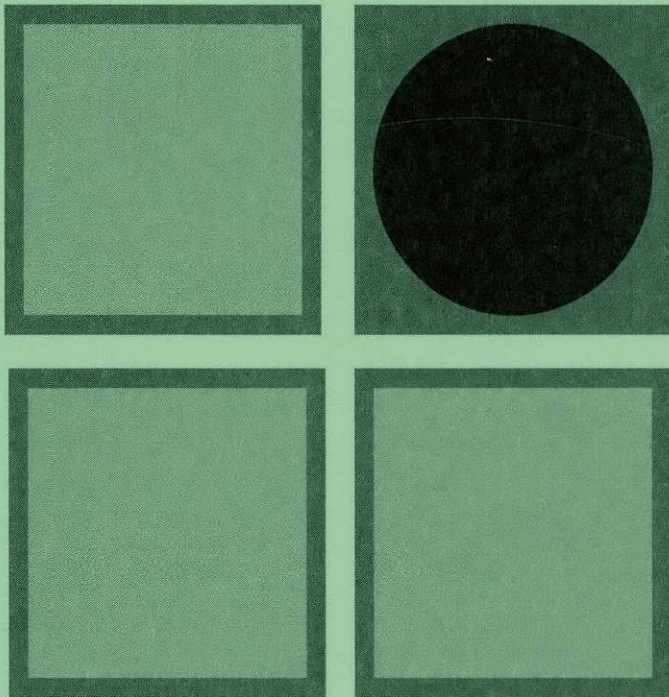




Grade-Level Retention and Student Performance in Texas Public Schools, 2013-14



Division of Research and Analysis
Office of Academics
Texas Education Agency
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**Grade-Level Retention
and Student Performance
in Texas Public Schools
2013-14**

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Abstract. This annual report provides information for the 2013-14 school year on grade-level retention and student performance in the Texas public school system. Student retention and promotion data are reported with data on the performance of students in Grades 3-8 on the State of Texas Assessments of Academic Readiness (STAAR) reading and mathematics tests.

Keywords. Retention, retention rate, promotion, STAAR, state assessment.

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Introduction

Overview

Highlights

Overview

This report presents information on the performance of retained students on the state assessment, as required under Texas Education Code (TEC) §39.332 (2016). Passing rates and average scores were calculated separately, by grade level, for English- and Spanish-language versions of the 2014 State of Texas Assessments of Academic Readiness (STAAR) reading tests for Grades 3-8. For students repeating a grade in the 2014-15 school year, 2014 STAAR results were compared to 2015 STAAR results. This report also analyzes 2014 STAAR performance and promotion statuses for students in Grades 5 and 8 in light of the Student Success Initiative (SSI) grade advancement criteria stipulated under TEC §28.0211 (2013). Finally, this report provides historical information about retention and promotion policies in Texas public schools. A companion report, *Grade-Level Retention in Texas Public Schools, 2013-14* (Texas Education Agency, 2016), presents retention data by student characteristics and program participation.

Highlights

- Under TEC §28.0211 (2013), students in Grades 5 and 8 were subject to SSI grade advancement criteria. In this report, students who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, and (c) took advanced-level tests in both subjects were categorized as meeting criteria. Students who failed one or both grade-level tests were categorized as not meeting criteria. Students who (a) were missing results for both tests, (b) passed one test but were missing results for the other, or (c) were missing one test and took an advanced-level test for the other could not be categorized based on SSI criteria.
- After a year in the same grade, the passing rates for students who had been retained improved on the English-version State of Texas Assessments of Academic Readiness (STAAR) reading tests but did not reach the passing rates for students who had been promoted the year before. For example, 90.7 percent of promoted Grade 5 students passed the STAAR reading test in spring 2014, whereas 19.7 percent of retained fifth graders passed the test. In 2015, after repeating the grade, 65.8 percent of retained students passed the Grade 5 STAAR reading test.
- Of the Grade 5 students who met SSI criteria, 99.9 percent were promoted to Grade 6. Of the Grade 5 students who did not meet SSI criteria, 7.8 percent were retained in Grade 5 the next year.
- Of the Grade 8 students who met SSI criteria, 99.9 percent were promoted to Grade 9. Of the Grade 8 students who did not meet SSI criteria, 5.2 percent were retained in Grade 8 the next year.
- In the 2013-14 school year, 80.7 percent of all promoted fifth-grade students met SSI criteria. A total of 30,784 students, or 8.3 percent of promoted fifth graders, did not meet SSI criteria or could not be categorized based on SSI criteria but were promoted by decisions of grade placement committees (GPCs).
- In the 2013-14 school year, 81.7 percent of all promoted eighth-grade students met SSI criteria. A total of 29,306 students, or 7.9 percent of promoted eighth graders, did not meet SSI criteria or could not be categorized based on SSI criteria but were promoted by GPC decisions.

History of Promotion Policies in Texas

History of Promotion Policies in Texas

While consistently requiring that decisions about student promotion be based on academic achievement, Texas policy on promotion and retention has evolved over the past three decades. Legislation passed in 1984 prohibited social promotion, requiring instead that students be promoted only on the basis of academic achievement (Texas Education Code [TEC] §21.721, *Grade Requirement for Advancement or Course Credit*, 1986). The State Board of Education (SBOE) rules implementing the legislation, *Promotions and Alternatives to Social Promotion* (Title 19 of the Texas Administrative Code [TAC] §§75.191-75.195, 1985), outlined the grading procedures to be used by districts and guidelines for promotion. The rules included the provisions that no student could repeat the same grade more than once or repeat more than two grade levels during the elementary grades.

In 1987, legislation was enacted to expand TEC §21.557, *Compensatory and Remedial Instruction* (1988). The legislation provided a definition of students in Grades 7-12 considered to be at risk of dropping out of school and required districts to provide remedial and support programs for these students. The definition of "at-risk" students included students who had not advanced from one grade level to the next in two or more school years.

In 1991, the rule prohibiting retention of students below Grade 1 was amended to allow districts to assign six-year-old students who were not developmentally ready for the first grade to grades deemed appropriate by the schools (19 TAC §75.195(j), 1992 Supplement).

Also in 1991, legislation updated TEC §21.721 (1992) to eliminate the prohibition on advancement of students with grade averages below 70. Policies on advancement from one grade level to the next were to be adopted by school districts. Local policies on promotion had to incorporate a variety of factors, including a minimum, yearly grade point average of 70; course grades earned in each subject; performance on the Texas Assessment of Academic Skills (TAAS); extenuating circumstances; and the judgments of parents and teachers. Districts were required to consider alternatives to retention, including extended school day, extended school year, specialized tutorial support, peer tutoring, cross-age tutoring, student mentoring, and summer programs.

A retention reduction grant program was enacted in 1993 (TEC §21.562, 1994). A \$5 million appropriation allowed 54 Texas school districts to pilot extended instructional programs to eliminate retentions in first grade during the 1992-93 school year. The retention reduction grants allowed school districts and campuses to offer programs based on lengthening the school year as alternatives to retention. These programs provided additional instruction to students who needed extra assistance to master the first-grade objectives in the Essential Elements—the state-mandated curriculum in place at that time. The pilots were extended to the second grade in 1994-95.

School districts not receiving retention reduction grants could apply to the commissioner of education for approval to provide extended year programs (TEC §21.563, *Optional Extended Year Program*, 1994). Optional extended year programs (OEYPs) of up to 45 days in length could be

provided to students in Grades K-8 who would otherwise be retained. To fund the programs, school districts could reduce the number of instructional days during the regular school year by five.

In 1995, the Texas Education Code was reviewed and readopted. In the new code, the provisions on promotion, *Student Advancement*, reiterated that students be promoted only on the basis of academic achievement or demonstrated proficiency in the subject matter of the course or grade level (TEC §28.021, 1996). At the same time, the language regulating local promotion and retention policies was repealed. In April 1996, the SBOE rules regulating local policies, including restrictions on the number of times students could be retained in grade, were also repealed. The definition of students at risk of dropping out was carried forward (TEC §29.081, 1996).

The 1995 TEC revisions included a single set of provisions for extended year programs (TEC §29.082, 1996). Commissioner of education rules implementing the OEYP were adopted to be effective in May 1996 (19 TAC §105.1001, 1997). Districts were required to promote each student who attended at least 90 percent of the extended year program days, unless the student's parents requested that the student be retained. If the parents requested retention, the student's principal, teacher, and counselor were required to meet with the parents to provide information on the effects of retention on future academic performance, student self-esteem, and high school completion. The commissioner of education was directed to withhold 5 percent of the Foundation School Program compensatory education allotment to finance extended year programs. This increased to about \$50 million per year the allocation for extended year programs for students in Grades K-8 who were identified as not likely to be promoted. Districts could use portions of their compensatory education allotments or apply for state funds to implement extended year programs. Although districts had to apply for state OEYP funds, they were no longer required to apply for approval to operate OEYPs funded locally.

The promotion policies implemented in Texas public schools in 2002-03 built on the state curriculum and assessment programs that had been developed over many years. In 1984, Texas first adopted a state curriculum, known as the Essential Elements (19 TAC Chapter 75, Subchapters B-D, 1984). Over the years, the rigor of knowledge and skills required of students increased. A revised curriculum, the Texas Essential Knowledge and Skills (TEKS), was adopted by the SBOE and became effective on September 1, 1998 (19 TAC Chapters 110-128, 1998). By state law and SBOE rule, the TEKS in the foundation areas of English language arts and reading, mathematics, science, and social studies are required for use in instruction and statewide assessment. The TEKS have been widely distributed to schools and to the public. Professional development on TEKS implementation in the classroom has been available statewide.

The state testing program known as TAAS was introduced in 1990. When last administered in 2002, the TAAS measured mastery of the state curriculum in reading and mathematics at Grades 3-8 and 10; in writing at Grades 4, 8, and 10; and in science and social studies at Grade 8. The Grade 10 tests served as an exit-level examination. As was the case under the previous testing program, the Texas Educational Assessment of Minimum Skills (TEAMS), satisfactory performance on the exit-level examination was a prerequisite to a high school diploma.

In 2002-03, a new, more rigorous state assessment system, the Texas Assessment of Knowledge and Skills (TAKS), was introduced. Like the TAAS, the TAKS was aligned with the state curriculum, measuring the extent to which a student learned and was able to apply the knowledge and skills defined in the TEKS at each grade level tested.

In response to statutory requirements, the TAKS was replaced by the more rigorous State of Texas Assessments of Academic Readiness (STAAR) beginning in 2011-12 (TEC Chapter 39, 2010). STAAR is aligned with the TEKS and provides the foundation for the accountability system for Texas public education. In Grades 3-8, STAAR assesses the same grade-specific subjects that were assessed with the TAKS. In high school, however, grade-specific assessments have been replaced by end-of-course (EOC) assessments. Although 15 EOCs were originally required to graduate for students who started Grade 9 in 2011-12, the 83rd Texas Legislature reduced the requirement to five assessments in 2013: Algebra I, Biology, English I, English II, and U.S. History. To comply with graduation standards already in place, high school students who began Grade 9 in 2010-11 or earlier continue to take grade-specific TAKS assessments.

State testing procedures allow accommodations on TAKS and STAAR for students who need them. Spanish-language versions of the tests are available to assess the progress of students in Grades 3-5 who are proficient in Spanish but not yet proficient in English. The admission, review, and dismissal (ARD) committees responsible for students receiving special education services can specify alternate assessment instruments (STAAR A or STAAR Alternate 2).

Since 1995, Texas statute has stipulated that "a student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level" (TEC §28.021, 1996). In 1999, specific provisions linking test performance, promotion, and instruction were added (TEC §28.0211, 1999). From 2002-03 to 2008-09, students in Grade 3 were required to pass the state reading test to advance to Grade 4. Students in Grade 5 were required to pass the state reading and mathematics tests beginning in 2004-05. Students in Grade 8 were required to pass the reading and mathematics tests beginning in 2007-08. Through the 2010-11 school year, students in Grades 5 and 8 were given three opportunities to pass the TAKS. School districts were required to provide accelerated instruction in the subject areas failed after each test administration (TEC §28.0211, 2010).

If a student failed the test a second time, the district was required to establish a grade placement committee (GPC) to determine the accelerated instruction the student would receive before the third testing opportunity. A student who failed to perform satisfactorily on the third opportunity was required to be retained. A parent or guardian could appeal the retention decision to the GPC. The GPC could decide in favor of advancement if committee members unanimously concluded, based on standards adopted by the local school board, that the student was likely to perform on grade level if given additional accelerated instruction during the next school year.

In 2009, the 81st Texas Legislature stipulated that students in Grade 5 or Grade 8 who fail the state reading or mathematics assessment must complete accelerated instruction before they may be promoted to the next grade level (TEC §28.0211, 2010). Districts anticipated difficulty implementing

the provision for students who fail the third administration of a Grade 5 or Grade 8 test, which occurs during the summer. To help districts and charter schools meet the requirement, the Texas Education Agency developed a waiver allowing promotion of such students to the next grade level prior to the completion of accelerated instruction. A district or charter school applying for the waiver in 2013-14 was required to: identify the intensive instruction each student needed; target the instruction to the STAAR objectives on which each student demonstrated weakness; ensure each student completed the instruction during the first six weeks of the school year; and document that each student completed the instruction. In addition, the GPC is responsible for developing a plan that will provide the student with ongoing instructional support during the next school year.

In 2011, the 82nd Texas Legislature directed that a student in Grade 5 or Grade 8 who is enrolled in a course above the student's grade level or for which the student will receive high school credit is not required to take a grade-level state assessment in the corresponding subject (TEC §28.0211, 2011).

Because performance standards for STAAR had not been established in time for student promotion decisions, promotion criteria for Grades 5 and 8 that were based on state assessment results were suspended in 2011-12. Instead, promotion criteria developed entirely at the district level were in effect. Statutory promotion criteria, including requirements that students receive three opportunities to pass the reading and mathematics tests, GPCs be established, and accelerated instruction be provided, were made effective again in 2012-13 and remained in effect in 2013-14.

Definitions and Calculations

Retention Definition

Retention Rate Calculations

*Student Performance on the
State of Texas Assessments of Academic Readiness*

Retention Definition

Grade retention has been defined as requiring a child to repeat a particular grade or delaying entry to kindergarten or first grade. This definition of retention—repetition of a grade or delayed entry—applies primarily to Grades K-6. The same grade level in successive years in high school does not necessarily represent the repetition of a full year's curriculum, as it does in elementary school. Secondary school programs are structured around individual courses. Because passing and failing are determined at the level of the course and credits are awarded for courses completed successfully, the concept of a "grade level" becomes more fluid. Students who fail to earn credit in a single course or take fewer courses than required in one year may be classified at the same grade level in two consecutive years. Practices in Grades 7 and 8 may be like those in elementary school or like those in high school, depending on local school district policies.

Data used in this report on the grade levels of all students in the Texas public school system were drawn from the Public Education Information Management System (PEIMS). Data on student characteristics and program participation were also available in PEIMS. Data on State of Texas Assessments of Academic Readiness (STAAR) performance were provided to the Texas Education Agency (TEA) by a state contractor, Pearson.

Retention Rate Calculations

Retention rates for the 2013-14 school year were calculated by comparing 2013-14 attendance records to fall 2014 enrollment records. Students who left the Texas public school system for any reason other than graduation were excluded from the total student count. Students new to the Texas public school system in fall 2014 were also excluded. Students who enrolled both years or graduated were included in the total student count. Students found to have been enrolled in the same grade in both years were counted as retained. Students found to have been in a higher grade in fall 2014 than in 2013-14 were counted as promoted. Students reported to have had improbable grade sequences were assigned an "unknown" promotion status. Retention rates were calculated by dividing number of students retained by total student count. Because of the criteria used, student counts in this report differ from those in other agency publications.

Retention rates have been calculated by TEA based on year-to-year progress of individual students since 1994-95. Prior to the 1998-99 school year, the retention calculations included only students who were enrolled on the last Friday in October. Beginning in 1998-99, additional enrollment data for Grades 7-12 were collected by TEA to calculate the secondary school dropout and graduation rates. This collection expanded available Grades 7-12 enrollment data beyond students enrolled the last Friday in October to include students enrolled at any time during the fall. The change in the retention calculation allowed more secondary school students to be included and made the calculation of the retention rate more like that of the secondary school dropout and graduation rates. Expanded enrollment data were not collected for Grades K-6, so the method of calculating enrollment counts for Grades K-6 was unchanged.

Student Performance on the State of Texas Assessments of Academic Readiness

STAAR was the primary statewide assessment of student performance in 2014 and 2015. Spanish-version reading and mathematics tests were given to students in Grades 3-5 receiving mostly native language instruction. STAAR L was an online, linguistically accommodated test for English language learners taking a mathematics, science, or social studies assessment. STAAR L was not offered for reading or writing assessments. The passing standards for STAAR L were the same as those for STAAR. STAAR A, an accommodated version of STAAR, was offered beginning in 2015 as an online assessment in the same grades and subjects as STAAR. STAAR A provided embedded supports (e.g., visual aids, graphic organizers, and text-to-speech functionality) designed to help students with disabilities access the content being assessed. The passing standards for STAAR A were the same as those for STAAR.

Pearson provided TEA with student-level data for English- and, where applicable, Spanish-language STAAR tests in each grade level and subject area assessed. For each subject area test, every student received either a score or a code for the reason no score was reported. The code identified students who were absent; students who were ill, took above grade level tests, or had certain irregularities, including cheating; students whose parents or guardians requested the students not participate in the third testing opportunity; or students for whom STAAR Alternate 2 assessments (designed to assess students with significant cognitive disabilities) were appropriate.

The 2014 mathematics results presented in this report are based on three administrations of STAAR and STAAR L combined. The 2014 reading results presented in this report are based on three administrations of STAAR, and the 2015 reading results are based on two administrations of STAAR and STAAR A combined. STAAR passing rates presented in this report were calculated based on Phase-in 1 Level II standards. Passing standards for STAAR are set by the commissioner of education (TEC §39.0241, 2016).

In 2014-15, STAAR mathematics tests were updated to reflect the revised mathematics TEKS adopted by the State Board of Education in 2012. As a result of these changes, performance standards for 2015 STAAR mathematics tests in Grades 3-8 were not set until after the spring 2015 administration. In addition, Student Success Initiative (SSI) retest opportunities for STAAR mathematics tests in Grades 5 and 8 were not offered in May and June of 2015. Comparisons of mathematics performance on the 2014 STAAR and 2015 STAAR are not presented in this report because the content of the tests differed between the two years.

Under the SSI, students in Grades 5 and 8 were given three opportunities to pass STAAR reading and mathematics tests in 2013-14 (TEC §28.0211, 2013). In cases where answer documents were submitted for students in more than one administration, the score from the latest administration was used. In cases where students had more than one record in an administration, highest scores attained were used.

In 2011, the Texas Legislature amended TEC §28.0211 (2011), stipulating that a fifth- or eighth-grade student enrolled in an advanced-level course or a course for which the student would receive high school credit is not required to take the grade-level STAAR assessment for the corresponding subject. In the section of this report titled "Student Performance and Promotion," which examines STAAR performance and promotion in light of SSI grade advancement criteria, the analyses include data for students in Grades 5 and 8 who took above-grade-level STAAR assessments in reading or mathematics. For example, data for Grade 5 students who took Grade 6 STAAR assessments in reading or mathematics are included, as are data for Grade 8 students who took Algebra I end-of-course assessments.

Analysis of promotion status and test performance in this report required matching student records in the promotion and test databases. Records were matched based on social security number, last name, first name, and date of birth. Records that could not be matched were excluded. In some cases, students participated in spring 2014 STAAR testing but were not enrolled in a Texas public school in fall 2014. Consequently, these students had records in the test database but not in the promotion database. In other cases, students enrolled in school after spring 2014 STAAR testing and, therefore, had records in the promotion database but not in the test database. Finally, some records failed to match because of errors in reporting student identification data.

Retention and Student Performance

Statutory Requirements

Passing Rates

State of Texas Assessments of Academic Readiness Scores

Statutory Requirements

This section of the report presents information on the performance of retained students on the state assessment, as required under Texas Education Code (TEC) §39.332 (2016). Passing rates and average scores were calculated separately, by grade level, for English- and Spanish-language versions of the 2014 State of Texas Assessments of Academic Readiness (STAAR) reading tests for Grades 3-8. For students repeating a grade in the 2014-15 school year, 2014 STAAR reading results were compared to 2015 STAAR reading results. For comparison purposes, the 2014 STAAR reading test results for promoted students also were calculated. In previous years' reports, results for STAAR mathematics tests were also included in this section. For this year's report, however, comparisons of mathematics performance on the 2014 STAAR and 2015 STAAR are not provided because the content of the tests and the number of administrations offered differed between the two years.

Passing Rates

Among students in Grades 3-8 who took the English-version STAAR reading test in spring 2014, passing rates were higher for students who were promoted than for students who were retained (Table 1). After a year in the same grade, the passing rates for students who had been retained improved but did not reach the passing rates for students who had been promoted the year before. For example, 90.7 percent of promoted Grade 5 students passed the STAAR reading test in spring 2014, whereas 19.7 percent of retained fifth graders passed the test. In 2015, after repeating the grade, 65.8 percent of retained students passed the Grade 5 STAAR reading test.

Spanish-version STAAR reading results were similar to English-version results in that the passing rates for students who were later retained were considerably lower than the passing rates for students who were subsequently promoted. Also, passing rates for retained students showed gains in the second year.

Table 1
State of Texas Assessments of Academic
Readiness (STAAR) Reading Test Percentage
Passing 2014 and 2015, Grades 3-8, by Grade
and Promotion Status 2013-14, Texas Public
Schools

Status	English-version STAAR reading		Spanish-version STAAR reading	
	2014	2015	2014	2015
Grade 3				
Promoted	77.3	— ^a	67.1	—
Retained	14.3	59.7	15.9	60.4
Grade 4				
Promoted	74.6	—	61.9	—
Retained	14.0	47.4	6.1	46.2
Grade 5				
Promoted	90.7	—	86.8	—
Retained	19.7	65.8	29.5	70.5
Grade 6				
Promoted	77.4	—	n/a ^b	n/a
Retained	21.3	45.9	n/a	n/a
Grade 7				
Promoted	75.2	—	n/a	n/a
Retained	22.5	42.0	n/a	n/a
Grade 8				
Promoted	92.1	—	n/a	n/a
Retained	41.3	63.4	n/a	n/a

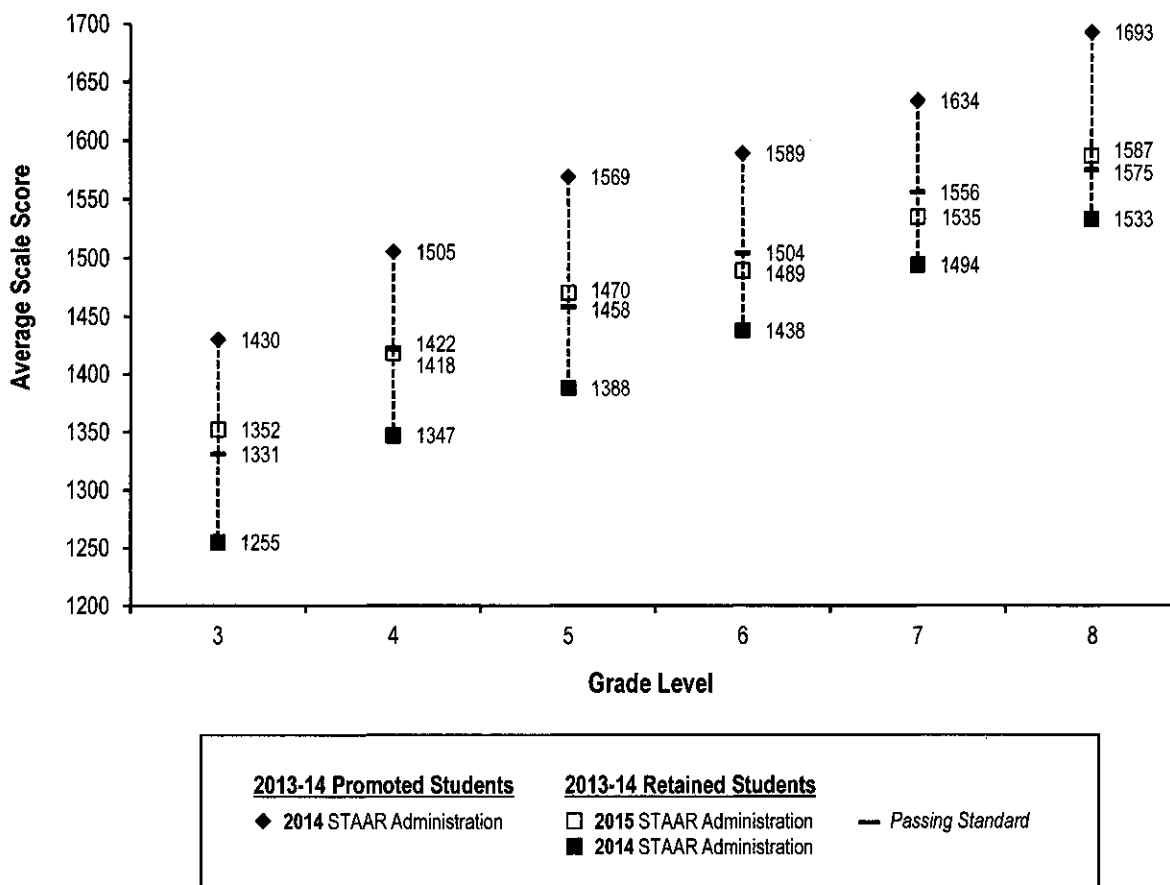
Note. Reading results are based on STAAR for 2014 and on STAAR and STAAR A combined for 2015. Passing rates for retained students in both years are based on the same groups of students. Students taking advanced-level tests are excluded from these analyses.

^aStudents promoted in 2014 did not repeat the same grade-level test in 2015. ^bNot applicable. Spanish-version STAAR tests were available in Grades 3-5 only.

State of Texas Assessments of Academic Readiness Scores

Students in Grades 3-8 promoted at the end of the 2013-14 school year had average scale scores on the English- and Spanish-language versions of the 2014 State of Texas Assessments of Academic Readiness (STAAR) reading test that exceeded the passing standards (Figure 1 and Table 2). Students who were retained had lower scale scores than students who were promoted. On the first attempt, retained students at all grade levels had average scale scores that were below the passing standards. A year later, on the 2015 STAAR reading test, average scale scores for retained students exceeded the passing standards on five of nine tests; however, the scores still failed to reach the average scale scores for students who had been promoted the year before.

Figure 1
Grade-Level Retention 2013-14 and Average Reading Scale Scores on the English-Version State of Texas Assessments of Academic Readiness (STAAR) 2014 and 2015, Grades 3-8, Texas Public Schools



Note. Reading results are based on STAAR for 2014 and on STAAR and STAAR A combined for 2015. Scale scores for retained students in both years are based on the same groups of students. Students taking advanced-level tests are excluded from these analyses.

Table 2
State of Texas Assessments of Academic Readiness (STAAR) Reading
Test Average Scale Scores 2014 and 2015, Grades 3-8, by Grade and
Promotion Status 2013-14, Texas Public Schools

Status	English-version STAAR reading scale score		Spanish-version STAAR reading scale score			
	Passing standard ^a	2014	2015	Passing standard	2014	2015
Grade 3	1331			1304		
Promoted		1430	– ^b		1373	–
Retained		1255	1352		1225	1332
Grade 4	1422			1398		
Promoted		1505	–		1448	–
Retained		1347	1418		1293	1395
Grade 5	1458			1447		
Promoted		1569	–		1543	–
Retained		1388	1470		1393	1484
Grade 6	1504			n/a ^c		
Promoted		1589	–		n/a ^b	n/a
Retained		1438	1489		n/a	n/a
Grade 7	1556			n/a		
Promoted		1634	–		n/a	n/a
Retained		1494	1535		n/a	n/a
Grade 8	1575			n/a		
Promoted		1693	–		n/a	n/a
Retained		1533	1587		n/a	n/a

Note. Reading results are based on STAAR for 2014 and on STAAR and STAAR A combined for 2015. Scale scores for retained students in both years are based on the same groups of students. Students taking advanced-level tests are excluded from these analyses.

^aThe minimum score required to pass each test. ^bStudents promoted in 2014 did not repeat the same grade-level test in 2015. ^cNot applicable. Spanish-version STAAR tests were available in Grades 3-5 only.

Student Performance and Promotion

*Student Success Initiative
Grade Advancement Summary*

Grade 5

Grade 8

Student Success Initiative Grade Advancement Summary

For the 2013-14 school year, the Student Success Initiative (SSI) stipulated that students in Grades 5 and 8 could advance to the next grade level only by passing the state reading and mathematics assessments or by unanimous decision of a grade placement committee (GPC) (TEC §28.0211, 2013). In light of this statute, this report analyzes 2014 STAAR performance and promotion status for Grades 5 and 8. A companion report, *Grade-Level Retention in Texas Public Schools, 2013-14* (Texas Education Agency, 2016), presents retention data by student characteristics and program participation.

In the tables and figures that follow, results for students in Grades 5 and 8 are presented based on SSI grade advancement criteria. Students who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, and (c) took advanced-level tests in both subjects were categorized as meeting criteria. Students who failed one or both grade-level tests were categorized as not meeting criteria. Students who (a) were missing results for both tests, (b) passed one test but were missing results for the other, or (c) were missing one test and took an advanced-level test for the other could not be categorized based on SSI criteria. The numbers and percentages of students who were promoted and retained in 2013-14 were calculated for each of the three groups.

In the 2013-14 school year, 51,710 fifth graders and 49,462 eighth graders did not meet SSI criteria (Table 3). Of these, 4,013 fifth graders (7.8%) were retained after the 2013-14 school year, and 2,551 eighth graders (5.2%) were retained.

The majority of fifth- and eighth-grade students promoted after the 2013-14 school year had met SSI criteria. In fifth grade, 80.7 percent of all promoted students had met SSI criteria (Table 4 on page 21). A total of 30,784 students, or 8.3 percent of promoted fifth graders, had not met SSI criteria or could not be categorized based on SSI criteria but were promoted by GPCs (Figure 2 on page 20). In eighth grade, 81.7 percent of all promoted students had met SSI criteria (Table 6 on page 24). A total of 29,306 students, or 7.9 percent of promoted eighth graders, had not met SSI criteria or could not be categorized based on SSI criteria but were promoted by GPCs (Figure 3 on page 23).

Table 3**State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Grades 5 and 8, by Grade, Texas Public Schools**

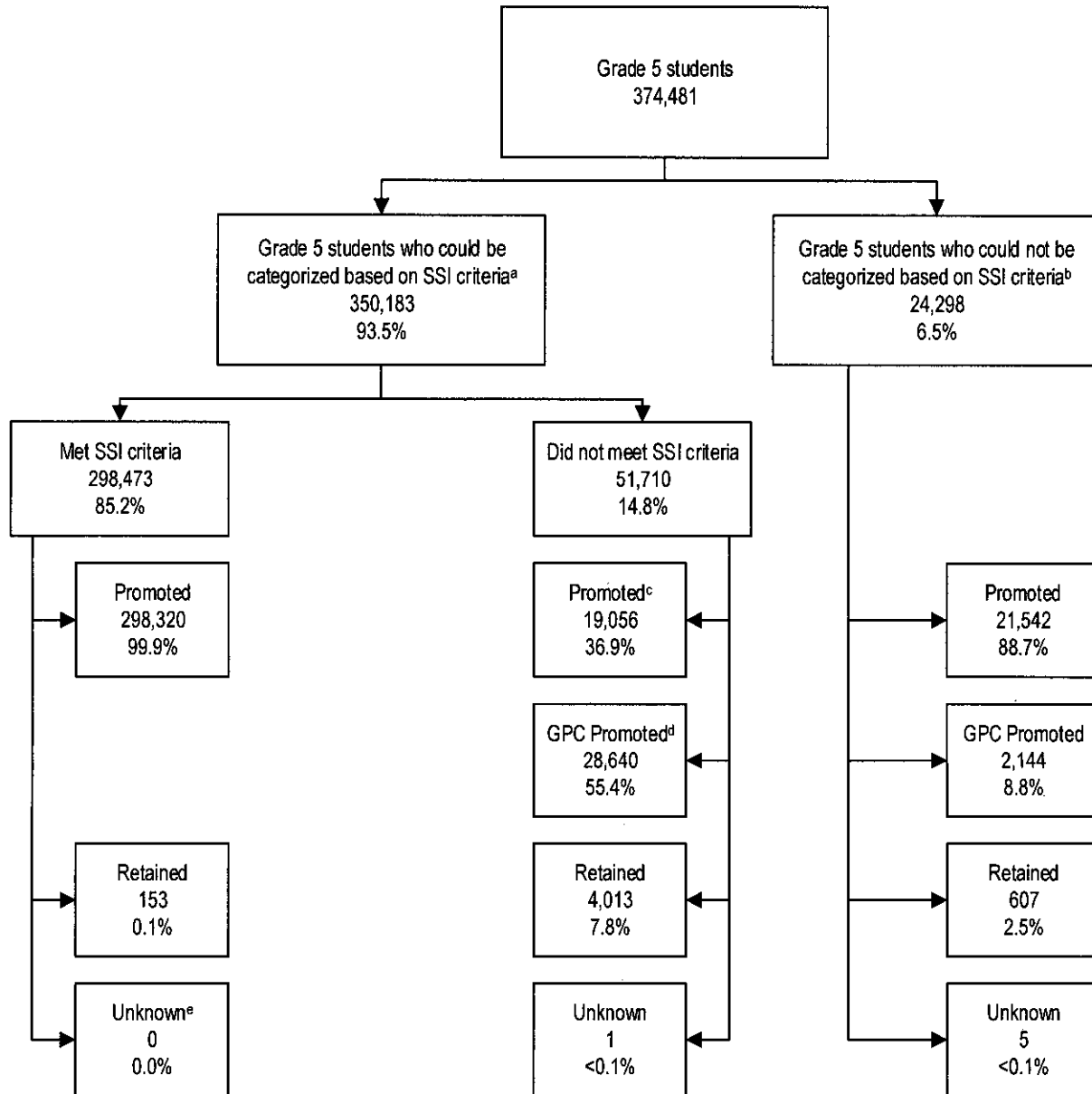
STAAR performance ^b	Total	Promoted		Retained		Unknown ^a	
		Number	Percent	Number	Percent	Number	Percent
Grade 5							
Passed reading and mathematics	298,473	298,320	99.9	153	0.1	0	0.0
Failed reading, mathematics, or both	51,710	47,696	92.2	4,013	7.8	1	<0.1
Grade 8							
Passed reading and mathematics	302,827	302,435	99.9	391	0.1	1	<0.1
Failed reading, mathematics, or both	49,462	46,909	94.8	2,551	5.2	2	<0.1

Note. Mathematics results are based on STAAR and STAAR L combined. Students who (a) were missing results for both tests or (b) passed one test but were missing results for the other are not included in the table.

^aPromotion status could not be determined because of a grade-level reporting error. ^bStudents who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, or (c) took advanced-level tests in both subjects are included in counts of students who passed reading and mathematics.

Grade 5

Figure 2
State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Test Results Combined, Grade 5, Texas Public Schools



Note. Mathematics results are based on STAAR and STAAR L combined. Parts may not add to 100 percent because of rounding.
^aUnder Texas Education Code §28.0211 (2013), students in Grades 5 and 8 were subject to Student Success Initiative (SSI) grade advancement criteria. Students who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, and (c) took advanced-level tests in both subjects were categorized as meeting criteria. Students who failed one or both grade-level tests were categorized as not meeting criteria. ^bStudents who (a) were missing results for both tests, (b) passed one test but were missing results for the other, or (c) were missing one test and took an advanced-level test for the other could not be categorized based on SSI criteria. Students may be missing STAAR results because Public Education Information Management System (PEIMS) records could not be matched to STAAR records. Students not tested with STAAR or STAAR L may have been administered another version of STAAR, such as STAAR Modified. ^cThese students may have had passing STAAR records that could not be matched to PEIMS records because of incorrect student identification information or may not have been correctly reported in PEIMS when grade placement committee (GPC) promotions were collected. ^dPromoted by GPC decision. ^ePromotion status could not be determined because of a grade-level reporting error.

Table 4**State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Test Results Combined, Grade 5, Texas Public Schools**

Reading and mathematics performance ^b	STAAR		Promotion status					
	Total		Promoted		Retained		Unknown ^a	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Met SSI^c criteria								
Passed reading and passed math	296,628	99.4	296,475	99.9	153	0.1	0	0.0
Passed reading and took adv. ^d math	1,809	0.6	1,809	100	0	0.0	0	0.0
Took adv. reading and passed math	0	0.0	0	0.0	0	0.0	0	0.0
Took adv. reading and took adv. math	36	<0.1	36	100	0	0.0	0	0.0
Total	298,473	100	298,320	99.9	153	0.1	0	0.0
Did not meet SSI criteria								
Failed reading and failed math	19,070	36.9	16,493	86.5	2,576	13.5	1	<0.1
Failed reading and passed math	19,776	38.2	18,905	95.6	871	4.4	0	0.0
Failed reading and took adv. math	–	–	–	–	–	–	0	0.0
Failed reading and missing math	385	0.7	378	98.2	7	1.8	0	0.0
Passed reading and failed math	12,213	23.6	11,657	95.4	556	4.6	0	0.0
Took adv. reading and failed math	0	0.0	0	0.0	0	0.0	0	0.0
Missing reading and failed math	–	–	–	–	–	–	0	0.0
Total	51,710	100	47,696	92.2	4,013	7.8	1	<0.1
Could not be categorized based on SSI criteria								
Missing reading and missing math	21,424	88.2	20,919	97.6	500	2.3	5	<0.1
Missing reading and passed math	1,681	6.9	1,627	96.8	54	3.2	0	0.0
Missing reading and took adv. math	–	–	–	–	–	–	0	0.0
Passed reading and missing math	1,191	4.9	1,138	95.5	53	4.5	0	0.0
Took adv. reading and missing math	–	–	–	–	–	–	0	0.0
Total	24,298	100	23,686	97.5	607	2.5	5	<0.1

Note. Mathematics results are based on STAAR and STAAR L combined. Parts may not add to 100 percent because of rounding. A dash (–) indicates data are not reported to protect student anonymity.

^aPromotion status could not be determined because of a grade-level reporting error. ^bUnder Texas Education Code §28.0211 (2013), students in Grades 5 and 8 were subject to Student Success Initiative (SSI) grade advancement criteria. Students who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, and (c) took advanced-level tests in both subjects were categorized as meeting criteria. Students who failed one or both grade-level tests were categorized as not meeting criteria. Students who (a) were missing results for both tests, (b) passed one test but were missing results for the other, or (c) were missing one test and took an advanced-level test for the other could not be categorized based on SSI criteria. ^cStudent Success Initiative. ^dAdvanced-level.

Table 5

State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Grade 5, by Test, Texas Public Schools

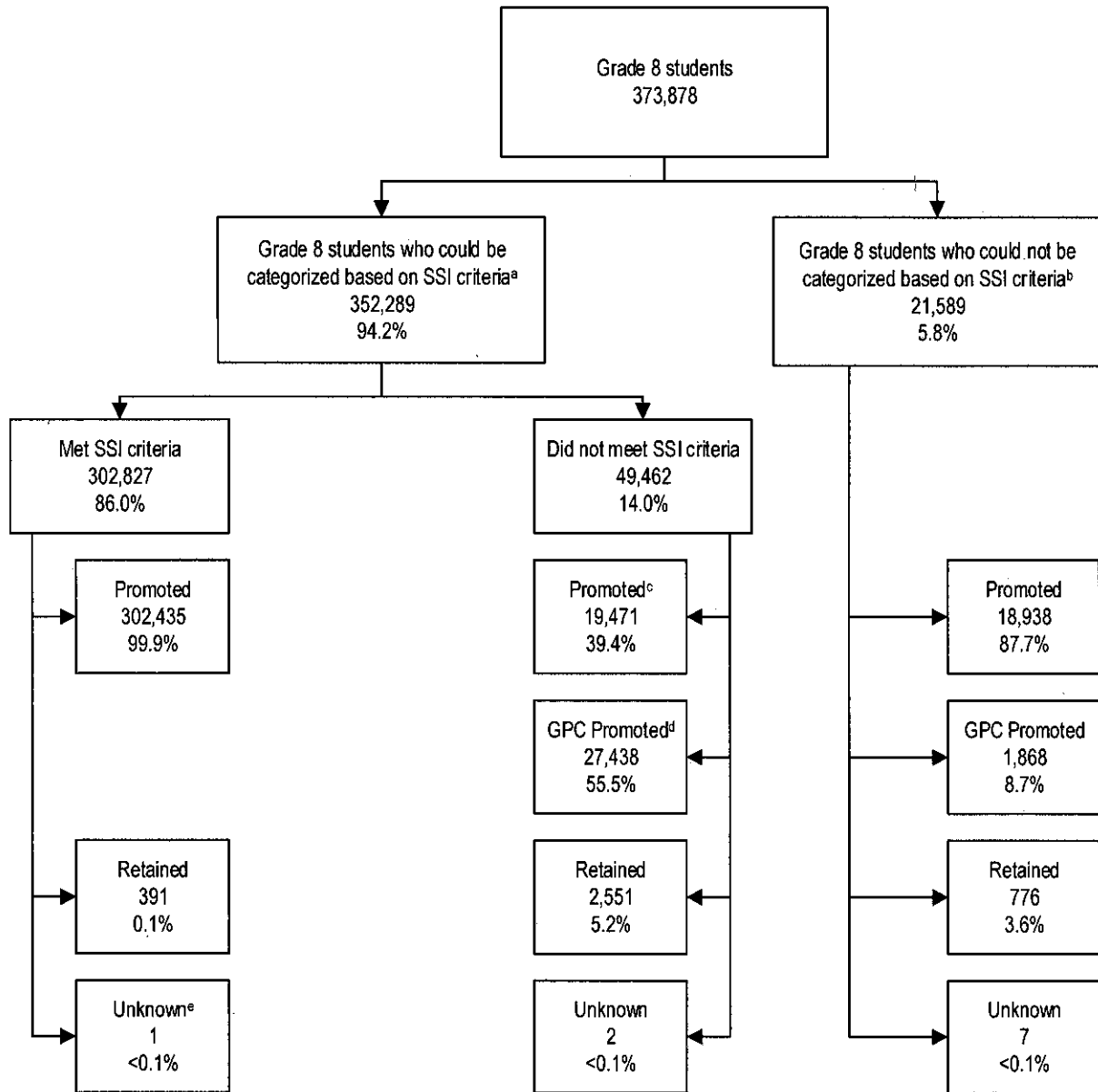
Results	STAAR		Promotion status					
	Total		Promoted		Retained		Unknown ^a	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
English-version Grade 5 reading								
Passed	302,343	88.5	301,665	99.8	678	0.2	0	0.0
Failed	37,551	11.0	34,315	91.4	3,235	8.6	1	<0.1
Not tested	1,639	0.5	1,379	84.1	260	15.9	0	0.0
Total	341,533	100	337,359	98.8	4,173	1.2	1	<0.1
English-version Grade 5 mathematics								
Passed	315,639	90.8	314,577	99.7	1,062	0.3	0	0.0
Failed	30,506	8.8	27,533	90.3	2,972	9.7	1	<0.1
Not tested	1,621	0.5	1,361	84.0	260	16.0	0	0.0
Total	347,766	100	343,471	98.8	4,294	1.2	1	<0.1
Spanish-version Grade 5 reading								
Passed	9,498	84.8	9,414	99.1	84	0.9	0	0.0
Failed	1,683	15.0	-	-	-	-	0	0.0
Not tested	13	0.1	-	-	-	-	0	0.0
Total	11,194	100	10,888	97.3	306	2.7	0	0.0
Spanish-version Grade 5 mathematics								
Passed	2,447	70.0	2,431	99.3	16	0.7	0	0.0
Failed	1,040	29.7	-	-	-	-	0	0.0
Not tested	10	0.3	-	-	-	-	0	0.0
Total	3,497	100	3,315	94.8	182	5.2	0	0.0

Note. Mathematics results are based on STAAR and STAAR L combined. Parts may not add to 100 percent because of rounding. A dash (-) indicates data are not reported to protect student anonymity. Students taking advanced-level tests are excluded from these analyses.

^aPromotion status could not be determined because of a grade-level reporting error.

Grade 8

Figure 3
State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Test Results Combined, Grade 8, Texas Public Schools



Note. Mathematics results are based on STAAR and STAAR L combined. Parts may not add to 100 percent because of rounding.
^aUnder Texas Education Code §28.0211 (2013), students in Grades 5 and 8 were subject to Student Success Initiative (SSI) grade advancement criteria. Students who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, and (c) took advanced-level tests in both subjects were categorized as meeting criteria. Students who failed one or both grade-level tests were categorized as not meeting criteria. ^bStudents who (a) were missing results for both tests, (b) passed one test but were missing results for the other, or (c) were missing one test and took an advanced-level test for the other could not be categorized based on SSI criteria. Students may be missing STAAR results because Public Education Information Management System (PEIMS) records could not be matched to STAAR records. Students not tested with STAAR or STAAR L may have been administered another version of STAAR, such as STAAR Modified. ^cThese students may have had passing STAAR records that could not be matched to PEIMS records because of incorrect student identification information or may not have been correctly reported in PEIMS when grade placement committee (GPC) promotions were collected. ^dPromoted by GPC decision. ^ePromotion status could not be determined because of a grade-level reporting error.

Table 6**State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Test Results Combined, Grade 8, Texas Public Schools**

Reading and mathematics performance ^b	STAAR		Promotion status					
	Total		Promoted		Retained		Unknown ^a	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Met SSI^c criteria								
Passed reading and passed math	214,835	70.9	214,486	99.8	348	0.2	1	<0.1
Passed reading and took adv. ^d math	84,307	27.8	84,267	100	40	0.0	0	0.0
Took adv. reading and passed math	1,400	0.5	–	–	–	–	0	0.0
Took adv. reading and took adv. math	2,285	0.8	–	–	–	–	0	0.0
Total	302,827	100	302,435	99.9	391	0.1	1	<0.1
Did not meet SSI criteria								
Failed reading and failed math	17,098	34.6	15,550	90.9	1,546	9.0	2	<0.1
Failed reading and passed math	14,778	29.9	14,432	97.7	346	2.3	0	0.0
Failed reading and took adv. math	415	0.8	384	92.5	31	7.5	0	0.0
Failed reading and missing math	407	0.8	400	98.3	7	1.7	0	0.0
Passed reading and failed math	16,419	33.2	15,808	96.3	611	3.7	0	0.0
Took adv. reading and failed math	78	0.2	–	–	–	–	0	0.0
Missing reading and failed math	267	0.5	–	–	–	–	0	0.0
Total	49,462	100	46,909	94.8	2,551	5.2	2	<0.1
Could not be categorized based on SSI criteria								
Missing reading and missing math	19,111	88.5	18,383	96.2	721	3.8	7	<0.1
Missing reading and passed math	1,106	5.1	1,090	98.6	16	1.4	0	0.0
Missing reading and took adv. math	125	0.6	–	–	–	–	0	0.0
Passed reading and missing math	1,240	5.7	1,204	97.1	36	2.9	0	0.0
Took adv. reading and missing math	7	<0.1	–	–	–	–	0	0.0
Total	21,589	100	20,806	96.4	776	3.6	7	<0.1

Note. Mathematics results are based on STAAR and STAAR L combined. Parts may not add to 100 percent because of rounding. A dash (–) indicates data are not reported to protect student anonymity.

^aPromotion status could not be determined because of a grade-level reporting error. ^bUnder Texas Education Code §28.0211 (2013), students in Grades 5 and 8 were subject to Student Success Initiative (SSI) grade advancement criteria. Students who (a) passed grade-level tests in both reading and mathematics, (b) passed a grade-level test in one subject and took an advanced-level test in the other subject, and (c) took advanced-level tests in both subjects were categorized as meeting criteria. Students who failed one or both grade-level tests were categorized as not meeting criteria. Students who (a) were missing results for both tests, (b) passed one test but were missing results for the other, or (c) were missing one test and took an advanced-level test for the other could not be categorized based on SSI criteria. ^cStudent Success Initiative. ^dAdvanced-level.

Table 7**State of Texas Assessments of Academic Readiness (STAAR) 2014 Performance and Promotion Status 2013-14, Grade 8, by Test, Texas Public Schools**

Results	STAAR		Promotion status					
	Total		Promoted		Retained		Unknown ^a	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
English-version Grade 8 reading								
Passed	316,801	90.3	315,765	99.7	1,035	0.3	1	<0.1
Failed	32,698	9.3	30,766	94.1	1,930	5.9	2	<0.1
Not tested	1,150	0.3	1,073	93.3	77	6.7	0	0
Total	350,649	100	347,604	99.1	3,042	0.9	3	<0.1
English-version Grade 8 mathematics								
Passed	232,119	86.9	231,408	99.7	710	0.3	1	<0.1
Failed	33,862	12.7	31,693	93.6	2,167	6.4	2	<0.1
Not tested	1,118	0.4	1,028	91.9	90	8.1	0	0
Total	267,099	100	264,129	98.9	2,967	1.1	3	<0.1

Note. Mathematics results are based on STAAR and STAAR L combined. Parts may not add to 100 percent because of rounding. Students taking advanced-level tests are excluded from these analyses.

^aPromotion status could not be determined because of a grade-level reporting error.

Appendix

Statute and Rules About Grade-Level Retention and the Student Success Initiative

Texas Education Code §§28.021 and 28.0211

Texas Administrative Code §§101.2001-101.2019

Texas Education Code

§§28.021 and 28.0211

The following sections of the Texas Education Code are current through the 84th Legislative Session, 2015.

§28.021. Student Advancement.

- (a) A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level.
- (b) In measuring the academic achievement or proficiency of a student who is dyslexic, the student's potential for achievement or proficiency in the area must be considered.
- (c) In determining promotion under Subsection (a), a school district shall consider:
 - (1) the recommendation of the student's teacher;
 - (2) the student's grade in each subject or course;
 - (3) the student's score on an assessment instrument administered under Section 39.023(a), (b), or (l), to the extent applicable; and
 - (4) any other necessary academic information, as determined by the district.
- (d) By the start of the school year, a district shall make public the requirements for student advancement under this section.
- (e) The commissioner shall provide guidelines to districts based on best practices that a district may use when considering factors for promotion.

Added by Acts 1995, 74th Leg., ch. 260, §1, eff. May 30, 1995. Amended by Acts 2009, 81st Leg., R.S., ch. 895 (H.B. 3), §28, eff. June 19, 2009; Acts 2011, 82nd Leg., R.S., ch. 307, (H.B. 2135), §1, eff. June 17, 2011.

§28.0211. Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction.

- (a) Except as provided by Subsection (b) or (e), a student may not be promoted to:
 - (1) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or
 - (2) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.
- (a-1) 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, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.
- (a-2) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated

instruction required under Subsection (a-1) before placement in the next grade level.
A student who fails to complete required accelerated instruction may not be promoted.

- (a-3) The commissioner shall provide guidelines to districts on research-based best practices and effective strategies that a district may use in developing an accelerated instruction program.
- (b) A school district shall provide to a student who initially fails to perform satisfactorily on an assessment instrument specified under Subsection (a) at least two additional opportunities to take the assessment instrument. A school district may administer an alternate assessment instrument to a student who has failed an assessment instrument specified under Subsection (a) on the previous two opportunities. Notwithstanding any other provision of this section, a student may be promoted if the student performs at grade level on an alternate assessment instrument under this subsection that is appropriate for the student's grade level and approved by the commissioner.
- (c) Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. After a student fails to perform satisfactorily on an assessment instrument a second time, a grade placement committee shall be established to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee. An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher.
- (d) In addition to providing accelerated instruction to a student under Subsection (c), the district shall notify the student's parent or guardian of:
 - (1) the student's failure to perform satisfactorily on the assessment instrument;
 - (2) the accelerated instruction program to which the student is assigned; and
 - (3) the possibility that the student might be retained at the same grade level for the next school year.
- (e) A student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) shall be retained at the same grade level for the next school year in accordance with Subsection (a). The student's parent or guardian may appeal the student's retention by submitting a request to the grade placement committee established under Subsection (c). The school district shall give the parent or guardian written notice of the opportunity to appeal. The grade placement committee may decide in favor of a student's promotion only if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction, the student is likely to perform at grade level. A student may not be promoted on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion. The decision of the grade placement committee is final and may not be appealed.

- (f) A school district shall provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c). The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.
- (g) This section does not preclude the retention at a grade level, in accordance with state law or school district policy, of a student who performs satisfactorily on an assessment instrument specified under Subsection (a).
- (h) In each instance under this section in which a school district is specifically required to provide notice to a parent or guardian of a student, the district shall make a good faith effort to ensure that such notice is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English or the parent or guardian's native language.
- (i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) shall determine:
 - (1) the manner in which the student will participate in an accelerated instruction program under this section; and
 - (2) whether the student will be promoted or retained under this section.
- (j) A school district or open-enrollment charter school shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours.
- (k) The commissioner shall adopt rules as necessary to implement this section, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.054.
- (l) Repealed by Acts 2007, 80th Leg., R.S., ch. 1058, §17, eff. June 15, 2007.
- (l-1) The commissioner may adopt rules requiring a school district that receives federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to use that funding to provide supplemental educational services under 20 U.S.C. Section 6316 in conjunction with the accelerated instruction provided under this section, provided that the rules may not conflict with federal law governing the use of that funding.
- (m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section and Section 28.0217. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner shall consider:
 - (1) the average cost per student per assessment instrument administration;

- (2) the number of students that require accelerated instruction because the student failed to perform satisfactorily on an assessment instrument;
 - (3) whether sufficient funds have been appropriated to provide support to students in grades three through 12 identified as being at risk of dropping out of school, as defined in Section 29.081(d); and
 - (4) whether sufficient funds have been appropriated to provide instructional materials that are aligned with the assessment instruments under Sections 39.023(a) and (c).
- (m-1) For purposes of certification under Subsection (m), the commissioner may not consider Foundation School Program funds except for compensatory education funds under Section 42.152. This section may be implemented only if the commissioner certifies that sufficient funds have been appropriated during a school year for administering the accelerated instruction programs specified under this section and Section 28.0217, including teacher training for that purpose.
- (n) A student who is promoted by a grade placement committee under this section must be assigned in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to a teacher who meets all state and federal qualifications to teach that subject and grade.
- (o) This section does not require the administration of a fifth or eighth grade assessment instrument in a subject under Section 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:
- (1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Section 39.023(a) that aligns with the curriculum for the course in which the student is enrolled; or
 - (2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Section 39.023(c) for the course.
- (p) Notwithstanding any other provision of this section, a student described by Subsection (o) may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student in accordance with that subsection.

Added by Acts 1999, 76th Leg., ch. 396, §2.12, eff. Sept. 1, 1999. Amended by Acts 2007, 80th Leg., R.S., ch. 1058, (H.B. 2237) §§9, 17, eff. June 15, 2007; Acts 2009, 81st Leg., R.S., ch. 895, (H.B. 3) §29, eff. June 19, 2009; Acts 2011, 82nd Leg., R.S., ch. 91 (S.B. 1303), §7.006, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., R.S., ch. 307 (H.B. 2135), §2, eff. June 17, 2011; Acts 2013, 83rd Leg., R.S., Ch. 211 (H.B. 5), Sec. 11, eff. June 10, 2013.

Texas Administrative Code

§§101.2001-101.2019

The following sections of the Texas Administrative Code are current as of December 2015.

Statutory Authority: The provisions of this Subchapter BB issued under the Texas Education Code, §§28.021, 28.0211, 28.0213, 39.023, and 39.025(b-1), unless otherwise noted.

§101.2001. Policy.

- (a) School districts shall implement grade advancement requirements in accordance with this subchapter and the Texas Education Agency (TEA) procedures outlined in the official Student Success Initiative manual, published annually by the TEA. As specified in §101.2009 of this title (relating to Notice to Parents or Guardians), school districts will make public at the beginning of the school year grade advancement requirements as determined by the school district.
- (b) In addition to local policy relating to grade advancement, except in cases where a student is testing above grade level as specified in the Texas Education Code (TEC), §28.0211(o), a student in Grade 5 or Grade 8 shall demonstrate proficiency in reading and mathematics as required by the TEC, §28.0211(a), in order to advance to the next grade. The assessment grade promotion requirements of the TEC, §28.0211(a), shall be in effect beginning with the 2012-2013 school year. Demonstrated proficiency is defined under this section as meeting the satisfactory passing standard on the appropriate assessment instruments specified by §101.2003(a) of this title (relating to Grade Advancement Testing Requirements) or on a state-approved alternate assessment authorized in §101.2011 of this title (relating to Alternate Assessment). The standard in place when a student first takes a Grade 5 or Grade 8 mathematics or reading assessment is the standard that will be maintained for all subsequent retest opportunities for that student. A student who does not demonstrate proficiency as described in this section may advance to the next grade only if:
 - (1) the student has completed the required accelerated instruction under §101.2006 of this title (relating to Accelerated Instruction);
 - (2) the student's Grade Placement Committee (GPC), as specified in §101.2007 of this title (relating to Role of Grade Placement Committee), determines by unanimous decision, in accordance with the standards for promotion established by the local school board, that the student is likely to perform at grade level at the end of the next year given additional accelerated instruction. In accordance with the TEC, §28.021, to determine grade promotion, a school district is required to consider the recommendation of the student's teacher, the student's grades, the student's assessment scores, and any other necessary academic information; and
 - (3) in accordance with the TEC, §28.0211(n), the school district will ensure that a student who is promoted by a GPC under §101.2007 of this title shall be assigned in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under the TEC, §28.0211(a), to a teacher who meets all state and federal qualifications to teach that subject and grade.
- (c) Students shall be provided accelerated instruction required by the TEC, §28.0211 and §39.025(b-1), as specified in §101.2006 of this title.

- (d) A student in Grade 5 or Grade 8 may not be denied promotion to the next grade on the basis of failure to perform satisfactorily on a reading or mathematics assessment instrument intended for use above the student's grade level.

Source: The provisions of this §101.2001 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective April 19, 2010, 35 TexReg 3030; amended to be effective June 4, 2012, 37 TexReg 4040; amended to be effective February 26, 2014, 39 TexReg 1149.

§101.2003. Grade Advancement Testing Requirements.

- (a) Except in cases where a student is testing above grade level as specified in the Texas Education Code (TEC), §28.0211(o), each school district and charter school shall test eligible students in accordance with the grade advancement requirements for the grades and subjects specified in the TEC, §28.0211(a). The assessment grade promotion requirements of the TEC, §28.0211(a), shall be in effect beginning with the 2012-2013 school year. These requirements apply to the following assessment instruments under the TEC, §39.023(a), (b), and (l):
 - (1) the reading and mathematics assessments at Grade 5; and
 - (2) the reading and mathematics assessments at Grade 8.
- (b) An eligible student is subject to all of the grade advancement requirements under the TEC, §28.0211, including automatic retention, if the student is enrolled in a local school district or charter school on any day between January 1 and the date of the first administration of the grade advancement assessments, unless a student is administered an assessment instrument intended for use above the student's grade level as specified in the TEC, §28.0211(o). A student is only eligible to take an assessment instrument intended for use above the student's grade level if the student is receiving instruction in the entire curriculum for that subject.
- (c) An eligible student who does not meet the criteria specified in subsection (b) of this section but enrolls in a local school district or charter school at any time after the date of the first administration of the grade advancement assessments is not subject to the grade advancement requirements. In accordance with §101.2001(b) of this title (relating to Policy), a school district or charter school must provide this student with the opportunity to test and access to required accelerated instruction.
- (d) A student receiving special education services under the TEC, Chapter 29, Subchapter A, enrolled in Grade 5 or Grade 8 who is receiving instruction in the essential knowledge and skills in a subject specified under subsection (a) of this section is eligible under this section as outlined in the official Student Success Initiative manual published annually by the Texas Education Agency (TEA). In accordance with the TEC, §28.0211(i), the student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and accelerated instruction for each eligible student. Assessment decisions must be made on an individual basis and in accordance with procedures established by the TEA. These decisions shall be documented in the student's individualized education program.
- (e) An English language learner (ELL), as defined by the TEC, Chapter 29, Subchapter B, who is administered an assessment in English or Spanish for a grade and subject specified in subsection (a) of this section, except as provided by §101.1005 of this title (relating to Assessments of Achievement in Academic Content Areas and Courses), is eligible under this section. In accordance with §101.1005(a) of this title, the student's language proficiency assessment committee (LPAC) shall determine the appropriate assessment and accelerated instruction for each eligible student. The Grade Placement Committee, as specified in

§101.2007 of this title (relating to Role of Grade Placement Committee), shall make its decisions in consultation with a member of the student's LPAC. Assessment decisions must be made on an individual basis and in accordance with procedures established by the TEA.

- (f) As specified in §101.1005 of this title, decisions regarding assessments for ELLs who receive special education services shall be made by the ARD committee in conjunction with the LPAC.
- (g) In accordance with the TEC, §28.021(b), decisions regarding a student who has dyslexia and is eligible under this section shall consider the student's potential for achievement or proficiency in the assessed subject.

Source: The provisions of this §101.2003 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective February 24, 2005, 30 TexReg 842; amended to be effective April 19, 2010, 35 TexReg 3030; amended to be effective June 4, 2012, 37 TexReg 4040; amended to be effective February 26, 2014, 39 TexReg 1149.

§101.2005. Test Administration and Schedule.

- (a) The Texas Education Agency (TEA) shall establish the test administration procedures in the applicable test administration materials. The superintendent of each school district and chief administrative officer of each charter school shall be responsible for following these procedures and maintaining the integrity of the test administration and the security and confidentiality requirements, as specified in Chapter 101, Subchapter C, of this title (relating to Security and Confidentiality).
- (b) The TEA shall provide three opportunities per year for the tests required for grade advancement as specified in the Texas Education Code, §28.0211(a). The commissioner of education shall specify the dates of these administrations in the assessment calendar. Additional test opportunities will not be provided.
- (c) The superintendent of each school district and chief administrative officer of each charter school shall establish procedures to ensure:
 - (1) that each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate accelerated instruction as warranted on an individual student basis; and
 - (2) that each eligible student who is absent or does not receive a test score for all three test opportunities and is consequently retained shall receive other appropriate means of evaluation, including the administration of an alternate assessment, as provided under §101.2011(a) of this title (relating to Alternate Assessment), so that the Grade Placement Committee has sufficient evidence for its review upon appeal by a parent or guardian.
- (d) A campus or district must accommodate the request of an out-of-district student to participate in the third administration of a test required for grade advancement if that campus or district is testing one or more local students on the applicable test and if the out-of-district student has registered to take the test by a date determined by the TEA.

Source: The provisions of this §101.2005 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective February 24, 2005, 30 TexReg 842.

§101.2006. Accelerated Instruction.

- (a) Each time a student fails to perform satisfactorily on an assessment instrument administered under the Texas Education Code (TEC), §39.023(a), (b), or (c), the school district or charter school shall provide the student with accelerated instruction in the applicable subject. A student failing to perform satisfactorily on an end-of-course assessment under the TEC, §39.023(c), must be provided the appropriate accelerated instruction before the next administration of the applicable assessment as specified by the TEC, §29.081(b-1).
- (b) Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. Each school district and each charter school shall be responsible for providing transportation to students required to attend accelerated instruction programs if these programs occur outside of regular school hours.
- (c) A school district must accommodate the request of an out-of-district student to participate in any established, on-campus summer accelerated instruction program, provided the student is living away from his or her home district and the program matches the accelerated instruction prescribed by the student's Grade Placement Committee.
- (d) Accelerated instruction shall be based on, but not limited to, guidelines on research-based best practices and effective strategies as outlined in the Student Success Initiative manual, published annually by the TEA, which districts may use for developing accelerated instruction.
- (e) In addition, for students who are administered state assessments specified under the TEC, §28.0211(a):
 - (1) a student who fails to perform satisfactorily on an assessment instrument specified under the TEC, §28.0211(a), shall be provided accelerated instruction before the next administration of the applicable assessment as specified by the TEC, §28.0211. A student shall be assigned to an accelerated instruction group that does not have a ratio larger than ten students for each teacher; and
 - (2) a student who fails to perform satisfactorily on an assessment instrument specified under the TEC, §28.0211(a), after the first, second, and third testing opportunities and who is promoted to the next grade level must complete, in accordance with state and local school board policy, all the accelerated instruction required under this section before placement in the next grade level. A student who fails to complete all the required accelerated instruction may not be promoted.

Source: The provisions of this §101.2006 adopted to be effective April 19, 2010, 35 TexReg 3030; amended to be effective June 4, 2012, 37 TexReg 4040; amended to be effective February 26, 2014, 39 TexReg 1149.

§101.2007. Role of Grade Placement Committee.

- (a) In accordance with the Texas Education Code (TEC), §28.0211, the superintendent of each school district and chief administrative officer of each charter school shall establish procedures for convening a Grade Placement Committee (GPC) for each eligible student who fails to demonstrate proficiency on the second administration of the assessment required for grade advancement. In accordance with §101.2006(d) of this title (relating to Accelerated Instruction), decisions by the GPC shall be made on an individual student basis, address required participation of the student in accelerated instruction, and ensure the most effective instruction to support the student's academic achievement on grade level.

- (b) The GPC shall be composed of the principal or principal's designee, the student's parent or guardian, and the student's teacher(s) of the subject of the grade advancement assessment(s) on which the student has failed to demonstrate proficiency. If this teacher is unavailable, the principal shall designate to serve on the GPC a teacher certified in the subject of the assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area. If more than one parent or guardian has the authority to make educational decisions regarding the student, a good faith effort must be made to notify both parents, but participation of any one parent or guardian is sufficient. Either parent or only one guardian may initiate an appeal. If both parents or guardians serve on the GPC but do not agree, either may agree to promote the student if the remaining members of the GPC also agree to the promotion. The district may accept a parent's or guardian's written designation of another individual to serve on the GPC for all purposes. The district may accept a parent's or guardian's written and signed waiver of participation in the GPC and designation of the remaining members of the GPC as the decision-making entity for all purposes.
- (1) If a parent or guardian or designee is unable to attend a meeting, the district may use other methods to ensure parent participation, including individual and conference telephone calls. The district may designate an individual to act on behalf of the student in place of a parent, guardian, or designee if no such person can be located. A surrogate parent named to act on behalf of a student with a disability shall be considered a parent for purposes of the TEC, §28.0211.
 - (2) The district shall make a good faith effort to notify a parent or guardian to attend the GPC. If a parent or guardian is unavailable, the remaining members of the GPC must convene as required by this section and take all necessary actions, except that the GPC may not agree to promote a student under the TEC, §28.0211(e), unless a parent, guardian, or designee has appealed. A district may allow an appeal to be filed in writing in lieu of attending the GPC.
- (c) Within five working days of receipt of student assessment results for the second administration of the assessment required for grade advancement, the district shall notify the campus principal of student assessment results for each eligible student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the assessment results. This notice shall include a description of the purpose and responsibilities of the GPC and the time and place for the GPC to hold its first meeting.
- (d) In accordance with §101.2006(d) of this title, the GPC is responsible for prescribing the accelerated instruction the student is to receive before the third testing opportunity. The GPC shall also decide at this time whether the student shall take the assessment specified in §101.2003 of this title (relating to Grade Advancement Testing Requirements) or the alternate assessment, as authorized by §101.2011 of this title (relating to Alternate Assessment). In the absence of unanimous agreement, the student shall take the assessment specified in §101.2003 of this title.
- (e) The GPC must convene again if a student fails to demonstrate proficiency on the third administration of an assessment required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student assessment results for this administration, the district shall notify the principal or principal's designee of student assessment results for each eligible student who fails to demonstrate proficiency. Upon receipt of this notice from the district, the principal shall inform the teacher and parent or guardian of the time and place for the GPC to hold a meeting. This notice shall inform the

parent or guardian of the opportunity to appeal the automatic retention of the student. The district shall establish a procedure to ensure a good faith effort is made toward securing the parent's or guardian's receipt of the retention notification. The parent or guardian may appeal the retention by submitting a request to the GPC within five working days of receipt of this retention notification.

- (f) If an appeal has been initiated by the parent or guardian, the GPC may decide in favor of promotion only if the GPC concludes, upon review of all facts and circumstances and in accordance with standards adopted by the local school board, that the student is likely to perform on grade level given additional accelerated instruction during the next school year. A student may be promoted only if the GPC's decision is unanimous and the student has completed all required accelerated instruction specified in §101.2006 of this title. The review and final decision of the GPC must be appropriately documented as meeting the standards adopted by the local school board and made in conformance with procedures specified in the Student Success Initiative manual and as required by §101.2001(b) of this title (relating to Policy). These standards must include consideration of the following:
 - (1) the recommendation of the student's teacher;
 - (2) the student's grades;
 - (3) the student's assessment scores; and
 - (4) any other necessary academic information as determined by the district.
- (g) In accordance with the TEC, §28.0211(e), the placement decision by the GPC shall be made before the start of the next school year or, if applicable, upon reenrollment of a student after this date.
- (h) A student who has been promoted upon completion of a school year in a school other than a Texas public school may be enrolled in that grade without regard to whether the student has successfully completed an assessment required under the TEC, §28.0211. This subsection does not limit the authority of a district to appropriately place a student under the TEC, Chapter 25, Subchapter B.
- (i) In addition to the placement decision, the GPC shall develop an accelerated instruction plan for each student who does not pass after three testing opportunities, regardless of whether the student has been promoted or retained. This plan shall include the accelerated instruction that the district must provide during the next school year. The plan must be designed to enable the student to perform at the appropriate grade level by the end of the next school year. The district shall establish a policy for monitoring the student during the school year to ensure that the student is progressing in accordance with the plan. The accelerated instruction plan must provide for interim progress reports to the student's parent or guardian and the opportunity for consultation with the teacher and/or principal as needed.

Source: The provisions of this §101.2007 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective February 24, 2005, 30 TexReg 842; amended to be effective April 19, 2010, 35 TexReg 3030; amended to be effective February 26, 2014, 39 TexReg 1149.

§101.2009. Notice to Parents or Guardians.

- (a) The superintendent of each school district or chief administrative officer of each charter school shall notify parents or guardians of the grade advancement requirements at the beginning of the school year.
- (b) The district shall provide early notice to parents or guardians of students identified in a preceding grade to be at risk of failure on the first administration of the assessment

required for grade advancement the next year. The superintendent must establish the instruments/procedures to be used to make this determination. This notice shall include accelerated instruction participation requirements as stipulated by §101.2006 of this title (relating to Accelerated Instruction) and be provided before the end of the school year preceding the grade advancement requirements.

- (c) The district shall establish procedures to notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement assessment. This notification should be made within five working days of district receipt of student assessment results from this administration. This notice shall include the student's assessment results, a description of the grade advancement policy, the required accelerated instruction to which the student has been assigned under §101.2006 of this title, and the possibility that the student might be retained at the same grade level for the next school year. In addition, the notice shall encourage parents or guardians to meet immediately with the student's teacher to outline mutual responsibilities to support the student during accelerated instruction.
- (d) Whenever the district is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction under §101.2006 of this title for students at risk of retention, including the notification requirements for the Grade Placement Committee under §101.2007 of this title (relating to Role of Grade Placement Committee), the district shall make a good faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to understand, and is written in English or in the parent's or guardian's native language.

Source: The provisions of this §101.2009 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective April 19, 2010, 35 TexReg 3030; amended to be effective February 26, 2014, 39 TexReg 1149.

§101.2011. Alternate Assessment.

- (a) On the third testing opportunity, each school district and charter school may establish by local board policy a district-wide procedure to use a state-approved alternate assessment instead of the statewide assessment instrument specified in §101.2003(a) of this title (relating to Grade Advancement Testing Requirements). The commissioner of education shall provide annually, to school districts and charter schools, a list of state-approved group-administered achievement tests, if available, certified by test publishers as meeting the requirements of the Texas Education Code, §28.0211. This list shall include nationally recognized instruments for obtaining valid and reliable data, which demonstrate student competencies in the applicable subject at the appropriate grade level range. The district shall select only one test for each applicable grade and subject to be used under this section.
- (b) The alternate assessment must be given during the period established in the assessment calendar by the commissioner of education to coincide with the date of the third administration of the statewide assessment.
- (c) A company or organization scoring a test defined in subsection (a) of this section shall send test results to the school district for verification within ten working days following receipt of the test materials from the school district and shall send a copy of those results to the Texas Education Agency (TEA) in a format specified by and on a schedule established by the TEA.
- (d) To maintain the security and confidential integrity of group-administered achievement tests, school districts and charter schools shall follow the procedures for test security and

confidentiality delineated in Subchapter C of this chapter (relating to Security and Confidentiality).

Source: The provisions of this §101.2011 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective February 24, 2005, 30 TexReg 842; amended to be effective June 4, 2012, 37 TexReg 4040.

§101.2015. Parental Waiver.

The superintendent of each school district and chief administrative officer of each charter school shall establish a waiver process by which a parent or guardian may request that a student not participate in the third test opportunity due to potential harm to the student. The waiver must provide documentation of potential harm, student need, and other appropriate information. If a parental waiver is granted, the student must still participate in all required acceleration and is subject to retention based on the failure on the second test administration.

Source: The provisions of this §101.2015 adopted to be effective May 26, 2002, 27 TexReg 4337.

§101.2017. Scoring and Reporting.

In accordance with §101.3014 of this title (relating to Scoring and Reporting), the scoring contractor will provide school districts with the results of the assessments required by the Texas Education Code, §28.0211, or, if applicable, the results of the alternate assessment specified in §101.2011 of this title (relating to Alternate Assessment), within ten working days following the receipt of the test materials from the school district or charter school.

Source: The provisions of this §101.2017 adopted to be effective May 26, 2002, 27 TexReg 4337; amended to be effective June 4, 2012, 37 TexReg 4040; amended to be effective February 26, 2014, 39 TexReg 1149.

§101.2019. Credit for High School Graduation.

- (a) Students who have been retained in Grade 8 in accordance with the grade advancement testing requirements may earn course credit for high school graduation during the next school year in subject areas other than the required courses in the subject area which caused the student to be retained.
- (b) The school board of each district and each charter school may establish a policy that provides for the placement of retained students in an age-appropriate learning environment. In accordance with local grade configurations for elementary, middle, and high school campuses, this policy may specify the age by which a retained student should be placed on the next level campus even though not yet promoted to the grade of that campus.

Source: The provisions of this §101.2019 adopted to be effective May 26, 2002, 27 TexReg 4337.

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Compliance Statement

Title VI, Civil Rights Act of 1964, the Modified Court Order, Civil Action 5281, Federal District Court, Eastern District of Texas, Tyler Division.

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

1. acceptance policies on student transfers from other school districts;
2. operation of school bus routes or runs on a nonsegregated basis;
3. nondiscrimination in extracurricular activities and the use of school facilities;
4. nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;
5. enrollment and assignment of students without discrimination on the basis of race, color, or national origin;
6. nondiscriminatory practices relating to the use of a student's first language; and
7. evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, U.S. Department of Education.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

Title VII, Civil Rights Act of 1964 as Amended by the Equal Employment Opportunity Act of 1972; Executive Orders 11246 and 11375; Equal Pay Act of 1964; Title IX, Education Amendments; Rehabilitation Act of 1973 as Amended; 1974 Amendments to the Wage-Hour Law Expanding the Age Discrimination in Employment Act of 1967; Vietnam Era Veterans Readjustment Assistance Act of 1972 as Amended; Immigration Reform and Control Act of 1986; Americans With Disabilities Act of 1990; and the Civil Rights Act of 1991.

The Texas Education Agency shall comply fully with the nondiscrimination provisions of all federal and state laws, rules, and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any educational programs or activities which it operates on the grounds of race, religion, color, national origin, sex, disability, age, or veteran status (except where age, sex, or disability constitutes a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency is an Equal Opportunity/Affirmative Action employer.



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