



## THIRD GRADE PROMOTION FAQs

The Tennessee General Assembly passed two key pieces of legislation during the 1st Extraordinary Session of 2021—the Tennessee Literacy Success Act and the Tennessee Learning Loss Remediation and Student Acceleration Act—to help ensure Tennessee students could recover from the challenges of the COVID-19 pandemic and close gaps in students’ learning. As part of this legislation, the General Assembly revised the state’s law regarding the promotion

of students from 3rd grade, T.C.A. § 49-6-3115. The statute was also revised during the regular 2021 legislative session. T.C.A. § 49-6-3115, which becomes effective in the 2022-23 school year, ensures students who are determined to need additional supports in reading, receive them before being promoted to 4th grade. The following FAQ’s provide guidance to local education agencies (LEAs) and public charter schools to use as they implement this new law.

### Frequently Asked Questions

- 1. If a student is not proficient on the 3rd grade English language arts (ELA) section of the Tennessee Comprehensive Assessment Program (TCAP) assessment, what are the pathways for promoting them to 4th grade?**

Third grade students are eligible for free supports if they scored “approaching” or “below” on the ELA section of their TCAP test. These are outlined in Question 2, below.

Your student’s school will notify you if your student is eligible for retention and will provide information to you about the pathways that are available to your student to be able to move on to 4th grade, including free summer school and/or tutoring supports.

**2. If my student scores “below” or “approaching” on the ELA section of the TCAP assessments, are there any exceptions to exempt them from the retention requirement?**

If your child scores at “approaching” or “below” on the 3rd grade ELA TCAP, your child will NOT be retained if any of the following are true:

<b>YOUR CHILD SCORES “APPROACHING”</b>	<b>YOUR CHILD SCORES “BELOW”</b>
My child has a disability that impacts reading	My child has a disability that impacts reading.
My child is an English learner and has received less than two (2) years of English instruction.	My child is an English learner and has received less than two (2) years of English instruction.
My child has been retained previously.	My child has been retained previously.
My child has a suspected disability* that impacts literacy development.	My child has a suspected disability* that impacts literacy development.
My child was on-grade level on the re-take test.	My child was on-grade level on the re-take test.
I enrolled my child in summer programming with 90% attendance and made adequate growth.	I enrolled my child in summer programming with 90% attendance.  <b>AND</b> I allow my child to receive free tutoring at school during 4 <sup>th</sup> grade.
I allow my child to receive free tutoring at school during 4 <sup>th</sup> grade.	

*\*Children who are suspected as having disabilities should be evaluated in accordance with the processes required for the identification of students with disabilities as outlined in the federal Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and state laws regarding services to students with disabilities. Those conversations, evaluations, and decisions must be reviewed for each individual child, just like any other case where a child may have a disability.*

If any of these are true, your child will **not** be retained. If your child does not meet one of these 6-7 categories that prevents retention, families of students who score “approaching” on the ELA section of the TCAP may also submit an appeal that demonstrates how their child has demonstrated proficiency in reading. Appeals must be submitted by parents/legal guardians.

**3. How does the new law impact LEA and public charter school decisions on the promotion and retention of students?**

While promotion and retention decisions generally are determined by the LEA or public charter school in accordance with the State Board of Education and local promotion and retention policies, the new law requires that, beginning with the 2022-23 school year, a 3rd grade student, determined NOT to be proficient in ELA, may not be promoted to the next grade level, without certain conditions being met, which could include the student receiving additional interventions in reading.



**4. Who determines whether an individual student meets one of the circumstances provided in question #2?**

LEAs and public charter schools must determine whether an individual student meets one of the circumstances that exempts the student from retention. All decisions regarding exemptions must be made on a case-by-case basis considering the unique needs and circumstances of the individual student and documented in the student's file.

**5. Why is it not possible for the Tennessee Department of Education (department) to determine which students have a disability or a "suspected disability" at the state level?**

As provided in question #4 above, all decisions as to whether a student has a disability or a "suspected disability" must be made on a case-by-case basis considering the unique needs and circumstances of the individual student. This is consistent with state and federal law regarding the appropriate party for such decisions.

Most of the exemption decisions will be easily and quickly determined by an LEA or public charter school based on the student's records, but some will require a more in-depth analysis that will need to include conversations among parents and local educators with knowledge of the student after a review all of the individual student's records. For example, the determination of whether a student has a disability or a suspected disability that impacts reading must be determined locally by parents and educators with knowledge of the student, just like the development of IEPs, Section 504 plans, or other supports designed for students by an LEA. The department does not have the information about individual students to make those decisions.

**6. Should a student identified as having the characteristics of dyslexia always be deemed to have a "suspected disability" for purposes of being exempt from the retention requirement in the law?**

No. A student identified as having the characteristics of dyslexia could, based on the unique needs and circumstances of the student, be considered to have a "suspected disability" but that may not always be true.

For example, a student who has been identified as having the characteristics of dyslexia, may have already been evaluated by the LEA under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 and been deemed to not have a disability due to a lack of adverse impact on the student's educational performance requiring specialized education provided pursuant to an IEP or Section 504 Plan. Similarly, after a review of a student's RTI data pursuant to the State Board of Education's rule, policies and department procedures regarding the ILP-D process, an LEA could determine that services under an ILP-D are all that is needed to improve the student's reading proficiency.

**7. Would it be appropriate to deem all students identified as having the characteristics of dyslexia as having a “suspected disability?”**

That action would not be accurate or in the best interest of students. It would not take into account the range and level of issues that have contributed to a student’s reading proficiency and the need to differentiate instructional supports based on those unique issues and needs. It is also important not to over-identify students as having a “suspected disability” simply because they need additional supports in reading as many students do. The goal of the new law is to identify students who have a deficiency in reading that is not caused by a disability or lack of acquired English language skills and to provide those students with additional general supports to improve their reading proficiency before they are promoted to the next grade. A student with a disability, a suspected disability, or a student who is an English language learner may require special education and other unique supports and services to address their disability or lack of English language skills as required under state and federal law.

**8. Is there an appeal procedure available for a 3rd grade student who has been determined to not be proficient in ELA and therefore may not be promoted to the next grade level without meeting one of the conditions listed in question #4?**

Yes, for students who have achieved the performance level of “approaching” on the ELA portion of the TCAP. Pursuant to T.C.A. § 49-6-3115(d), the State Board of Education promulgated rules to establish an appeals process, to be administered by the department, for a student who is identified for retention in 3rd grade based on the student’s achieving a performance level rating of “approaching” on the ELA portion of the student’s most recent TCAP test. The law and subsequent rules require that if an appeal is filed, the filing must be made by the student’s parent or guardian.

**9. How does an LEA make a promotion decision for a 3rd grade student who does not have a score on the ELA portion of the TCAP?**

Based on the language of T.C.A. § 49-6-3115 (a), if a 3rd grade student does not take the TCAP or generate a score on the ELA portion of the TCAP and does not qualify for an exemption described in question #2 above, the student should be treated as if the student is not proficient in ELA. The law states, “Beginning with the 2022-2023 school year, a student in the 3rd grade shall not be promoted to the next grade level unless the student is determined to be proficient in English language arts (ELA) based on the student’s achieving a performance level rating of “on track” or “mastered” on the ELA portion of the student’s most recent Tennessee comprehensive assessment program (TCAP) test.” To be promoted, the student would have to meet one of the conditions provided in question #2 above or if applicable, appeal the decision pursuant to question # 8 above.

**10. If a student elects to attend a learning loss bridge camp as a condition to being promoted to 4th grade and does not attend at least 90% of the days of the camp, will they automatically be retained?**

The law requires a student to maintain a 90% attendance rate at the camp as a condition of being promoted to the next grade. So, unless the student meets one of the other conditions to be promoted, as listed in question #2 above, the student would have to be retained.

LEAs and public charter schools must develop and implement local summer camp attendance policies that provide opportunities for students to make up camp days missed prior to the beginning of the next school year. Local policies must include: 1) the documentation that must be provided for a student to be eligible to make up days, 2) the number of days a student may make up, 3) the procedure and timeline for making up days, 4) the procedure for communicating the attendance policy to families, 5) the local documentation procedure.

### **11. What is the Tennessee Department of Education's role in implementing this new law?**

The department's specific role in implementing this law is limited to reviewing appeals in accordance with the State Board of Education rule and providing a report to the General Assembly. The department will focus on providing technical assistance to LEAs and public charter schools on the interventions that improve a student's reading proficiency while also allowing the student to meet the conditions for promotion listed in question #2.

The goal or mission of this new law is not to retain students. It is to provide every student with the necessary interventions to improve the student's reading proficiency as soon as possible. The department is confident that LEAs and public charter schools will be laser-focused on that mission.

### **12. What does the TCAP retake entail and when will it be available?**

The TCAP retake assessment will be multiple choice/multiple choice select to allow for immediate scoring of the assessment. It will be administered on a computer and pre-equated, to allow for a scale score to be produced for the LEA within two (2) business days. The retake window will take place between May 22 — June 5.

### **13. What information is available regarding the post-tests for summer programming?**

The "post-test" will be comprised of TCAP-aligned items and is designed to take less than one hour to complete. The assessment will be administered online and will allow for accommodations.

### **14. Should an English learner (EL) who has received more than two (2) years of English instruction, but is not considered to be proficient in the English language according to SBE Rule 0520-01-19, be retained?**

An EL should be never be retained based solely on a lack of English language proficiency. The law reinforces this by providing that an EL who is deemed not proficient in ELA may be promoted if the EL has received less than two (2) years of ELA instruction. However, an EL who has received more than two (2) years of ELA instruction may still not be retained if it is determined that the EL is not proficient in ELA based solely on a lack of English language proficiency. Local education agencies (LEAs) and public charter schools, must determine whether an individual EL should be retained, based on the EL's individual needs. All decisions regarding the retention of an EL must be made on a case-by-case basis by the LEA or public charter school considering the unique needs, circumstances, and linguistic ability of the individual EL and documented in the EL's file.

Most of the 3rd grade retention decisions will be easily and quickly determined by an LEA or public charter school based on the EL's Individual Learning Plan (ILP) and other educational records, but some will require a more in-depth analysis that will need to include conversations among parents and local educators with knowledge of language acquisition and knowledge of the EL after a review of all the individual EL's records.

The law is intended to identify students who have a deficiency in reading that is not caused by a disability or lack of English language proficiency and to provide those students with additional general supports to improve their reading proficiency before they are promoted to the 4th grade.

### **15. What data and information should be considered when making 3rd grade retention decisions for ELs?**

The following data and information should be taken into consideration when discussing possible retention of ELs: years of schooling in the U.S., language proficiency scores, EL's stage of language acquisition, ILPs, input from classroom teachers, cultural and linguistic factors, EL's access to scaffolds, interventions, and level of parental involvement.