the 2020-21 school year altered the assessment requirement framework for that year. As a result, school systems may decide to administer an assessment designed to show grade level proficiency on the Texas Essential Knowledge and Skills (TEKS) (e.g., the state provided Beginning-of-Year [BOY] Assessments) for students who did not participate in state assessments during the 2020-21 school year. School systems must determine the TEKS-aligned assessment that they will use and will review and determine locally if the assessment shows the student achieved satisfactory performance and if accelerated instruction during the 2021–22 school year is required. Note: parents who think their students would still benefit from accelerated instruction should have the option to appeal this decision if they disagree with the school system’s determination.

Please note that these waivers are not in place beyond the 2020-21 school year; therefore, the applicability of provisions such as use of a BOY assessment in 2021-22 will not continue in 22-23.

5. Does the LEA need to use the spring STAAR results or may the LEA administer a BOY assessment aligned to the TEKS to determine placement for accelerated instruction?

LEAs are required to use the 2021 STAAR results unless a student did not participate in the assessment. For students who did not participate in the assessment, as noted in question #4 above, students would be required to receive accelerated instruction, with an exception being available solely for accelerated instruction provided during the 2021–22 school year.

For the 2021–22 school year, for students who did not participate in the spring 2021 STAAR administration, school systems may administer an assessment designed to show grade level proficiency on the TEKS (e.g., the state provided BOY assessments). If the school system determines that the assessment shows the student achieved satisfactory performance, school systems may decide locally as to whether the student must be given accelerated instruction

during the 2021–22 school year. Note: parents who think their students would still benefit from accelerated instruction should have the option to appeal this decision if they disagree with the school system’s determination.

6. Can TEA tell me if an assessment meets the requirements of “an assessment designed to show grade level proficiency on the TEKS”?

It is up to the district to determine whether an assessment is designed to show grade level proficiency on the TEKS. We recommend districts use the state provided BOY assessments as they are TEKS-aligned assessments.

7. What is considered performing satisfactorily (passing)?

Students who have performed satisfactorily on STAAR achieved *Approaches Grade Level, Meets Grade Level, or Masters Grade Level*. Students who did not perform satisfactorily on STAAR achieved *Did Not Meet Grade Level* or did not test. Performance in this category indicates that students are unlikely to succeed in the next grade or course without significant, ongoing academic intervention. Students in this category do not demonstrate a sufficient understanding of the assessed knowledge and skills.

8. We believe our LEA delivered / will deliver sufficient accelerated instruction in summer 2021. How do we determine whether that accelerated instruction meets HB 4545 requirements for 2021–22?

Accelerated instruction delivered in summer 2021 will only satisfy the HB 4545 requirement if the instruction:

- Delivers targeted TEKS-aligned instruction for the applicable grade level and subject area(s)
- Is provided for no less than 30 hours total
- If a student does not pass STAAR grades 3–8 or EOC assessment, 30 hours of accelerated instruction must be provided for each subject area.
- Is designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area(s)
- Utilizes effective instructional materials designed for supplemental instruction
- Is delivered in a 1-on-1 or small group environment, with no more than 3 students in a small group (or in a larger ratio with permission from all parents or guardians connected to students in the group)
- Is provided by an individual with training in aligned instructional materials and under the LEA’s oversight
- To the extent possible, is provided by one person for the entirety of the student’s supplemental instruction period

9. What is the definition of a “week” in reference to HB 4545? For example, if our calendar has us getting out of school on a Tuesday for Thanksgiving or returning on a Tuesday or Wednesday from Christmas, do we have to provide time for remediation during those weeks?

19 TAC, §76.1001(b) (re: extracurricular activities) defines "school week" as "...beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. The agency will be proposing rule to provide an exemption to supplemental instruction if the week is three or fewer days.

10. **If the student passes the necessary STAAR EOC assessment after retesting can accelerated instruction stop? How would this apply for STAAR in grades 3-8?**

Updated
4/21/2022

Yes, once a student passes the STAAR EOC assessment in which they previously did not perform satisfactorily, they no longer show significant areas of academic weakness and no longer need Accelerated instruction. This would generally apply for the STAAR (3-8) exam from year to year. If, for example, a current 4th grader failed the 3rd grade Reading STAAR, was assigned 30 hours of accelerated instruction, had only completed 20 hours before the administration of the 4th grade Reading STAAR, and passed that STAAR exam, then the final 10 hours would not be necessary, as the student would no longer show areas of academic weakness in that content area.

In addition, if the student is a current 9th grader and did not pass the 8th grade Reading STAAR, that student would not be required to finish all 30 hours of accelerated instruction required from the 8th grade Reading STAAR once the student passes the English I EOC. The same can be said for 8th grade Math when passing Algebra I and 8th grade Science when passing Biology.

Please note that students who fail to pass STAAR EOC exams have multiple retest opportunities during the school year that could result in the students not needing to complete unfinished accelerated instruction if the students pass the retest exams. If a student retakes an EOC exam and does not pass the exam, the student will be required to complete an additional 30 hours of accelerated instruction in addition to any accelerated instruction hours that remain uncompleted after the previous EOC exam failure.

11. **When can parents request a teacher? Are parent requests for teachers limited to a certain time during the school year or to certain grade levels?**

Per TEC, §28.0211(a-5), each school system should develop a plan and establish processes for allowing for a parent or guardian of a student who failed to perform satisfactorily on an assessment instrument specified under TEC, §28.0211(a), (a third grade, fifth grade, eighth grade mathematics or reading assessment instrument) 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 (with no concurrent right to have such requests granted). It is up to LEAs to determine the timing and process used to meet this requirement.

12. Does TEA have new board policy regarding parent grievances? Are there recommendations regarding parent grievances for charter schools?

TASB will release Update 118 later this fall which will include a provision in policy EHBC (LOCAL), Compensatory/Accelerated Services that will point parents to the district's FNG (LOCAL) should they have a concern about the content or implementation of the educational plan developed by the accelerated learning committee. For additional questions regarding board policy contact TASB. Charter schools should follow their approved grievance policy to address any student/parent complaints.

13. In regard to parent communication, will the state provide template letters for students who fail STAAR?

Updated
4/21/2022

Templates for parent notification/waiver letters are available here:

<https://tea.texas.gov/texas-schools/health-safety-discipline/covid/accelerated-learning-resources>

14. Will we have to notify parents of any failures in STAAR grades 3–8?

Although the specific notice requirement in TEC, §28.0211(d) was repealed, LEAs are still required to notify the parent or guardian of each student of STAAR results for grades 3–8 and high school.

15. Will seniors going through the Individual Graduation Committee (IGC) process be required to participate in accelerated learning or will the project or portfolio serve as their demonstration of proficiency?

Eligible students going through an IGC review will be required to receive the 30 hours of accelerated instruction for each course in which the student did not perform satisfactorily on the required STAAR EOC assessment. Once the IGC has accepted the project/portfolio as passing, the student will no longer be required to attend accelerated instruction.

16. Can TEA further define accelerated instruction? If we are accelerating instruction and students are expected to perform on grade level, would we not provide accelerated instruction for the current grade level with prioritized standards embedded from the previous grade level as applicable for success (grade 8 science to HS biology)?

In order to accelerate instruction, districts should prioritize ensuring students have access to on grade level TEKS aligned content during Tier 1 instruction as well as TEKS aligned support to

master content or skills that have been missed in previous years. The ideal way to accelerate student learning is through prioritizing on grade level content with just in time supports that address the missing content or skills when they are needed. The supplemental instruction requirements in HB 4545 are just one of many supports necessary in order to accelerate student learning and should be provided to students in addition to ensuring students receive the full amount of on grade level instruction with supports to successfully access that content during Tier 1 instruction time. Districts should not approach learning acceleration as only remediation or as only the 30 hours of supplemental instruction provided to meet the minimum requirements of HB 4545 due to the research which shows that a focus on remediation alone will not result in students catching up to grade level.

17. What is the difference between “learning acceleration” referred to in the TCLAS grant and the “supplemental accelerated instruction” requirement in HB 4545? Are these the same thing?

“Learning acceleration” encompasses the many research-driven strategies necessary to help students make more than one year of growth in one year of time. Learning acceleration requires that students receive on grade-level, rigorous, TEKS-aligned instruction that strategically address gaps in prerequisite skills needed for students to master grade-level content. The set of supports in the Texas COVID Learning Acceleration Supports (TCLAS) application are aligned with the research-based learning acceleration strategies.

“Supplemental accelerated instruction” is a term used to define a component of the HB 4545 statutory requirement. Supplemental accelerated instruction is defined in HB 4545 as instruction that meets the following criteria:

- includes targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;
- is provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
- is 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;
- is designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
- includes effective instructional materials designed for supplemental instruction;
- is 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;
- is provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of the school district; and
- to the extent possible, is provided by one person for the entirety of the student’s supplemental instruction period.

Supplemental accelerated instruction is one component that is necessary for learning acceleration but will not by itself result in accelerated learning for all students.

18. Can a parent opt their child out of HB 4545 requirements for accelerated instruction or tutoring?

Accelerated instruction and any associated tutoring that districts are implementing to meet HB 4545 requirements are subject to the compulsory attendance requirements of TEC, §25.085 and should be treated like any other required instructional time during the school day.

There are areas of curriculum or instructional services required to be offered by public schools where statute provides specific language to allow parents to opt out of receiving the curriculum or instructional services (for example, certain topics in health). Additionally, ARD committees establish individualized educational programs that sometimes modify the approach to required curriculum or instruction. However, much of statute is silent on what to do if parents wish to opt out of curriculum or instructional services that public schools are required to offer, and the supplemental instructional (i.e., tutoring) requirements of HB 4545 fall into this category. Generally, when parents request certain accommodations or exemptions from curriculum or instructional services schools are required to offer, local school systems handle these requests in ways deemed most appropriate locally, sometimes via formal grievance processes, sometimes in accordance with compulsory attendance policies or the provisions of TEC, §25.092, and sometimes informally, to ensure student and parent needs are met.

Please be aware that school systems found to be intentionally discouraging parents from accessing curriculum or instructional services to which their students are entitled are subject to potential corrective actions and interventions by TEA.

19. If an LEA opts to use the summer as the primary time for delivery of required accelerated instruction are students required to attend?

New
4/21/2022

There is not a statute that explicitly requires a student to attend accelerated instruction offered during the summer. The LEA can have a local policy or decision based on other legal requirements to require summer attendance (such as a student must attend to be promoted). If a student misses summer opportunities and the parent had not sought to opt out of the offered accelerated instruction (as noted above in question 18), the missed instruction will need to be provided in the fall semester by the LEA.

20. What if we provide accelerated instruction and the student does not attend?

LEAs should make efforts to communicate with parents/guardians regarding attendance for accelerated instruction as they would with any other instructional programs that are subject to compulsory attendance. Documentation should be kept regarding the student's accelerated instruction program and attendance.

21. Do the HB 4545 requirements apply to students who enroll from out-of-state, from a private school, or from a home school?

No, HB 4545 only applies to students enrolled in a Texas public school district or open-enrollment charter school the previous year.

22. How should districts track accelerated instruction for students who transfer to another Texas school district?

It is recommended that school districts calculate the hours of completion towards accelerated instruction so students do not repeat designated hours at the receiving Texas school district. The documentation may be attached to the student's record in TREx in one of the following formats: PDF, MS Word, or MS Excel. TEA has created a template that can be found here: [Accelerated Learning Resources | Texas Education Agency](#)

23. We are a District of Innovation; are we able to exempt ourselves from portions of HB 4545 such as providing supplemental accelerated instruction, adhering to group ratio requirements, and pulling students from foundation or enrichment curriculum to provide supplemental accelerated instruction?

Under existing rule, no. Per TEC, Sec. 12A.004 and 19 TAC §102.1309(a)(1)(C), a district of innovation may not exempt itself from TEC, Sections 28.0211, 28.0217, as well as TEC, Chapters 39 and 39A.

Additionally, a district of innovation may not be exempted from a state or federal requirement imposed by statute or rule that is applicable to an open-enrollment charter school operating under the TEC, Chapter 12, Subchapter D. Charter schools are required to provide supplemental accelerated instruction.

Accelerated Learning Committees:

24. Do we still need a plan for Accelerated Learning Committees, specific teacher requests, or accelerated instruction if we are a small district with one teacher per grade level?

Yes, plans for ALCs are required for all students who do not perform satisfactorily on STAAR math or reading in grade 3, 5, or 8. Accelerated instruction also applies to all districts each time a

student fails to perform satisfactorily on an assessment instrument in third, fourth, fifth, sixth, seventh, or eighth grade or in high school.

In cases like this, where there is only one teacher per grade level, HB 4545 provisions allowing for a parent to request a specific teacher would be moot.

25. Can the Accelerated Learning Committee meeting be held if the parents do not attend, or may it be completed by phone or virtually?

LEAs must make attempts to accommodate parents/guardians to participate in ALC meetings. This is included, but not limited to, offering virtual participation (i.e., zoom, skype, phone). If the parent is absent from a scheduled meeting, then the information decided in the meeting will need to be shared with the parents/guardians.

26. Does the Accelerated Learning Committee replace the required Personal Graduation Plan?

The ALC only replaces the previously required Grade Placement Committee and does not have an impact on the Personal Graduation Plan.

27. How does the 5th grade and 8th grade Accelerated Learning Committee develop a plan for the student transitioning to the secondary campus? Should the secondary teachers be part of the ALC?

Statute requires that the committee include the teacher of the subject that the student failed. It is recommended that the receiving content teacher also participate on the ALC as the education plan is developed.

28. Can you clarify "The teacher of the subject of an assessment on which the student failed to pass?" Is it the current teacher or the receiving teacher or both?

"The teacher of the subject of an assessment which the student failed to pass" is the current teacher of that content. If a 3rd grade student does not perform satisfactorily on the reading assessment, the current 3rd grade reading teacher is the teacher of the subject. The 3rd grade teacher and the receiving 4th grade teacher may both serve on the ALC to develop a plan for the student, and in most cases both teachers should be involved to ensure an effective plan is developed.

Recognizing that coordinating and scheduling ALCs will be difficult and that all participants may not be available when the ALC takes place (e.g., if a teacher retires and is no longer with the district), the district may convene ALCs virtually and make reasonable substitutions for participants, ensuring there is a representative that is an expert in the content area the student failed to pass on the committee.

29. Which principal should attend the Accelerated Learning Committee if the student is changing campuses, the principal from the current campus (i.e., the elementary campus if the student failed 5th grade STAAR), or the principal of the receiving campus (i.e., the middle school principal if the student is starting 6th grade in the subsequent school year)?

The statute is not clear on this requirement, and therefore it is up to LEA discretion for which principal (or both) is most helpful to participate in the ALC. Our guidance is to include the receiving campus principal or principal's designee because that will help ensure that the receiving campus is aware of the recommendations and plan from the ALC and are ready to implement that plan once receiving the student in the next school year.

30. Can the Accelerated Learning Committee use a history of data or BOY assessments to determine whether a student who failed STAAR grades 3–8 or EOC assessments can be exempt from accelerated instruction?

No, the student will need to receive accelerated instruction. HB 4545 states that 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, or an assessment instrument (EOC) 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 during the subsequent summer or school year.

31. If a student continues to not perform satisfactorily on the assessments as they progress through grade levels, will campuses eventually hold ALC meetings for all grade levels 3–12? For example, a student does not perform satisfactorily in 8th grade reading. The student is required to have an ALC as he/she enters 9th grade. Student does not perform satisfactorily on the STAAR English I EOC assessment, the superintendent/designee now participates in the ALC; student does not perform satisfactorily on the STAAR English II EOC assessment in 10th grade, etc.

Yes, there is the possibility that the ALC may continue in high school if the student does not perform satisfactorily on the STAAR English I, English II, or Algebra I EOC assessments per (f-4) regarding provisions for when a student performs unsatisfactorily on an assessment in the same subject in the subsequent school year.

32. Who may serve in the role of superintendent's designee? We are a large school district and our superintendent could not possibly be at every necessary ALC meeting for students previously served by an ALC that failed to pass the assessment(s) again. Even our associate superintendent's schedules wouldn't be able to accommodate all of these meetings.

In this instance, per TEC, §28.0211(f-4), the superintendent may designate one person (and this can be more than one person across the district) to meet with Accelerated Learning Committee in the superintendent's place. A superintendent has broad flexibility in determining who may be a designee, such as a deputy/associate/assistant superintendent, chief officer, academic/learning/instructional specialist, coach, facilitator, director, etc. The statute also provides that the superintendent's designee under TEC, §28.0211(f-4), may be an employee of a regional education service center but may not be a person who served on the student's accelerated learning committee.

Scheduling and Documentation:

Due to the timing of the year, LEAs may be revising their master schedule or determining how to best use their current master schedule to provide accelerated instruction. Some options that districts could consider are in the questions below.

33. What guidelines should LEAs follow when planning and scheduling accelerated instruction to meet HB 4545 requirements?

The main consideration in planning for accelerated instruction is to provide the supplemental instruction in addition to what is normally provided to students in the grade level in which the student is enrolled. 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.

34. Can we use a specialized 1:1 or small group intervention program, such as Amplio Dyslexia, towards the requirements for accelerated instruction?

Accelerated instruction requires the delivery of instruction that specifically targets the knowledge and skills in the applicable grade level and subject area where students did not meet the passing standard. We recognize that Amplio Dyslexia is a great intervention program for students with Dyslexia, however, it is not intended to address specific TEKS based on the student's needs. Therefore, it does not meet the requirements for accelerated instruction as described in Question #33.

35. How do we find time to provide the required tutoring to students if we can't take them out of regular instruction, recess, or enrichment time? Where can I get support in this area?

The statute requires that students not be removed from recess or from the foundation curriculum or enrichment curriculum as defined in TEC, §28.002. The foundation curriculum includes English language arts, mathematics, science, and social studies. Courses in the enrichment curriculum include languages other than English (LOTE); 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 technology education; technology applications; religious literature; and personal financial literacy.

In order to meet these requirements, the TEA recommends following these best practices in master scheduling:

- Identify scheduling priorities first and make those non-negotiable.
- Consider innovative solutions like adjusting blocking, rotations, time before or after school, and innovative models (e.g., blended learning) to achieve priorities.
- To the extent possible, consider extending the school day or school year to create more opportunities for tutoring over the course of the year.
- Leverage additional resources (e.g., ESSER funding) to purchase access to time-saving scheduling software to complement and expedite the district scheduling process.
- Plan a second schedule that varies the time allotted for Tier 2 instruction at key intervals (e.g., beginning of year) or plan for schedule revisions over time.

Multiple potential schedule arrangements could meet the HB 4545 requirements. One example is provided below from an LEA participating in Math Innovation Zones that prioritizes an intervention block and leverages blended learning to achieve this priority.

Pre-K	Kinder	1 st Grade	2 nd Grade	3 rd Grade	4 th Grade	5 th Grade
8:15 – 9:00 Opening Routines/ Language Time/ Circle Time - SE	8:15 – 8:55 PE	8:15 – 8:55 Block	8:15 – 9:40 ELAR	8:15 – 9:40 Rotation 1 (Homeroom)	8:15 – 9:35 Rotation 1	8:15 – 9:35 Rotation 1
9:05 – 9:25 Recess	9:00 – 9:40 Block	9:00 – 9:40 PE	9:45 – 10:25 PE	9:45 – 10:25 Block	9:35 – 10:55 Rotation 2	9:35 – 10:55 Rotation 2
9:25-9:40 Potty Break	9:40 – 11:00 ELAR/SS	9:40 – 11:00 ELAR/SS	10:35 – 11:10 Block	10:35 – 11:10 PE	10:55 – 12:15 Rotation 3	10:55 – 12:15 Rotation 3
9:40- 10:30 Literacy Time/Circle Time Content Connections	11:00 – 11:30 Lunch	11:00 – 11:30 Lunch	11:10 – 11:40 ELAR	11:10 – 11:40 Rotation 1 Cont.	12:15 -12:45 Lunch	12:15 -12:45 Lunch
10:30 – 10:45 Handwashing/Read Aloud	11:30 – 12:15 ELAR/SS	11:30 -12:00 Intervention/Math Centers	11:40 – 12:10 Lunch	11:40 – 12:10 Lunch	12:50 – 1:25 PE	12:50 – 1:25 Block
10:45 – 11:15 Lunch	12:15- 12:45 Intervention/Math Centers	12:00 – 12:30 ELAR	12:15 – 12:45 Intervention	12:10 -12:40 Intervention	1:30 – 2:10 Block	1:30 – 2:10 PE
11:20 -12:00 PE	12:50 – 1:10 Recess	12:30 – 12:50 Recess	12:45 – 2:00 Math	12:40 - 2:20 Rotation 2	2:15 – 2:45 Intervention	2:15 – 2:45 Intervention

An additional example is provided below from a Spring ISD middle school.

Spring ISD Middle School 2020-2021								
		6th Grade						
		A Day	A Day	A Day	B Day	B Day	B Day	A/B Day
Room	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	
ELAR								
	ELAR 1	ELAR 2	ELAR 3	Conference	ELAR 4	ELAR 5	ELAR 6	
	ELAR 7	ELAR 8	ELAR 9	Conference	ELAR 10	ELAR 11	ELAR 12	
	AP 1	AP2	AP3	Conference	ELAR 13	ELAR 14	ELAR 15	
	LIT 1	LIT 2	LIT 3	Conference	CT	CT	CT	
					LIT 4	LIT 5	LIT 6	
MATH								
1066	AP 1	Conference	AP 2	AP 3	MTH 1	MTH 2	MTH 3	
					CT		CT	
	MTH 4	Conference	MTH 5	MTH 6	MTH 7	MTH 8	MTH 9	
	MTH 10	Conference	MTH 11	MTH 12	MTH 13	MTH 14	MTH 15	
	NUM 1		NUM 2	NUM 3				

An additional example is provided below from a Spring ISD high school.

2021-2022 Bell Schedule High School

Monday	Tuesday	Wednesday	Thursday	Friday
Period 1 7:20 - 8:05 45 minutes	Period 1 7:20 - 8:05 45 minutes	Period 1 7:20 - 8:00 40 minutes	Period 2 7:20 - 8:00 40 minutes	Period 1 7:20 - 8:05 45 minutes
Period 2 8:10 - 8:55 45 minutes	Period 2 8:10 - 8:55 45 minutes	Period 21 8:00 - 8:50 50 minutes	Period 22 8:00 - 8:50 50 minutes	Period 2 8:10 - 8:55 45 minutes
Period 3 9:00 - 9:45 45 minutes	Period 3 9:00 - 9:45 45 minutes	Period 3 8:55 - 9:35 40 minutes	Period 4 8:55 - 9:35 40 minutes	Period 3 9:00 - 9:45 45 minutes
Period 4 9:50 - 10:35 45 minutes	Period 4 9:50 - 10:35 45 minutes	Period 23 9:35 - 10:25 50 minutes	Period 24 9:35 - 10:25 50 minutes	Period 4 9:50 - 10:35 45 minutes
Period 5 10:40 - 12:10	Period 5 10:40 - 12:10	Period 5 10:30 - 12:10 40 minutes	Period 6 10:30 - 12:10 40 minutes	Period 5 10:40 - 12:10
A Lunch 10:35 - 11:05 B Lunch 11:08 - 11:38 C Lunch 11:40 - 12:10	A Lunch 10:35 - 11:05 B Lunch 11:08 - 11:38 C Lunch 11:40 - 12:10	A Lunch 10:35 - 11:05 B Lunch 11:08 - 11:38 C Lunch 11:40 - 12:10	A Lunch 10:35 - 11:05 B Lunch 11:08 - 11:38 C Lunch 11:40 - 12:10	A Lunch 10:35 - 11:05 B Lunch 11:08 - 11:38 C Lunch 11:40 - 12:10
Period 6 12:15 - 1:00 45 minutes	Period 6 12:15 - 1:00 45 minutes	Period 25 12:15 - 1:05 50 minutes	Period 26 12:15 - 1:05 50 minutes	Period 6 12:15 - 1:00 45 minutes
Period 7 1:05 - 1:50 45 minutes	Period 7 1:05 - 1:50 45 minutes	Period 7 1:10 - 1:50 40 minutes	Period 8 1:10 - 1:50 40 minutes	Period 7 1:05 - 1:50 45 minutes
Period 8 1:55 - 2:40 45 minutes	Period 8 1:55 - 2:40 45 minutes	Period 27 1:50 - 2:40 50 minutes	Period 28 1:50 - 2:40 50 minutes	Period 8 1:55 - 2:40 45 minutes

- **Rationale:** On Wednesdays and Thursdays, this schedule allows high schools to ensure the implementation of HB 4545 acceleration instruction for all students. The following schedule allows Spring ISD High Schools to implement a rigorous acceleration approach combining high-quality instruction, materials and support structures within the school day. Periods 21-28 are acceleration and enrichment periods. All students receive either acceleration or enrichment for their core content areas.

7/26/2021

The TEA will be providing a webinar series in August 2021 to support LEAs in master scheduling in alignment with HB 4545 requirements. Additionally, TEA offers technical assistance, resources, and tools to support districts in master schedule redesign through initiatives like Math Innovation Zones, Additional Days School Year, Texas Home Learning aligned supports, the Resilient Schools Support Program, and the School Action Fund.

36. Can students be removed from an elective class, or not offered an elective class, in order to meet HB4545 requirements?

The statute requires that students not be removed from recess or from the foundation curriculum or enrichment curriculum as defined in TEC, §28.002; this includes electives which are normally provided to students in the grade level in which the student is enrolled. LEAs may need to consider options such as multiple elective offerings throughout the day, as well as multiple options for students to receive accelerated instruction at different times during the day, so that students may have opportunities to continue to receive all educational opportunities.

37. Can we repurpose an existing block of instructional time that is already in our master schedule (such as advisory periods, study hall, additional optional electives, remediation time, double blocked reading or math, etc.) to meet the requirements of HB 4545?

Districts may repurpose existing time during the school day, but in order to meet the requirements of the statute, this time must be “supplemental”, which means that it cannot be time that would otherwise be used for instruction in the foundation curriculum or enrichment curriculum under Section 28.002, and it must be provided in addition to the instruction normally provided to students in the grade level in which the student is enrolled.

It is up to LEAs, with input from families, staff, and other stakeholders, to determine whether or not the repurposing of existing instructional time meets this definition of “supplemental” instruction, considering whether or not a student (or their family) may have a reasonable justification to claim that the student was being removed from instruction that would normally be provided to students in the grade level (or that is being provided to other students in the grade and not to them) in order to meet this requirement. Examples of times that may be repurposed during the regular school day that are not usually used for foundation or enrichment curriculum include advisory periods, study halls, etc.

In addition to meeting the definition of “supplemental” instruction, the way the instructional time is used will need to meet all other requirements in HB 4545, including:

- Delivers targeted TEKS-aligned instruction for the applicable grade level and subject area(s)
- Is provided for no less than 30 hours total and no less than once per week during the school year
- Is designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area(s)
- Utilizes effective instructional materials designed for supplemental instruction
- Is provided by an individual with training in aligned instructional materials and under the LEA’s oversight
- To the extent possible, is provided by one person for the entirety of the student’s supplemental instruction period

LEAs may consider repurposing time that has been previously used for “remediation” or other instructional purposes, but whether or not this time can count towards meeting the 30 hours of supplemental instruction for a student depends on how these times are used and whether or not the instruction provided during this time meets all of the requirements of HB 4545. For example, if the LEA is considering repurposing a portion of a previously double blocked instructional period, then a portion of this double-blocked time could be used for supplemental instruction, but only if the way the repurposed time is being used meets all of the criteria required in HB 4545. If every student at the campus is doubled-blocked in that content area, and it is part of the instruction normally provided to all students in that grade level, then the double-blocked time cannot be used for accelerated instruction because it can be reasonably assumed that the foundation curriculum and Tier 1 instruction is being provided during that time and that removing students from a portion of that time would be removing them from instruction that is normally provided to students in the grade level. However, if the LEA repurposes a portion of this

time, and the master schedule and/or teacher lesson plans clearly delineate which portion of the double blocked time is allocated to core instruction (i.e., instruction that meets the requirements for all tier 1 instruction and on grade level content to be taught during that time) and which portion of the time has now been repurposed for supplemental instruction (i.e., tutoring in small groups that is in addition to the foundation curriculum, enrichment curriculum, and instruction normally provided to students and that meets all of the other criteria for supplemental instruction), then that time may be eligible to meet the requirements in HB 4545.

38. Can a teacher have 12 students in the room and have them working on focused skill assignments while the teacher is working with three of the twelve students at a time. Will that count as a 3:1 ratio?

A classroom in which there is 1 teacher to 12 students with stations and small group rotation is still a 12:1 ratio for that class period and would likely not meet the requirements of accelerated instruction. However, this type of small group, rotation model may meet the requirements for HB 4545, only if the time the teacher is working with the small group of 3 or less students was counted towards the required 30 hours, and if there was another teacher in the room facilitating and overseeing the learning of the students not in the small group. The class period in which this is happening cannot be a class that is part of the foundational curriculum or enrichment curriculum and must be part of a class that is providing instruction in addition to the instruction normally provided to students (i.e., the small group instruction cannot be happening within a core content class during Tier 1 instruction or during a required elective class), and the instruction must also meet all of the additional HB 4545 requirements:

- Delivers targeted TEKS-aligned instruction for the applicable grade level and subject area(s)
- Is provided for no less than 30 hours total and no less than once per week during the school year
- Is designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area(s)
- Utilizes effective instructional materials designed for supplemental instruction
- Is provided by an individual with training in aligned instructional materials and under the LEA's oversight
- To the extent possible, is provided by one person for the entirety of the student's supplemental instruction period

It is recommended that supplemental instruction be documented and noted as such.

39. What documentation does an LEA need to retain for HB 4545?

To ensure that students are being provided the 30-hour minimum requirement of accelerated instruction per subject, and in the event of an audit or grievance, LEAs should keep appropriate documentation. Artifacts may include, but are not limited to, accelerated instruction

attendance/tutoring logs, (ALC) education plans, minutes, ALC notices, parent communication, and evidence of student progress.

40. What PEIMS coding should be reported if a student receives supplemental accelerated instruction under HB 4545? For example, should a student receiving accelerated instruction under HB 4545 be coded as participating in intervention strategies or at-risk?

For the 2021-2022 school year, no additional PEIMS data elements will be reported for supplemental accelerated instruction under HB 4545. However, TEA will continue to review HB 4545 implementation to determine if additional data elements will need to be reported during the 2022-2023 school year. Only students who meet at least one of the at-risk reasons listed in TEC, Section 29.081, should be reported as at-risk which includes students that did not perform satisfactorily on the STAAR assessment and would be subject to HB 4545 statute.

41. If a campus provides accelerated instruction under HB 4545, should they also report the Expanded Learning Opportunity “tutoring” activity during PEIMS Submission 3 or 4?

Accelerated instruction under HB 4545 may be provided outside of the regular school day but it is not a factor in the Expanded Learning Opportunity (ELO) PEIMS submission. Expanded Learning Opportunities should be included in PEIMS Submission 3 or 4 if the LEA implements an ELO program (i.e. extended day, extended year, or structured program outside of the regular school day) as defined in the Texas Education Data Standards.

LEAs may use expanded learning opportunities to provide tutoring under HB 4545 but would only report the existence of the expanded learning program in PEIMS reporting.

Accelerated and Supplemental Instruction/Tutoring Questions:

42. Is accelerated instruction only for first-time STAAR EOC assessment testers or does it include students who have taken the STAAR multiple times?

Accelerated instruction is required any time a student does not pass a STAAR EOC assessment. This includes first-time testers, as well as re-testers. Specifically, TEC, §28.0217 states: “Each time a student fails to perform satisfactorily” accelerated instruction is required.

43. If a student completes fewer than 30 hours of supplemental instruction in the summer program, may they make up the difference in the fall?

Yes, per TEC, §28.0211(a-4)(3), supplemental instruction need not be provided fully during the summer. In the subsequent school year, the delivery of supplemental instruction will have additional requirements such as supplemental instruction must be provided no less than once per week. For example, a student who completes 20 hours of supplemental instruction in the summer must complete the remaining 10 hours during the year, with instruction no less than

once per week. (Note: Only the hours of instruction provided in the summer that meet the requirements of supplemental instruction can count toward the total). The student cannot be removed from the foundational or enrichment curriculum; accelerated instruction provided in the following school year may require participation of the student before or after normal school hours.

44. At what frequency does tutoring have to be conducted to meet HB 4545 requirements?

If delivered in the summer, tutoring simply has to meet the threshold of 30 hours total set in HB 4545. If delivered during the normal school operational days during the 2021–22 school year, tutoring must be delivered at least weekly and also meet the minimum threshold of 30 hours. Note, this requirement applies per subject for which the student did not perform satisfactorily. For example, students who did not pass STAAR in both math and reading would be required to have 60 hours of accelerated instruction.

45. Will the TEA’s pre-approved tutor provider list provide options for rural areas?

Yes, TEA is currently planning to provide pre-approved tutor provider coverage across Texas regions, including rural areas. Please note that LEAs are also able to select tutor providers that are not on the TEA’s pre-approved tutor provider list; the list is simply one source of vetted tutor providers who will deliver tutoring in alignment with HB 4545 requirements. The list will include a mix of in-person and virtual tutoring options.

46. Does tutoring have to be provided this fall as part of HB 4545?

The accelerated instruction changes from HB 4545 apply to accelerated instruction provided for the 2021–22 school year. LEAs should use the spring 2021 STAAR results to determine and plan for accelerated instruction for all students who need it. This accelerated instruction must include tutoring, unless LEAs provide students with a master, exemplary, or recognized teacher.

47. Can you choose an online program in place of a tutor?

Tutoring can be delivered using an online program either in person or virtually. However, the online program must be facilitated by a tutor that meets the requirements defined in the statute, including that the tutor has received training in alignment with the instructional materials, that the same tutor is assigned to the student for the duration of the supplemental instruction when possible, and that the tutoring is delivered in a 1-on-1 or small group with no more than three students in the group. The statute does not require that the tutor be a teacher, and research shows that many different tutor types can be successful, such as college students, community volunteers, paraprofessionals, or active or retired teachers, as long as the other elements of high-impact tutoring are met.

48. How can I learn more about how to leverage programs like ST Math for tutoring?

ST Math (and similar programs) provide students with a self-directed learning experience and could be a strong option for tutoring delivery (learn more by clicking the “Grades K–5: Supplemental” tab [HERE](#)). Information about ST Math and tutoring has been posted on the [Accelerated Learning Resources page](#) under additional resources.

Note that, to meet HB 4545 requirements, there must still be an individual supporting the student who meets the requirements noted in question #8.

49. How can I learn more about how to stand up an effective tutoring program?

The TEA has released a webinar series, an implementation toolkit, and a workshops series opportunity to support LEAs in standing up an effective tutoring program. You can find these resources on TEA’s [Tutoring page](#).

50. Because specific accelerated instruction requirements are now in state law, will we be able to use Title I, Part A funds to fund accelerated instruction in the future?

Yes, while Title I, Part A funding must be supplemental to the campus, it does not require the activity to be supplemental as long as the LEA’s required federal Supplement, Not Supplant Methodology has been approved by the LEA leadership and is being implemented consistently by the LEA. The methodology defines how state and local funds are allocated among campuses within the LEA and demonstrates the Title I, Part A funding is supplemental to the campus after it has received its equitable allocation of state and local funds. For more information, see the federal Supplement, Not Supplant [Handbook](#).

51. Can an LEA spend compensatory education funds to pay for accelerated instruction that is required under HB 4545?

Yes, LEAs may use State Compensatory Education (SCE) funds described in TEC, §48.104 to fund supplemental programs and services listed in HB 4545, such as targeted supplemental instruction, extended day and year instruction, and tutoring. SCE funds may also be used for professional development designed to provide instructors the knowledge and skills to deliver accelerated instruction and for the purchase of supplemental instructional materials for the intended population defined in the authorizing statute, [TEC, §29.081](#) and [TEC, §48.104](#). [TEA will update Module 6 State Compensatory Education of the Financial Accountability System Resource Guide to reflect these types of costs.](#)

52. If a student fails writing and reading, will they need tutoring for both subjects? Will the time frame be 30 hours for both, or may we combine them?

HB 3906, 86th Texas Legislature, 2019, eliminated the standalone writing assessments in grades 4 and 7, and, as of September 1, 2021, writing will no longer be assessed separately from reading. Therefore, students who did not perform satisfactorily on their STAAR assessments in reading, writing, or both are only required to receive a combined minimum of 30 hours of accelerated instruction. As with all accelerated instruction, the accelerated instruction should focus on the specific areas of deficiency.

53. Does the accelerated instruction requirement and ALC requirement apply to students who test above grade level (for example, a 7th grade student taking the STAAR grade 8 math test)?

Yes, both sections of the law refer to students who take specific tests as opposed to students enrolled in specific grade levels. If a student who is receiving above grade level instruction does not pass the above grade level STAAR test, that student has shown some areas of academic weakness and requires accelerated instruction. If the student takes and fails to perform satisfactorily on an above grade level assessment, the student will need to receive accelerated instruction in the subject of the assessment, per TEC, §28.0211(a-1). If the failed assessment is a third grade, fifth grade, or eighth grade math or reading assessment, an ALC must be established for the student, per TEC, §28.0211(a).

54. Does the 30 hours of accelerated instruction apply to students who are placed in a residential treatment facility or assigned to a JJAEP?

HB 4545 applies to all students attending Texas public school districts and open-enrollment charter schools, regardless of their physical locations. All such students who meet the criteria for accelerated instruction must receive it. Accelerated instruction may be provided by either: 1) assigning a student to a teacher who is a certified master, exemplary, or recognized teacher (designated under TEC, §. 21.3521) that can deliver the instruction to the student; or 2) provide the 30 hours of accelerated instruction.

55. How does the 30 hours of accelerated instruction apply to students who are receiving homebound instruction when it may be difficult to achieve the required additional time per subject area?

If a student, who is eligible for and is receiving homebound services under either the general education program, through special education, or is receiving supplemental accelerated instruction remotely, is unable to engage in supplemental, accelerated instruction due to the nature of the student's medical condition, the LEA should consider and prioritize the health and safety of the student. This may require pausing the accelerated instruction until the student is able to return to campus, sustain prolonged participation in instruction, or can receive supplemental accelerated instruction remotely. When the student returns, the LEA should assess the student's need for accelerated instruction and must provide that accelerated instruction to the student.

If the student's medical condition prevents a return during the current school year, required hours for supplemental, accelerated instruction do not carry forward to the subsequent school year.

56. If a student takes the STAAR Spanish assessment and does not perform satisfactorily, does the supplemental instruction need to be in Spanish?

Supplemental instruction supports for a student will need to be provided in the language of instruction for the student. If the student receives instruction in Spanish, then the supplemental instruction should be in Spanish. If the student is in a dual language setting, in which instruction is provided in both Spanish and English, then the supplemental instruction should follow and support the dual language instructional model.

57. If we provide tutoring (i.e., supplemental accelerated instruction) more than once per week and/or more than one hour per week, does accelerated instruction have to last for the full year?

No, the accelerated instruction requirement for HB 4545 requires 30 hours per subject in which the student did not perform satisfactorily. During the school year, that accelerated instruction (i.e., tutoring) must occur at least once per week. However, if the tutoring is provided multiple times per week or for a longer duration per week, once the 30 hours are obtained accelerated instruction in that content area is no longer required in the school year. Note: High impact tutoring best practice recommends 90 minutes per week, ideally in three weekly increments.

58. For students who did not pass the STAAR grades 3–8 or the STAAR EOC assessment and were retained, OR choose to retake the corresponding high school course, does the HB 4545 accelerated instruction requirement still apply?

Yes, students who are retained or choose to retake the course must receive accelerated instruction that meets the requirements of HB 4545. A student retaking a grade level or course will still need additional supports to fill in the foundational gaps in learning.

59. Does accelerated instruction need to begin at the same time or can LEAs stagger accelerated instruction throughout the year? For example, can one group begin for math, and another begin a few weeks later for reading?

Supplemental accelerated instruction must be provided in the subsequent summer or school year and meet the 30-hour requirement. However, the statute does not require that the 30 hours of supplemental instruction begin at the beginning of the school year, that the supplemental instruction for all content areas happen at that same time, or that the supplemental instruction must last the entire school year. Therefore, a student who has not passed in multiple content areas may complete the 30-hour minimum of supplemental instruction for one area, and then begin the supplemental instruction for the next content area, and so forth, as long as all other

requirements for each content area for supplemental instruction in HB 4545 are met (i.e., at least once a week once the supplemental instruction has begun if happening during the school year, group sizes of 3 or less, etc.).

60. If students do not pass STAAR science or social studies tests, are we required to provide accelerated instruction in the subsequent school year? Is there a way to deprioritize this requirement since students aren't tested in science or social studies in the subsequent grade level?

Accelerated instruction is required for any student who did not pass STAAR grades 3–8 or EOC assessments, which includes science and social studies, and this accelerated instruction requirement must be met in the subsequent summer or school year. In order to meet the requirements of the supplemental instruction (i.e., tutoring), the supplemental instruction must deliver targeted TEKS-aligned instruction for the applicable grade level and subject area(s), and the necessary supports must be provided for accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. For example, if a student fails the 8th grade social studies test or the 8th grade science test, the intent is to develop the student's understanding and enable the student to perform at grade level in the current course by the end of the year, which means that the student will need to have mastered both 8th and 9th grade level social studies or science by the end of 9th grade. Even though students will not be tested on the social studies or science content from the previous grade level in the next grade level, students still need to master the previous grade level content in order to be successful in future social studies and science classes, as well as have built the foundational knowledge and skills to be successful readers, citizens, and ultimately be college, career, and military ready by the end of high school.

For districts that want to prioritize supplemental instruction in math and reading content areas first, given those areas are tested annually, they can do so, and students requiring supplemental instruction in science and/or social studies could meet those requirements later in the school year, as long as the 30 hour minimum is completed by the end of the subsequent school year and all other requirements of HB 4545 are met. We recognize the implementation challenges of meeting these new requirements for students who have not passed STAAR assessments in multiple content areas. Please see question #1.

61. Does an LEA need permission from parents if tutoring will be delivered in a student-to-tutor/teacher ratio greater than 3:1?

Yes, LEAs must seek written permission from parents in advance of tutoring delivery if the tutoring will be delivered in a ratio greater than 3:1. For tutoring delivered in fall 2021, this permission must be on file in early August 2021. This written permission would need to be obtained for all students in a particular group, as all would be in a group larger than 3.

Permission to go beyond 3:1 must only be obtained from the student's parent or guardian. Waivers for this provision from TEA are not available.

62. Can parents waive the 3:1 retroactively for summer acceleration?

Parents can waive the 3:1 ratio for the summer of 2021 only if the remaining requirements for supplemental instruction were met. LEAs must receive active written consent from the parent/guardian. Please see question #8. This ability to retroactively receive parental consent for larger group sizes is only allowable for the summer of 2021 due to the timeline of the bill becoming effective after many districts had already begun summer instruction in 2021.

63. What form of notice is acceptable when communicating to parents that their child will receive supplemental instruction in a group larger than the required 3:1 ratio?

Parents/guardians must provide authorization for their child to receive supplemental instruction in a group larger than the required 3:1 ratio. The law requires that the instruction be provided to students individually or in a group of no more than 3 students, unless the parent or guardian of each student in the group authorizes a larger group. In order to meet the requirement of parental authorization, the authorization form must clearly state that the student is entitled to receive supplemental instruction in a group size of 3 or less due to the student's performance on the STAAR assessment and ensure the parent is aware that by providing this authorization they are allowing a group size that is larger than what is required by statute.

A sample form for authorizing a larger group size for supplemental instruction can be found [here](#). In order to ensure parent's understanding with the statutory notice and consent requirements, TEA recommends that this information be provided as a separate communication to parents, rather than included in other communications or publications (e.g., a parent handbook).

64. Can accelerated instruction be combined into just 30 hours if a student needs to receive supplemental instruction for STAAR English I and STAAR English II EOC assessments?

No, although there is some overlap with the TEKS for English I and English II, HB 4545 states a student shall receive 30 hours of accelerated instruction for each assessment the student fails to perform satisfactorily.

65. Is accelerated instruction required during weeks when students are out for testing COVID positive? Can remote conferencing be used to meet HB 4545 requirements?

If a student is out due to a temporary medical condition and the student is receiving instruction via remote conferencing, the HB 4545 supplemental accelerated instruction should continue. If

the supplemental instruction is not delivered during remote conferencing, or if the student is out and not receiving instruction, the district can pause the accelerated instruction, and the remaining time towards the 30 hours should be completed upon the student's return to campus. An LEA, in partnership with the parent/guardian, can determine what method is best for the student. Please refer to the *Student Attendance Accounting Handbook* rules described [here](#).

66. If a student does not complete the 30-hour requirement prior to taking the next STAAR assessment and performs unsatisfactorily again, does the student need to complete the remaining hours in addition to the new 30-hour requirement?

Yes, all students who receive accelerated instruction must complete the 30 hours required until they demonstrate satisfactory performance on the assessment. Please see Question #10

67. Can we start delivering ("banking") HB 4545 accelerated instruction hours before we receive STAAR/EOC results?

An LEA may provide accelerated instruction during the summer after a student is scheduled to sit for a STAAR or end-of-course assessment but before the student's assessment result is available. Such accelerated instruction will count toward the 30-hour accelerated instruction requirement if the student's subsequently released assessment result shows that the student did not perform satisfactorily on the assessment.

Additionally, please note that any accelerated instruction provided prior to the release of the assessment result is subject to the approval of any applicable accelerated learning committee formed to assist the student.

Teacher Assignment:

68. If we do not have an approved Teacher Incentive Allotment (TIA) designation system in our district, is there another way to meet the requirement for assigning students to master, exemplary, or recognized teachers?

In addition to having an approved local optional teacher designation system, districts can also support their teachers in earning designations by helping teachers pursue or complete their National Board certification.

Teachers with an active National Board certification will also earn a recognized designation if they meet the following requirements:

- (1) They are coded by their employing district as an 087 role ID in TSDS Class Roster-Winter collection.

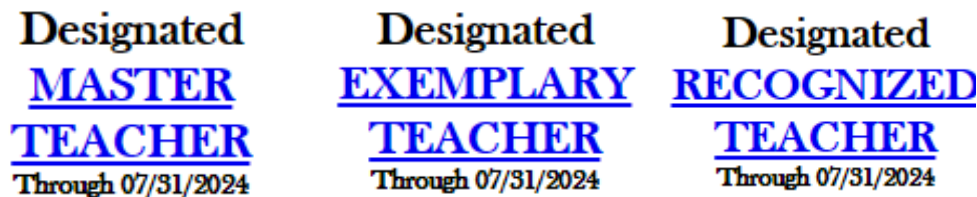
- (2) They have updated their information to indicate their current district in the [National Board Certified teacher directory](#).

Districts can search for National Board teachers in the [National Board Certified teacher directory](#).

It is also possible that a district without an approved TIA designation system could employ a teacher who received a designation while working in a different district. TIA designations and their expiration date remain on the State Board for Educator Certification virtual certification, even if a teacher transfers between districts.

69. How can districts look up which teachers are currently designated?

Districts can confirm that a teacher is currently designated by searching the State Board for Educator Certification for their [virtual certification](#). Teachers that are currently designated will have their designation and expiration date reflected in the top right corner. Please note that teachers whose expiration dates have passed, will no longer have a designation on their certification.



In the future, a list of teachers with designations will also be possible to generate in the ECOS for entities certification report.

70. May a district set up their own designation system or does the district need to use the Teacher Incentive Allotment?

A district's local designation system must be approved by TEA to issue master, exemplary, or recognized designations. Visit www.TIATexas.org for more information.

71. Is a waiver needed for a school system to use T-TESS criteria instead of the TIA designations in the assignment of students to a classroom teacher?

There is no waiver available to allow T-TESS criteria to act as a TEA-approved local designation system. To use the teacher assignment option available in HB 4545, teachers must already have a master, exemplary, or recognized designation. Once designated, designations last for approximately five years. By statute, Teacher Incentive Allotment designation systems must include a minimum of teacher observations and student growth measures and must be approved

by TEA to designate teachers as recognized, exemplary, or master teachers. Visit www.TIATexas.org for more information.

72. What are the required components of a local designation system?

A district must follow the criteria in either TEC, §21.351 or §21.352 and include at least teacher observations and student growth in their designation criteria. It is a district decision whether they choose to follow the state's recommended appraisal process (T-TESS) or a local appraisal process.

73. If we do not have a certified teacher to assign students to, can we apply for a waiver?

School districts are eligible to encourage educators to obtain the appropriate SBEC-issued certificate for placement into the assignment; or if needed, can also utilize the “Other” waiver application found in TEAL and submit for review and approval for one year.

- Board approval is required for these waivers and must include the board agenda from the meeting in which the waiver request was approved.

74. Do charter schools and districts of innovation need to apply for a waiver under Texas Education Code, Section 28.0211(n-1) regarding the assignment of a student to an appropriately certified classroom teacher under Subsection (n)?

Subsection (n) and the waiver provision in Subsection (n-1) do not apply to charters or districts of innovation that have an appropriate exemption from certification adopted in their local plan. Therefore, charter schools and districts of innovation that have an appropriate exemption from certification adopted in their local plans are not required to submit a waiver to TEA under TEC, Sec. 28.0211(n-1).

75. Can a district require a classroom teacher to fulfill the tutoring requirements of HB 4545 outside of contract hours without compensation?

Districts should consult with their legal counsel to address this matter and associated contract-specific issues.

76. What funds are available for districts to use to compensate teachers beyond the standard duty pay for providing tutoring under HB 4545?

Districts can use regular state and local funds; Title I, Part A funds; state compensatory education allotment funds; and ESSER funds to compensate teachers for tutoring and potentially other duties. Title I, Part A funds may be used as long as the LEA has an approved methodology to distribute state and local funds in a manner that it can document the Title I funds are supplemental. (See Question 50 for additional information regarding Title I, Part A methodology and implementation requirements.)

77. A student is assigned to a TIA designated teacher (master, exemplary, recognized) to meet the requirements of HB 4545 for accelerated instruction. The teacher departs the campus before the end of the school year (either retirement, promotion, resignation, etc.). Are we required to provide supplemental accelerated instruction hours (tutoring)? How many hours? Are the requirements satisfied in HB 4545 since this student was assigned to a TIA teacher already?

From a legal standpoint, an LEA in this situation that does not follow up with tutoring for the remainder of the year will have technically complied with the law. However, the LEA is encouraged to provide tutoring in a manner and for a period of time that it considers useful for the affected student.

Retired Teachers:

78. What is TEA's role in implementing Senate Bill (SB) 1356, 87th Regular Legislative Session, 2021, regarding tutoring programs?

TEA's role is limited to approving access to the Do Not Hire registry established by TEC, §22.092, for nonprofit teacher associations considering applicants for tutoring programs under TEC, §33.913. All other implementation responsibilities fall on the referenced nonprofit teacher associations; school districts and charter schools; and, for purposes of determining how it may impact a retiree's benefit eligibility related to retired teachers serving as tutors under TEC, §33.913, the Teacher Retirement System (TRS).

79. How do active or retired teachers participate in tutoring programs authorized under SB 1356?

Starting with the 2021–22 school year, per TEC, §33.913, an individual who is an active or retired teacher and is not included in the Do Not Hire registry under TEC, §22.092, must: 1) apply to a nonprofit teacher organization approved by the Commissioner, in the manner specified by the association, to participate in an LEA's tutoring program; 2) designate in their application whether they plan to provide tutoring services for compensation, as a volunteer, or both; and 3) designate whether they will provide tutoring services in person, online, or both. An LEA may then consider the active or retired applicant for the LEA's tutoring program.

80. Under SB 1356, can retired teachers serve as tutors in LEA tutoring programs without jeopardizing their TRS retirement benefits?

Generally, if the retired teacher is serving as a tutor under TEC, §33.913, in the 2021–22 school year or later. However, if the retired teacher who is serving as a tutor is also working in a non-tutor position for a TRS-covered employer, limits to their employment after retirement may still apply. Retirees should contact TRS for more information to fully understand the restrictions on employment after retirement.

81. Can LEAs hire retired teachers for SB 1356 tutoring programs without paying employer surcharges to TRS?

TEA defers to TRS regarding this question. LEAs should contact TRS or visit their [website](#) for more information.

82. Could a retiree combine a tutor position with a non-tutor position at a TRS-covered employer, for example, serving as a tutor and a substitute teacher or bus driver?

Retirees should contact TRS for more information to fully understand the restrictions on employment after retirement. Generally, a retired teacher who is only employed as a tutor under TEC, §33.913 will not be subject to employment after retirement limits. However, if the retired teacher combines employment as a tutor with a non-tutor position at a TRS-covered employer, the retired teacher may be limited to one-half time employment.

83. Can we hire retired teachers on a full-time basis, without penalty to either the district or the employee for tutorial purposes? What sort of documentation would be necessary to prove the retired teacher has been hired for this purpose (i.e., job description)? Can we hire retired teachers to be full-time intervention teachers, without penalty, to serve both students who have not met STAAR requirements along with students presenting other COVID slide issues?

Per Government Code, §824.602(a)(5), as added by HB 1525, 87th Regular Session, 2021, a retired teacher hired as a tutor in a program described by TEC, §33.913, is not subject to withholding of a monthly retirement benefit by TRS. All other questions regarding these retirement-related subjects, including administrative matters, should be addressed to TRS.

Students with Disabilities:

84. If a student has an IEP, can the ARD committee waive or modify the HB 4545 accelerated instruction requirements based on the student's identified needs?

The accelerated and supplement instruction requirements of HB 4545 generally apply to all students, including students who are served in special education. When an accelerated learning plan is required, the ARD committee must consider the individual needs of the student and determine whether adjustments to the accelerated instruction plan are appropriate. Likewise, if a student served in special education requires supplemental instruction, the supplemental instruction must be provided in accordance with HB 4545 unless a student's ARD committee has specifically determined that some or all of the supplemental instruction requirements would deny the student FAPE.

Please note that accelerated and supplemental instruction and any associated tutoring that districts are implementing to meet HB 4545 requirements are subject to the compulsory attendance requirements of TEC, §25.085 and should be treated like any other required instructional time during the school day. See also FAQ #18 for information regarding opting out of accelerated instruction.

85. What is the recourse for a parent who disagrees with the ARD committee's determination regarding accelerated instruction?

If a parent does not agree with a decision of the ARD committee acting as the accelerated learning committee, the parent should follow the grievance policy provided for in TEC, §28.0211(f-3). A parent may use an IDEA dispute resolution mechanism to resolve any dispute arising under IDEA.

86. HB 4545 includes two key sets of requirements: Accelerated Learning Committees and Accelerated Instruction. Do the HB 4545 **requirements for an Accelerated Learning Committee apply to students who took STAAR Alternate 2?**

Yes, acting as the ALC, the ARD committee must meet to determine the manner in which any student with an IEP who was unsuccessful in math and/or reading in grade 3, 5, or 8, including students who meet the criteria for participation in STAAR Alternate 2, will participate in accelerated instruction. While the ALC requirements of HB 4545 apply, the specifications for accelerated instruction will look different for students eligible to participate in STAAR Alternate 2 than accelerated instruction provided to those who take STAAR. **See Question #87 for additional information.**

For students eligible to take STAAR Alternate 2 who exhibit no authentic academic response (NAAR), the ARD committee, serving as the ALC for students in grades 3, 5, or 8, may determine to focus on strategies that focus on eliciting an authentic academic response (see [Building an Authentic Academic Response course](#) from the [Texas Complex Access Network](#)) to work toward accessing the curriculum.

For students eligible to take STAAR Alternate 2 who have serious medical needs (as outlined in the STAAR Alternate 2 Medical Exception eligibility criteria), the ARD committee, serving as the ALC for students in grades 3, 5, or 8, should prioritize the health and safety of the student (e.g., complications arising from illness that cause extended absences for medical treatments or recovery, hospitalization for long periods of time, decreased stamina due to illness) when making determinations.

Decisions made by the ARD committee must be documented in writing. This may be included in the deliberations section of a student's IEP or as supplemental attachment.

87. HB 4545 includes two key sets of requirements: Accelerated Learning Committees, and Accelerated Instruction. Do the HB 4545 **requirements for Accelerated Instruction apply to students who took STAAR Alternate 2?**

Per TEC 28.0211(a-1)(1) and (2), accelerated instruction requires either the student be assigned a TIA-designated teacher or receive supplemental accelerated instruction. These specific accelerated instruction requirements do NOT apply to students eligible to participate in the STAAR Alternate 2.

88. Would the accelerated instruction need to be documented within the IEP as the “Intensive Program of Instruction (IPI)”? Does this requirement take the place of or now become the IPI?

HB 4545 made changes to TEC, §28.0211. Intensive Programs of Instruction (IPI) are required under TEC, §28.0213; therefore, the requirements for ARD committees related to IPI have not been changed.

89. Since the ARD committee serves as the Accelerated Learning Committee for students in grades 3, 5, and 8 who are served by special education, do decisions about an accelerated learning program require an ARD committee meeting, or could changes be made through the amendment process?

HB 4545 requires the ARD committee of a student served by special education to meet and determine how the student will participate in an accelerated learning program. The ARD committee should include the required committee members when making decisions regarding the student’s accelerated instruction program and document those decisions in the IEP.

90. If the parent is unable to attend the ARD meeting and/or the teacher of the subject the student failed is unable to attend, can the ARD committee proceed without the parent and/or teacher by using another teacher?

When the ARD committee serves as the ALC, LEAs must hold properly constituted ARDs in accordance with state and IDEA requirements. Efforts should be taken to ensure parental participation as specified within the requirements of IDEA outlined in 34 CFR §300.322.

91. Is the amendment process allowable for other grade levels to address the STAAR failure?

Where the ALC is not required to meet, the ARD committee may use the amendment process if the parent and the LEA can agree to the changes to the IEP to meet accelerated instruction requirements.

92. Do the Accelerated Learning Committees apply in addition to Admission, Review, and Dismissal (ARD) committees or do the ARD committees create the plan?

For students served by special education, the ARD committee serves as the Accelerated Learning Committee for students in grades 3, 5, and 8 who were not successful on the STAAR math or reading assessment. The ARD committee must meet to address the student’s need for accelerated instruction and meet all of the requirements for the accelerated learning committee

in HB 4545. Decisions made by the ARD committee regarding the accelerated instruction needed must be documented in writing. This may be included in the deliberations section of a student's IEP or as supplemental attachment.

93. If a high school student served by special education does not pass a STAAR EOC assessment, and the ARD committee determines a passing score on the assessment is not required for graduation, is accelerated instruction still required?

TAC, §89.1070 allows ARD committees for students in grade 9–12 to determine whether the student is required to achieve satisfactory performance on an EOC assessment to receive a high school diploma. However, an ARD committee's decision that passing a STAAR EOC assessment for a particular course is not required for the purposes of high school graduation does not waive the requirement for the student to receive accelerated instruction. For students who did not achieve satisfactory performance on an EOC assessment, because the student continues to demonstrate academic need in that course, the accelerated instruction requirements established by HB 4545 apply. Since the student will not participate in additional EOC testing opportunities for that course per ARD committee decision, further decisions about accelerated instruction following a retake would not apply.

94. Will AI take the place of students who have been determined to need Tiered Intervention through an MTSS or RTI model?

No. The multi-tiered system of supports (MTSS) framework can be considered the umbrella for other support systems, such as data-based individualization (DBI), response to intervention (RTI), and positive behavior intervention and supports (PBIS). MTSS encompasses academic, behavioral, and mental health supports for all students and is distinct from HB 4545 accelerated instruction, see Question # 16 and #17 for the criteria.

A student may participate in MTSS intervention, tutoring, or both; however, supplemental accelerated instruction is an extension of Tier 1 content area instruction, which focuses on the grade-level student expectations so the student can perform at grade level in the applicable subject. When a student engages in an intervention as part of an MTSS framework, that student may exit the MTSS intervention once the student has achieved the desired rate of progress or growth as established for that intervention. When a student requires supplemental, accelerated instruction under HB 4545, and the LEA opts to provide that accelerated instruction by providing 30 hours of supplemental instruction, the student must complete the 30 hours of instruction.

95. May IDEA-B funds be used to meet HB 4545 requirements for supplemental instruction, such as tutoring before, during or after school, if the student is served by special education and requires accelerated instruction?

Program guidelines for IDEA-B read in part, “It is important to keep in mind that IDEA-B funds are supplemental and should in no case supplant State, local, and other Federal funds. If a service is provided to all students, the same fund source must be used for the student with disabilities that is used for the nondisabled student.”

The program guidelines continue in part, “Tutoring (before school, after school, during school breaks) is an allowable cost with IDEA-B funds only if the need for tutoring is determined by the [admission, review, and dismissal (ARD)] committee as an educational need to meet the goals of the [individualized education program (IEP)]. Progress reports toward IEP goals and objectives will be required. Tutors who provide special education services must be certified in special education. If tutoring is not in the IEP, the same fund source used for nondisabled students must be used for the student with disabilities. If tutoring is used to help a student with disabilities struggling with required statewide assessment, the same fund source used for nondisabled students must be used for the student with disabilities. If the student with disabilities requires supplemental support while receiving tutoring services, the supplemental support can be paid from IDEA-B funds. Personnel providing the supplemental support must hold appropriate licensure/certification.”

- 96. If a student served by special education completes the accelerated learning plan established by the Accelerated Learning Committee (ALC) to address reading or math failure and the student is unsuccessful on the subsequent school year’s STAAR assessment in the same subject area, how does the ARD committee address this issue?**

For a student served by special education, the ARD committee must meet and hold a properly constituted ARD to serve as the ALC with the required members and, as required for the ALC for all students in this circumstance, must meet with the superintendent or superintendent’s designee. The ARD committee must address the student’s failure and adjust the learning plan to ensure the student’s success. Revisions to the student’s accelerated learning plan by the ARD committee must be documented in writing. This may be included in the deliberations section of a student’s IEP or as supplemental attachment

- 97. If a student served by special education requires accelerated instruction and has core instruction provided by a special education teacher in that subject area or has resource time in that subject area in addition to their general education course, does the resource time satisfy the HB 4545 requirements for accelerated instruction?**

If the student is receiving core academic instruction from a general or special education teacher in a subject area where accelerated instruction is required under HB 4545, and the teacher is a certified master, exemplary, or recognized teacher licensed in that subject area, the HB 4545 requirement for accelerated instruction would be met.

In all other circumstances, specially designed instruction provided to a student served by special education in a resource setting as part of their current IEP does not satisfy the requirement for supplemental, accelerated instruction under HB 4545. Specially designed instruction provided in a resource setting is a program of instruction provided to the student as part of the student's free appropriate public education (FAPE), not as supplemental tutoring. If the student requires accelerated instruction and the LEA elects to provide the accelerated instruction through supplemental instruction, this must be provided in addition to the services the student is entitled to receive in their IEP and be consistent with HB 4545 requirements for accelerated instruction.

Decisions made by the ARD committee regarding the accelerated instruction needed must be documented in writing. This may be included in the deliberations section of a student's IEP or as supplemental attachment.

504 and Dyslexia:

98. Is the 30 hours in addition to or in place of the services the student receives through the dyslexia program criteria established by the State Board of Education and provided by a person with specific training?

No, the 30 hours is in addition to the services provided. Accelerated instruction must include targeted instruction in the TEKS for the applicable grade levels and subject area.

99. **If a student has a Section 504 Plan, does the 504 Committee serve as the ALC?**

HB 4545 does not explicitly address 504 committees, therefore; districts must consider accelerated learning needs and convene ALCs consistent with the general education requirements.

LPAC/Emergent Bilingual:

100. May the Language Proficiency Assessment Committee (LPAC) also serve as the ALC if the requirements are met?

The Accelerated Learning Committees must include an LPAC representative, but the LPAC cannot serve as the full Accelerated Learning Committee. For the 2021–22 school year, a provision has been given to the LPAC to temporarily use the LPAC parent representative in an optional capacity (although highly encouraged) due to extenuating circumstances in which the parent is unable to participate in-person or remotely. As such, the LPAC would not complete an appropriate ALC unless the parent representative, if present, were the parent of the emergent bilingual student. Additionally, the bilingual or ESL teacher serving on the LPAC may/may not be the ALC required teacher of the content area in which the student did not meet the passing standard.

101. If a student did not meet the passing standard on the STAAR Spanish grade 5 reading test and then enters 6th grade where a STAAR reading test in Spanish is not available, is the LEA required to offer accelerated instruction in Spanish if there will not be an opportunity for the student to take the 6th grade STAAR reading in Spanish? Can the instruction be provided in English?

If the student entering 6th grade is participating in a bilingual education program, access to accelerated instruction in Spanish is highly encouraged so the student continues to access literacy skills in the primary language that will ultimately support English STAAR mastery. The strategic use of both English and Spanish instruction may be used based on student strengths and the program model's language allocation plan.

If the student entering 6th grade is participating in an ESL program, accelerated instruction will most likely be conducted in English in alignment with ESL program goals. Because the student has previously participated in a bilingual program, assigning an accelerated instruction teacher who can make connections between the primary language and English is particularly effective as it allows the student to apply primary language literacy knowledge within English literacy instruction.

102. Is a student who uses the English I assessment provision and does not retake the test required to have accelerated instruction?

Yes, the emergent bilingual student will need to receive the 30 hours of supplemental accelerated instruction since the student did not pass the STAAR EOC assessment. The student may need the targeted instruction because he or she has not been enrolled in U.S. schools for three school years or the student qualified as an unschooled asylee or refugee enrolled in the U.S. for five school years or less and is still developing the English language.

103. Can the administrator that is sitting on the committee for the 3rd, 5th, or 8th grade math and/or reading committee also be considered the required LPAC representative? Can the LPAC representative be a teacher or must it be an administrator.

Yes, either an administrator or a teacher, who are approved LPAC members, can serve as the LPAC representative on ALC.

ADSY

104. Can a school district/campus use their ADSY additional days to provide accelerated instruction?

Campuses that are eligible for Additional Days School Year (ADSY) funding may use instructional time on ADSY days to count towards accelerated requirements as long as that instruction meets the statutory requirements as defined by HB 4545 (see question #16 and #17 for full requirements). For example, if a campus conducted the ADSY minimum of two hours of instruction on a day for a fifth-grade student which also met the requirements for supplemental accelerated instruction, they would be eligible to receive the ADSY funding for that student on the associated day as well as include the instruction in the required amount of supplemental instruction.

LEAs can find more information on ADSY and eligibility requirements at tea.texas.gov/adsy.

There are some ADSY requirements to be mindful of, particularly:

- A participating campus must offer 180 days of instruction during the regular year.
- ADSY funding is eligible for grades PK-5.
- A minimum of two hours of instructional time must be taught by certified teachers for each ADSY day.

TCLAS and HB 4545

105. Is the TCLAS suite of applications basically the Strong Foundations Grant as documented in HB 4545?

TCLAS incorporates the components of the Strong Foundations grant outlined in HB 4545, as well as additional supports. TEA will not be launching a Strong Foundations stand-alone grant application for this school year. TEA will plan to provide additional information on the Strong Foundations grant for future years once available.

Questions regarding the implementation of HB 4545 should be submitted in writing to Accelerated.Instruction@tea.texas.gov. Answers will also be added on a rolling basis to the FAQ document.