

SUBJECT: Requiring procedures for special education students who fail STAAR

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Huberty, Bernal, Allen, Deshotel, Dutton, Gooden, K. King,
Koop, Meyer, VanDeaver

0 nays

1 absent — Bohac

WITNESSES: For — Steven Aleman, Disability Rights Texas; Janna Lilly, Texas Council of Administrators of Special Education; Kyle Piccola, The Arc of Texas; (*Registered, but did not testify:* Audrey Young, Apple Springs ISD Board of Trustees; Mark Wiggins, Association of Texas Professional Educators; Robert McLain, Channing ISD; Chris Masey, Coalition of Texans with Disabilities; Grace Chimene, League of Women Voters of Texas; C. LeRoy Cavazos-Reyna, San Antonio Hispanic Chamber of Commerce; Heather Sheffield, Texans Advocating for Meaningful Student Assessment; Ted Melina Raab, Texas AFT (American Federation of Teachers); Jesse Romero, Texas Association for Bilingual Education; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Mark Terry, Texas Elementary Principals and Supervisors Association; Yannis Banks, Texas NAACP; Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Dee Carney, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Tami Keeling, Victoria ISD, TASB; Danielle King)

Against — None

On — (*Registered, but did not testify:* Kara Belew and Gene Lenz, Texas Education Agency)

BACKGROUND: A student's eligibility for special education services and most major

decisions about the program are made by an admission, review, and dismissal (ARD) committee required under the federal Individuals with Disabilities Education Act. Members may include the student, parents, at least one of the student's regular education and special education teachers, a school representative, and a person who can interpret the child's evaluation results and instructional needs. Education Code, sec. 29.005 requires the committee to develop the child's individualized education program.

Education Code, sec. 28.0211 governs the Student Success Initiative (SSI), which requires students in grades 5 and 8 to perform satisfactorily on state-mandated assessments (i.e., STAAR exams) in reading and mathematics before being promoted to the next grade level. This section prescribes a process through which a student is required to retest and receive accelerated instruction before being retained or promoted. Under Sec. 28.0211(i), the ARD committee of a student served by special education determines whether a student who has not met the standard on the STAAR reading and/or mathematics exams will be promoted or retained and the manner of instruction the student must receive under SSI.

Students who fail to meet the standard on any STAAR exam administered in grades 3-8 also are required to receive accelerated instruction under SSI, although performance on assessments other than reading and mathematics in grades 5 and 8 are not tied to automatic grade-level retention.

DIGEST:

CSHB 657 would require the admission, review, and dismissal (ARD) committee of a student served by special education who had not demonstrated satisfactory performance on the state reading and/or mathematics assessments to meet before the student was administered the exam a second time.

The bill would allow the committee to promote the student to the next grade level if it concluded that the student had made sufficient progress in the measurable academic goals contained in the student's individualized education program. The student would not be required to retake the exam

if he or she was promoted in this manner.

Not later than September 1 of each school year, the bill would require the school district to notify the parent or person standing in parental relation to the student served by special education of the ARD committee's options for promoting the student and prescribing accelerated instruction if he or she did not perform satisfactorily on a state exam.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 657 would prevent unnecessary retesting of fifth graders and eighth graders in special education programs who do not pass their STAAR reading and math exams. Current law requires the ARD committee to determine how Student Success Initiative (SSI) requirements, such as those related to retesting and promotion or retention in grades 5 and 8, should apply to each student served by special education based on his or her individualized needs, but parents may be unaware of this provision.

The bill would help ensure students received appropriate services while providing valuable information to parents by requiring the ARD to meet before the student's second attempt to pass STAAR and decide if the student had met yearly goals contained in his or her individualized education program. For instance, a fifth grader in a special education program might have made considerable gains in reading ability during the school year but still not be reading at grade level due to a disability or special circumstance. Requiring these students to be repeatedly retested due to SSI requirements can become so stressful that it results in some dropping out of school.

If the ARD committee determined that a particular student served by special education was close to passing an exam, it could decide that retesting was appropriate. The bill would put decision-making on retesting and instructional matters where it belongs — in the hands of parents, teachers, and therapists who best know the student's abilities.

The bill would not lower standards for students with disabilities, who would continue to be assessed annually with appropriate exams in grades 3 through 8 as required by federal and state law. Federal law does not compel the use of state assessments for student promotion purposes.

OPPONENTS
SAY: No apparent opposition.

NOTES: According to the Legislative Budget Board, CSHB 657 would reduce local school district administrative and testing costs for any student who was promoted and no longer had to retest in grades 5 and 8.